

1 **WORKERS' COMPENSATION - TIME**

2 **LIMITATIONS**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Ed Mayne**

6 House Sponsor: Stephen D. Clark

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Workers' Compensation Act to address time limitations related to
11 medical benefits.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ deletes the three-year time requirement for entitlement to medical benefits;
- 15 ▶ addresses the time period to submit a claim for medical expenses; and
- 16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **34A-2-417**, as last amended by Chapter 72, Laws of Utah 2004

25 *Be it enacted by the Legislature of the state of Utah:*

26 Section 1. Section **34A-2-417** is amended to read:

27 **34A-2-417. Claims and benefits -- Time limits for filing -- Burden of proof.**

28 (1) Except with respect to prosthetic devices[~~-, in nonpermanent~~] or in a permanent total
29 disability [~~cases an employee's medical benefit entitlement ceases if for a period of three~~

30 ~~consecutive years the~~ case, an employee [does not] is entitled to be compensated for a medical
31 expense if:

32 (a) ~~[incur medical expenses reasonably related to]~~ the medical expense is:

33 (i) reasonable in amount; and

34 (ii) necessary to treat the industrial accident; and

35 (b) the employee submits or makes a reasonable attempt to submit the medical
36 ~~[expenses incurred]~~ expense:

37 (i) to the employee's employer or insurance carrier for payment[-]; and

38 (ii) within one year from the later of:

39 (A) the day on which the medical expense is incurred; or

40 (B) the day on which the employee knows or in the exercise of reasonable diligence
41 should have known that the medical expense is related to the industrial accident.

42 (2) (a) A claim described in Subsection (2)(b) is barred, unless the employee:

43 (i) files an application for hearing with the Division of Adjudication no later than six
44 years from the date of the accident; and

45 (ii) by no later than 12 years from the date of the accident, is able to meet the
46 employee's burden of proving that the employee is due the compensation claimed under this
47 chapter.

48 (b) Subsection (2)(a) applies to a claim for compensation for:

49 (i) temporary total disability benefits;

50 (ii) temporary partial disability benefits;

51 (iii) permanent partial disability benefits; or

52 (iv) permanent total disability benefits.

53 (c) The commission may enter an order awarding or denying an employee's claim for
54 compensation under this chapter within a reasonable time period beyond 12 years from the date
55 of the accident, if:

56 (i) the employee complies with Subsection (2)(a); and

57 (ii) 12 years from the date of the accident:

58 (A) (I) the employee is fully cooperating in a commission approved reemployment
59 plan; and

60 (II) the results of that commission approved reemployment plan are not known; or

61 (B) the employee is actively adjudicating issues of compensability before the
62 commission.

63 (3) A claim for death benefits is barred unless an application for hearing is filed within
64 one year of the date of death of the employee.

65 (4) (a) (i) Subject to Subsections (2)(c) and (4)(b), after an employee files an
66 application for hearing within six years from the date of the accident, the Division of
67 Adjudication may enter an order to show cause why the employee's claim should not be
68 dismissed because the employee has failed to meet the employee's burden of proof to establish
69 an entitlement to compensation claimed in the application for hearing.

70 (ii) The order described in Subsection (4)(a)(i) may be entered on the motion of the:

71 (A) Division of Adjudication;

72 (B) employee's employer; or

73 (C) employer's insurance carrier.

74 (b) Under Subsection (4)(a), the Division of Adjudication may dismiss a claim:

75 (i) without prejudice; or

76 (ii) with prejudice only if:

77 (A) the Division of Adjudication adjudicates the merits of the employee's entitlement
78 to the compensation claimed in the application for hearing; or

79 (B) the employee fails to comply with Subsection (2)(a)(ii).

80 (c) If a claim is dismissed without prejudice under Subsection (4)(b), the employee is
81 subject to the time limits under Subsection (2)(a) to claim compensation under this chapter.

82 (5) A claim for compensation under this chapter is subject to a claim or lien for
83 recovery under Section 26-19-5.