

1                   **WORKERS' COMPENSATION RELATED AMENDMENTS**

2                                   2016 GENERAL SESSION

3                                   STATE OF UTAH

4                                   **Chief Sponsor: Karen Mayne**

5                                   House Sponsor: Mike Schultz

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies provisions related to reimbursement of hospitals for certain services.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ requires a study regarding hospital costs;
- 13           ▶ addresses reasonable standards for hospital costs;
- 14           ▶ defines terms;
- 15           ▶ addresses contracting with hospitals;
- 16           ▶ provides for the reimbursement amount in the absence of a contract;
- 17           ▶ prohibits balance billing by hospitals;
- 18           ▶ addresses coordination of benefits; and
- 19           ▶ makes technical and conforming changes.

20 **Money Appropriated in this Bill:**

21           None

22 **Other Special Clauses:**

23           None

24 **Utah Code Sections Affected:**

25 AMENDS:

26           **34A-2-107**, as last amended by Laws of Utah 2013, Chapter 43

27           **34A-2-407**, as last amended by Laws of Utah 2013, Chapter 72



28 **34A-2-418**, as renumbered and amended by Laws of Utah 1997, Chapter 375  
29 **34A-2-801**, as last amended by Laws of Utah 2014, Chapter 192  
30 **34A-3-108**, as last amended by Laws of Utah 2013, Chapter 72

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

33 Section 1. Section **34A-2-107** is amended to read:

34 **34A-2-107. Appointment of workers' compensation advisory council --**

35 **Composition -- Terms of members -- Duties -- Compensation.**

36 (1) The commissioner shall appoint a workers' compensation advisory council  
37 composed of:

38 (a) the following voting members:

39 (i) five employer representatives; and

40 (ii) five employee representatives; and

41 (b) the following nonvoting members:

42 (i) a representative of the Workers' Compensation Fund;

43 (ii) a representative of a private insurance carrier;

44 (iii) a representative of health care providers;

45 (iv) the Utah insurance commissioner or the insurance commissioner's designee; and

46 (v) the commissioner or the commissioner's designee.

47 (2) Employers and employees shall consider nominating members of groups who  
48 historically may have been excluded from the council, such as women, minorities, and  
49 individuals with disabilities.

50 (3) (a) Except as required by Subsection (3)(b), as terms of current council members  
51 expire, the commissioner shall appoint each new member or reappointed member to a two-year  
52 term beginning July 1 and ending June 30.

53 (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at  
54 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
55 council members are staggered so that approximately half of the council is appointed every two  
56 years.

57 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall  
58 be appointed for the unexpired term.

59 (b) The commissioner shall terminate the term of a council member who ceases to be  
60 representative as designated by the member's original appointment.

61 (5) The council shall confer at least quarterly for the purpose of advising the  
62 commission, the division, and the Legislature on:

63 (a) the Utah workers' compensation and occupational disease laws;

64 (b) the administration of the laws described in Subsection (5)(a); and

65 (c) rules related to the laws described in Subsection (5)(a).

66 (6) Regarding workers' compensation, rehabilitation, and reemployment of employees  
67 who acquire a disability because of an industrial injury or occupational disease the council  
68 shall:

69 (a) offer advice on issues requested by:

70 (i) the commission;

71 (ii) the division; and

72 (iii) the Legislature; and

73 (b) make recommendations to:

74 (i) the commission; and

75 (ii) the division.

76 (7) The council shall study how hospital costs may be reduced for purposes of medical  
77 benefits for workers' compensation. The council shall report to the Business and Labor Interim  
78 Committee the council's recommendations by no later than November 30, 2017.

79 [~~7~~] (8) The commissioner or the commissioner's designee shall serve as the chair of  
80 the council and call the necessary meetings.

81 [~~8~~] (9) The commission shall provide staff support to the council.

82 [~~9~~] (10) A member may not receive compensation or benefits for the member's  
83 service, but may receive per diem and travel expenses in accordance with:

84 (a) Section 63A-3-106;

85 (b) Section 63A-3-107; and

86 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
87 63A-3-107.

88 Section 2. Section 34A-2-407 is amended to read:

89 **34A-2-407. Reporting of industrial injuries -- Regulation of health care**

90 providers.

91 (1) As used in this section, "physician" is as defined in Section 34A-2-111.

92 (2) (a) An employee sustaining an injury arising out of and in the course of  
93 employment shall provide notification to the employee's employer promptly of the injury.

