

**MEDICAL BENEFITS UNDER WORKERS' COMPENSATION**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: D. Chris Butters**

House Sponsor: Wayne A. Harper

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**LONG TITLE**

**General Description:**

This bill modifies the Workers' Compensation Act to address issues related to the payment of medical benefits in the case of an industrial accident.

**Highlighted Provisions:**

This bill:

- ▶ provides that legislative changes in the time limits in seeking medical benefits are to be applied retroactively; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**34A-2-417**, as last amended by Laws of Utah 2007, Chapter 62

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

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

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

(1) (a) Except with respect to prosthetic devices or in a permanent total disability case, an employee is entitled to be compensated for a medical expense if:

~~(a)~~ (i) the medical expense is:

30           ~~[(i)]~~ (A) reasonable in amount; and  
31           ~~[(ii)]~~ (B) necessary to treat the industrial accident; and  
32           ~~[(b)]~~ (ii) the employee submits or makes a reasonable attempt to submit the medical  
33 expense:

34           ~~[(i)]~~ (A) to the employee's employer or insurance carrier for payment; and  
35           ~~[(ii)]~~ (B) within one year from the later of:  
36           ~~[(A)]~~ (I) the day on which the medical expense is incurred; or  
37           ~~[(B)]~~ (II) the day on which the employee knows or in the exercise of reasonable  
38 diligence should have known that the medical expense is related to the industrial accident.

39           (b) For an industrial accident that occurs on or after July 1, 1988, and is the basis of a  
40 claim for a medical expense, an employee is entitled to be compensated for the medical  
41 expense if the employee meets the requirements of Subsection (1)(a).

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  
55 date 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.