

Effective 5/3/2023

34A-1-309 Add-on fees.

- (1) As used in this section:
 - (a) "Carrier" means:
 - (i) a workers' compensation insurance carrier;
 - (ii) the Uninsured Employers' Fund, an employer that does not carry workers' compensation insurance; or
 - (iii) a self-insured employer as defined in Section 34A-2-201.5.
 - (b) "Indemnity compensation" means a workers' compensation claim for indemnity benefits that arises from or may arise from a denial of a medical claim.
 - (c) "Medical claim" means a workers' compensation claim for medical expenses or recommended medical care.
 - (d) "Unconditional denial" means a carrier's denial of a medical claim:
 - (i) after the carrier completes an investigation; or
 - (ii) 90 days after the day on which the claim was submitted to the carrier.
- (2)
 - (a) The commission may award an add-on fee to a claimant to be paid by the carrier if:
 - (i) a medical claim is at issue;
 - (ii) the carrier issues an unconditional denial of the medical claim;
 - (iii) the claimant hires an attorney to represent the claimant during the formal adjudicative process before the commission;
 - (iv) after the carrier issues the unconditional denial, the commission orders the carrier or the carrier agrees to pay the medical claim; and
 - (v) any award of indemnity compensation in the case is less than \$5,000.
 - (b) An award of an add-on fee under this section is in addition to:
 - (i) the amount awarded for the medical claim or indemnity compensation; and
 - (ii) any amount for attorney fees agreed upon between the claimant and the claimant's attorney.
 - (c) An award under this section is governed by the law in effect at the time the claimant files an application for hearing with the Division of Adjudication.
 - (d)
 - (i) Medical expenses awarded as part of a medical claim under this section shall be calculated in accordance with the amount the carrier is required to pay under the rules established by the commission under Subsection 34A-2-407(9).
 - (ii) If the medical expenses awarded under this section are not set forth in the rules described in Subsection 34A-2-407(9), the medical expenses shall be calculated based on the amount the carrier paid or is contractually required to pay to the medical provider, whichever is greater.
- (3) If the commission awards an add-on fee under this section, the commission shall award the add-on fee in the following amount:
 - (a) the lesser of 25% of the medical expenses the commission awards to the claimant or \$25,000, for a case that is resolved at the commission level;
 - (b) the lesser of 30% of the medical expenses the Utah Court of Appeals awards to the claimant or \$30,000, for a case that is resolved on appeal before the Utah Court of Appeals; or
 - (c) the lesser of 35% of the medical expenses that the Utah Supreme Court awards to the claimant or \$35,000, for a case that is resolved on appeal before the Utah Supreme Court.
- (4) If a court invalidates any portion of this section, the entire section is invalid.

Amended by Chapter 364, 2023 General Session