94 (b) If the employee is unable to provide the notification required by Subsection (2)(a),  
95 the following may provide notification of the injury to the employee's employer:

96 (i) the employee's next of kin; or

97 (ii) the employee's attorney.

98 (c) An employee claiming benefits under this chapter or Chapter 3, Utah Occupational  
99 Disease Act, shall comply with rules adopted by the commission regarding disclosure of  
100 medical records of the employee medically relevant to the industrial accident or occupational  
101 disease claim.

102 (3) (a) An employee is barred for any claim of benefits arising from an injury if the  
103 employee fails to notify within the time period described in Subsection (3)(b):

104 (i) the employee's employer in accordance with Subsection (2); or

105 (ii) the division.

106 (b) The notice required by Subsection (3)(a) shall be made within:

107 (i) 180 days of the day on which the injury occurs; or

108 (ii) in the case of an occupational hearing loss, the time period specified in Section  
109 34A-2-506.

110 (4) The following constitute notification of injury required by Subsection (2):

111 (a) an employer's report filed with:

112 (i) the division; or

113 (ii) the employer's workers' compensation insurance carrier;

114 (b) a physician's injury report filed with:

115 (i) the division;

116 (ii) the employer; or

117 (iii) the employer's workers' compensation insurance carrier;

118 (c) a workers' compensation insurance carrier's report filed with the division; or

119 (d) the payment of any medical or disability benefits by:

120 (i) the employer; or

121 (ii) the employer's workers' compensation insurance carrier.

122 (5) (a) An employer and the employer's workers' compensation insurance carrier, if  
123 any, shall file a report in accordance with the rules made under Subsection (5)(b) of a:

124 (i) work-related fatality; or

125 (ii) work-related injury resulting in:

126 (A) medical treatment;

127 (B) loss of consciousness;

128 (C) loss of work;

129 (D) restriction of work; or

130 (E) transfer to another job.

131 (b) An employer or the employer's workers' compensation insurance carrier, if any,  
132 shall file a report required by Subsection (5)(a), and any subsequent reports of a previously  
133 reported injury as may be required by the commission, within the time limits and in the manner  
134 established by rule by the commission made after consultation with the workers' compensation  
135 advisory council and in accordance with Title 63G, Chapter 3, Utah Administrative  
136 Rulemaking Act. A rule made under this Subsection (5)(b) shall:

137 (i) be reasonable; and

138 (ii) take into consideration the practicality and cost of complying with the rule.

139 (c) A report is not required to be filed under this Subsection (5) for a minor injury, such  
140 as a cut or scratch that requires first aid treatment only, unless:

141 (i) a treating physician files a report with the division in accordance with Subsection  
142 (9); or

143 (ii) a treating physician is required to file a report with the division in accordance with  
144 Subsection (9).

145 (6) An employer and its workers' compensation insurance carrier, if any, required to  
146 file a report under Subsection (5) shall provide the employee with:

147 (a) a copy of the report submitted to the division; and

148 (b) a statement, as prepared by the division, of the employee's rights and  
149 responsibilities related to the industrial injury.

150 (7) An employer shall maintain a record in a manner prescribed by the commission by  
151 rule of all:

- 152 (a) work-related fatalities; or
- 153 (b) work-related injuries resulting in:
  - 154 (i) medical treatment;
  - 155 (ii) loss of consciousness;
  - 156 (iii) loss of work;
  - 157 (iv) restriction of work; or
  - 158 (v) transfer to another job.

159 (8) (a) Except as provided in Subsection (8)(b), an employer or a workers'  
160 compensation insurance carrier who refuses or neglects to make a report, maintain a record, or  
161 file a report as required by this section is subject to a civil assessment:

162 (i) imposed by the division, subject to the requirements of Title 63G, Chapter 4,  
163 Administrative Procedures Act; and

164 (ii) that may not exceed \$500.

165 (b) An employer or workers' compensation insurance carrier is not subject to the civil  
166 assessment under this Subsection (8) if:

167 (i) the employer or workers' compensation insurance carrier submits a report later than  
168 required by this section; and

169 (ii) the division finds that the employer or workers' compensation insurance carrier has  
170 shown good cause for submitting a report later than required by this section.

171 (c) (i) A civil assessment collected under this Subsection (8) shall be deposited into the  
172 Uninsured Employers' Fund created in Section [34A-2-704](#) to be used for a purpose specified in  
173 Section [34A-2-704](#).

