

## Part 9

### Presumptions For Emergency Medical Services Providers

#### **34A-2-901 Workers' compensation presumption for emergency medical services providers.**

- (1) An emergency medical services provider who claims to have contracted a disease, as defined by Section 78B-8-401, as a result of a significant exposure in the performance of his duties as an emergency medical services provider, is presumed to have contracted the disease by accident during the course of his duties as an emergency medical services provider if:
  - (a) his employment or service as an emergency medical services provider in this state commenced prior to July 1, 1988, and he tests positive for a disease during the tenure of his employment or service, or within three months after termination of his employment or service; or
  - (b) the individual's employment or service as an emergency medical services provider in this state commenced on or after July 1, 1988, and he tests negative for any disease at the time his employment or service commenced, and again three months later, and he subsequently tests positive during the tenure of his employment or service, or within three months after termination of his employment or service.
- (2) Each emergency medical services agency shall inform the emergency medical services providers that it employs or utilizes of the provisions and benefits of this section at commencement of and termination of employment or service.

Amended by Chapter 3, 2008 General Session

#### **34A-2-902 Workers' compensation claims by emergency medical services providers -- Time limits.**

- (1) For all purposes of establishing a workers' compensation claim, the "date of accident" is presumed to be the date on which an emergency medical services provider first tests positive for a disease, as defined in Section 78B-8-401. However, for purposes of establishing the rate of workers' compensation benefits under Subsection 34A-2-702(5), if a positive test for a disease occurs within three months after termination of employment, the last date of employment is presumed to be the "date of accident."
- (2) The time limits prescribed by Section 34A-2-417 do not apply to an employee whose disability is due to a disease, so long as the employee who claims to have suffered a significant exposure in the service of his employer gives notice, as required by Section 34A-3-108, of the "date of accident."
- (3) Any claim for workers' compensation benefits or medical expenses shall be filed with the Division of Adjudication of the Labor Commission within one year after the date on which the employee first acquires a disability or requires medical treatment for a disease, or within one year after the termination of employment as an emergency medical services provider, whichever occurs later.

Amended by Chapter 366, 2011 General Session

#### **34A-2-903 Failure to be tested -- Time limit for death benefits.**

- (1) An emergency medical services provider who refuses or fails to be tested in accordance with Section 34A-2-901 is not entitled to any of the presumptions provided by this part.

- (2) Death benefits payable under Section 34A-2-702 are payable only if it can be established by competent evidence that death was a consequence of or result of the disease and, notwithstanding Subsection 34A-2-702(5), that death occurred within six years from the date the employee first acquired a disability or required medical treatment for the disease that caused the employee's death.

Amended by Chapter 366, 2011 General Session

**34A-2-904 Volunteer emergency medical services providers -- Workers' compensation premiums.**

- (1) For purposes of receiving workers' compensation benefits, any person performing the services of an emergency medical services provider is considered an employee of the entity for whom it provides those services.
- (2)
  - (a) With regard to emergency medical services providers who perform those services for minimal or no compensation on a volunteer basis, and who are primarily employed other than as emergency medical services providers, the amount of workers' compensation benefits shall be based on that primary employment. Any excess premiums necessary for workers' compensation shall be paid by the entity that utilized that individual as an emergency medical services provider.
  - (b) With regard to emergency medical services providers who perform those services for minimal or no compensation or on a volunteer basis, and who have no other employment, the amount of workers' compensation benefits shall be the minimum benefit. Any premium necessary for workers' compensation shall be paid by the entity that utilizes that individual as an emergency medical services provider.
- (3) Workers' compensation benefits are the exclusive remedy for all injuries and occupational diseases, as provided by Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act. However, emergency medical services providers described in Subsection (2) are not precluded from utilizing insurance benefits provided by a primary employer, or any other insurance benefits, in addition to workers' compensation benefits.

Renumbered and Amended by Chapter 243, 2005 General Session

**34A-2-905 Rulemaking authority -- Rebuttable presumption.**

- (1) The Labor Commission has authority to establish rules necessary for the purposes of this part.
- (2) The presumption provided by this part is a rebuttable presumption.

Renumbered and Amended by Chapter 243, 2005 General Session