

**WORKERS' COMPENSATION AND HOME AND COMMUNITY
BASED SERVICES**

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca P. Edwards

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Workers' Compensation Act to address home and community based services.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of employer for purposes of home and community based services;
- ▶ removes the exemption of certain workers from the definition of employee; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

⚡→ [None] This bill takes effect on July 1, 2015. ←⚡

Utah Code Sections Affected:

AMENDS:

34A-2-103, as last amended by Laws of Utah 2012, Chapter 346

34A-2-104, as last amended by Laws of Utah 2013, Chapter 58

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



245 (v) personal care and attendant services;

246 (vi) other in-home care, such as support for the daily activities of the individual with a
247 disability;

248 (vii) specialized in-home training for the individual with a disability or a family
249 member of the individual with a disability;

250 (viii) specialized in-home support, coordination, and other supported living services;
251 and

252 (ix) other home and community based services unique to the individual with a
253 disability or the family of the individual with a disability that help prevent the individual with a
254 disability from being placed in a more restrictive setting.

255 (b) Notwithstanding Subsection (4) ~~H~~→ **and subject to Subsection (9)(c) ←H** , an
255a individual with a disability or designated
256 representative of the individual with a disability is considered an employer under this chapter
257 and Chapter 3, Utah Occupational Disease Act, of an individual who provides home and
258 community based services if the individual with a disability or designated representative of the
259 individual with a disability:

260 (i) employs the individual to provide home and community based services for
260a ~~H~~→ **[five] seven ←H**

261 hours per week or more; and

262 (ii) pays the individual providing the home and community based services from state or
263 federal money received by the ~~H~~→ **[person] the individual with a disability or designated**
263a **representative of the individual with a disability ←H** to fund home and community based
263b services, including

264 through a person designated by the Secretary of the Treasury in accordance with Section 3504,
265 Internal Revenue Code, as a fiduciary, agent, or other person who has the control, receipt,
266 custody, or disposal of, or pays the wages of, the individual providing the home and
267 community based services.

267a ~~H~~→ **(c) The state and federal money received by an individual with a disability or**
267b **designated representative of an individual with a disability shall include the cost of the**
267c **workers' compensation coverage required by this Subsection (9) in addition to the money**
267d **necessary to fund the home and community based services that the individual with a disability**
267e **or family of the individual with a disability is eligible to receive so that the home and**
267f **community based services are not reduced in order to pay for the workers' compensation**
267g **coverage required by this Subsection (9). ←H**

400 following coverage at a minimum aggregate policy limit of \$1,000,000 for all benefits paid,
401 including medical expense benefits, for an injury sustained in the course of working under a
402 written agreement described in Subsection (5)~~(e)~~(d)(iii):

- 403 (i) disability benefits;
- 404 (ii) death benefits; and
- 405 (iii) medical expense benefits, which include:
 - 406 (A) hospital coverage;
 - 407 (B) surgical coverage;
 - 408 (C) prescription drug coverage; and
 - 409 (D) dental coverage.

410 (8) For an individual described in Subsection (5)~~(e)~~(d), the commission shall verify
411 the existence of occupational accident insurance coverage with the coverage and benefit limits
412 listed in Subsection (7)(c) before the commission may issue a workers' compensation coverage
413 waiver to the individual pursuant to Part 10, Workers' Compensation Coverage Waivers Act.

413a **H→ Section 3. Effective date.**
413b **This bill takes effect on July 1, 2015. ←H**

Legislative Review Note
as of 1-30-14 5:22 PM

Office of Legislative Research and General Counsel