174 (ii) The administrator of the Uninsured Employers' Fund shall collect money required  
175 to be deposited into the Uninsured Employers' Fund under this Subsection (8)(c) in accordance  
176 with Section [34A-2-704](#).

177 (9) (a) A physician attending an injured employee shall comply with rules established  
178 by the commission regarding:

179 (i) fees for physician's services;

180 (ii) disclosure of medical records of the employee medically relevant to the employee's  
181 industrial accident or occupational disease claim;

182 (iii) reports to the division regarding:

- 183 (A) the condition and treatment of an injured employee; or
- 184 (B) any other matter concerning industrial cases that the physician is treating; and
- 185 (iv) rules made under Section 34A-2-407.5.
- 186 (b) A physician who is associated with, employed by, or bills through a hospital is
- 187 subject to Subsection (9)(a).
- 188 (c) A hospital providing services for an injured employee is not subject to the
- 189 requirements of Subsection (9)(a) except for rules made by the commission that are described
- 190 in Subsection (9)(a)(ii) or (iii) or Section 34A-2-407.5.
- 191 (d) The commission's schedule of fees may reasonably differentiate remuneration to be
- 192 paid to providers of health services based on:
  - 193 (i) the severity of the employee's condition;
  - 194 (ii) the nature of the treatment necessary; and
  - 195 (iii) the facilities or equipment specially required to deliver that treatment.
- 196 (e) This Subsection (9) does not prohibit a contract with a provider of health services
- 197 relating to the pricing of goods and services.
- 198 (10) A copy of the initial report filed under Subsection (9)(a)(iii) shall be furnished to:
  - 199 (a) the division;
  - 200 (b) the employee; and
  - 201 (c) (i) the employer; or
  - 202 (ii) the employer's workers' compensation insurance carrier.
- 203 (11) (a) As used in this Subsection (11):
  - 204 (i) "Balance billing" means charging a person, on whose behalf a workers'
  - 205 compensation insurance carrier or self-insured employer is obligated to pay medical benefits
  - 206 under this chapter or Chapter 3, Utah Occupational Disease Act, for the difference between
  - 207 what the workers' compensation insurance carrier or self-insured employer reimburses the
  - 208 hospital for covered medical services and what the hospital charges for those covered medical
  - 209 services.
  - 210 (ii) "Covered medical services" means medical services provided by a hospital that are
  - 211 covered by workers' compensation medical benefits under this chapter or Chapter 3, Utah
  - 212 Occupational Disease Act.
  - 213 (iii) "Health benefit plan" means the same as that term is defined in Section

214 [31A-22-619.6.](#)

215 (iv) "Self-insured employer" means the same as that term is defined in Section

216 [34A-2-201.5.](#)

217 (b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or

218 self-insured employer may contract ~~Ŝ→~~, **either in writing or by mutual ~~Ĥ→~~ [verbal] oral ~~←Ĥ~~**

218b **agreement, ~~←Ŝ~~**

218a with a hospital to establish reimbursement rates.

219 (c) Subject to Subsection (11)(d), ~~Ĥ→~~ **for the time period beginning on May 10, 2016,**

219a **and ending on July 1, 2018, ~~←Ĥ~~** a workers' compensation insurance carrier or

220 self-insured employer that is reimbursing a hospital that has not entered into a contract

221 described in Subsection (11)(b) shall reimburse the hospital for covered medical services at

222 85% of the billed hospital fees for the covered medical services.

223 (d) A hospital may not engage in balance billing.

224 (e) Covered services paid under a health benefit plan are subject to coordination of

225 benefits in accordance with Sections [31A-22-619.6](#) and [34A-2-213.](#)

226 [(H)] (12) (a) Subject to appellate review under Section [34A-1-303](#), the commission

227 has exclusive jurisdiction to hear and determine:

228 (i) whether goods provided to or services rendered to an employee are compensable  
229 pursuant to this chapter or Chapter 3, Utah Occupational Disease Act, including:

230 (A) medical, nurse, or hospital services;

231 (B) medicines; and

232 (C) artificial means, appliances, or prosthesis;

233 (ii) except for amounts charged or paid under Subsection (11), the reasonableness of  
234 the amounts charged or paid for a good or service described in Subsection [(H)] (12)(a)(i); and

235 (iii) collection issues related to a good or service described in Subsection [(H)]

236 (12)(a)(i).

237 (b) Except as provided in Subsection [(H)] (12)(a), Subsection [34A-2-211\(6\)](#), or

238 Section [34A-2-212](#), a person may not maintain a cause of action in any forum within this state

239 other than the commission for collection or payment for goods or services described in

240 Subsection [(H)] (12)(a) that are compensable under this chapter or Chapter 3, Utah

241 Occupational Disease Act.

242 Section 3. Section [34A-2-418](#) is amended to read:

243 **34A-2-418. Awards -- Medical, nursing, hospital, and burial expenses -- Artificial**

244 **means and appliances.**



245 (1) In addition to the compensation provided in this chapter or Chapter 3, Utah  
246 Occupational Disease Act, and subject to Subsection [34A-2-407\(11\)](#), the employer or the  
247 insurance carrier shall pay reasonable sums for medical, nurse, and hospital services, for  
248 medicines, and for artificial means, appliances, and prostheses necessary to treat the injured  
249 employee.

250 (2) If death results from the injury, the employer or the insurance carrier shall pay the  
251 burial expenses in ordinary cases as established by rule.

252 (3) If a compensable accident results in the breaking of or loss of an employee's  
253 artificial means or appliance including eyeglasses, the employer or insurance carrier shall  
254 provide a replacement of the artificial means or appliance.

255 (4) An administrative law judge may require the employer or insurance carrier to  
256 maintain the artificial means or appliances or provide the employee with a replacement of any  
257 artificial means or appliance for the reason of breakage, wear and tear, deterioration, or  
258 obsolescence.

259 (5) An administrative law judge may, in unusual cases, order, as the administrative law  
260 judge considers just and proper, the payment of additional sums:

- 261 (a) for burial expenses; or  
262 (b) to provide for artificial means or appliances.

263 Section 4. Section **34A-2-801** is amended to read:

264 **34A-2-801. Initiating adjudicative proceedings -- Procedure for review of**  
265 **administrative action.**

266 (1) (a) To contest an action of the employee's employer or its insurance carrier  
267 concerning a compensable industrial accident or occupational disease alleged by the employee  
268 or a dependent any of the following shall file an application for hearing with the Division of  
269 Adjudication:

- 270 (i) the employee;  
271 (ii) a representative of the employee, the qualifications of whom are defined in rule by  
272 the commission; or

273 (iii) a dependent as described in Section [34A-2-403](#).

274 (b) To appeal the imposition of a penalty or other administrative act imposed by the  
275 division on the employer or its insurance carrier for failure to comply with this chapter or

276 Chapter 3, Utah Occupational Disease Act, any of the following shall file an application for  
277 hearing with the Division of Adjudication:

- 278 (i) the employer;
- 279 (ii) the insurance carrier; or
- 280 (iii) a representative of either the employer or the insurance carrier, the qualifications  
281 of whom are defined in rule by the commission.

282 (c) A person providing goods or services described in Subsections  
283 [34A-2-407](#)~~[(11)]~~(12) and [34A-3-108](#)~~[(12)]~~(13) may file an application for hearing in  
284 accordance with Section [34A-2-407](#) or [34A-3-108](#).

285 (d) An attorney may file an application for hearing in accordance with Section  
286 [34A-1-309](#).

287 (2) (a) Unless all parties agree to the assignment in writing, the Division of  
288 Adjudication may not assign the same administrative law judge to hear a claim under this  
289 section by an injured employee if the administrative law judge previously heard a claim by the  
290 same injured employee for a different injury or occupational disease.

291 (b) Unless all parties agree to the appointment in writing, an administrative law judge  
292 may not appoint the same medical panel or individual panel member to evaluate a claim by an  
293 injured employee if the medical panel or individual panel member previously evaluated a claim  
294 by the same injured employee for a different injury or occupational disease.

295 (3) Unless a party in interest appeals the decision of an administrative law judge in  
296 accordance with Subsection (4), the decision of an administrative law judge on an application  
297 for hearing filed under Subsection (1) is a final order of the commission 30 days after the day  
298 on which the decision is issued. An administrative law judge shall issue a decision by no later  
299 than 60 days from the day on which the hearing is held under this part unless:

- 300 (a) the parties agree to a longer period of time; or
- 301 (b) a decision within the 60-day period is impracticable.

302 (4) (a) A party in interest may appeal the decision of an administrative law judge by  
303 filing a motion for review with the Division of Adjudication within 30 days of the date the  
304 decision is issued.

305 (b) Unless a party in interest to the appeal requests under Subsection (4)(c) that the  
306 appeal be heard by the Appeals Board, the commissioner shall hear the review.

307 (c) A party in interest may request that an appeal be heard by the Appeals Board by  
308 filing the request with the Division of Adjudication:

309 (i) as part of the motion for review; or

310 (ii) if requested by a party in interest who did not file a motion for review, within 20  
311 days of the day on which the motion for review is filed with the Division of Adjudication.

312 (d) A case appealed to the Appeals Board shall be decided by the majority vote of the  
313 Appeals Board.

314 (5) The Division of Adjudication shall maintain a record on appeal, including an  
315 appeal docket showing the receipt and disposition of the appeals on review.

316 (6) Upon appeal, the commissioner or Appeals Board shall make its decision in  
317 accordance with Section 34A-1-303. The commissioner or Appeals Board shall issue a  
318 decision under this part by no later than 90 days from the day on which the motion for review is  
319 filed unless:

320 (a) the parties agree to a longer period of time; or

321 (b) a decision within the 90-day period is impracticable.

322 (7) The commissioner or Appeals Board shall promptly notify the parties to a  
323 proceeding before it of its decision, including its findings and conclusions.

324 (8) (a) Subject to Subsection (8)(b), the decision of the commissioner or Appeals  
325 Board is final unless within 30 days after the date the decision is issued further appeal is  
326 initiated under the provisions of this section or Title 63G, Chapter 4, Administrative  
327 Procedures Act.

328 (b) In the case of an award of permanent total disability benefits under Section  
329 34A-2-413, the decision of the commissioner or Appeals Board is a final order of the  
330 commission unless set aside by the court of appeals.

331 (9) (a) Within 30 days after the day on which the decision of the commissioner or  
332 Appeals Board is issued, an aggrieved party may secure judicial review by commencing an  
333 action in the court of appeals against the commissioner or Appeals Board for the review of the  
334 decision of the commissioner or Appeals Board.

335 (b) In an action filed under Subsection (9)(a):

336 (i) any other party to the proceeding before the commissioner or Appeals Board shall  
337 be made a party; and

338 (ii) the commission shall be made a party.

339 (c) A party claiming to be aggrieved may seek judicial review only if the party exhausts  
340 the party's remedies before the commission as provided by this section.

341 (d) At the request of the court of appeals, the commission shall certify and file with the  
342 court all documents and papers and a transcript of all testimony taken in the matter together  
343 with the decision of the commissioner or Appeals Board.

344 (10) (a) The commission shall make rules, in accordance with Title 63G, Chapter 3,  
345 Utah Administrative Rulemaking Act, to facilitate timely completion of administrative actions  
346 under this part.

347 (b) The commission shall monitor the time from filing of an application for a hearing  
348 to issuance of a final order of the commission for cases brought under this part.

349 (c) The commission shall annually report to the Business and Labor Interim  
350 Committee:

351 (i) the number of cases for which an application for hearing is filed under this part in  
352 the previous calendar year;

353 (ii) the number of cases described in Subsection (10)(c)(i) for which the decision of the  
354 administrative law judge was not issued within the 60-day period required by Subsection (3);

355 (iii) the number of cases described in Subsection (10)(c)(i) that are appealed to the  
356 commissioner or Appeals Board for which the decision of the commissioner or Appeals Board  
357 was not issued within the 90-day period required by Subsection (6);

358 (iv) the number of cases described in Subsection (10)(c)(i) for which a final order of  
359 the commission is issued within 18 months of the day on which the application for hearing is  
360 filed;

361 (v) the number of cases for which a final order of the commission is not issued within  
362 18 months of the day on which the application for a hearing is filed; and

363 (vi) the reasons the cases described in Subsection (10)(c)(v) were not resolved within  
364 18 months of the day on which the application for a hearing is filed.

365 Section 5. Section **34A-3-108** is amended to read:

366 **34A-3-108. Reporting of occupational diseases -- Regulation of health care**  
367 **providers.**

368 (1) An employee sustaining an occupational disease, as defined in this chapter, arising

369 out of and in the course of employment shall provide notification to the employee's employer  
370 promptly of the occupational disease. If the employee is unable to provide notification, the  
371 employee's next of kin or attorney may provide notification of the occupational disease to the  
372 employee's employer.

373 (2) (a) An employee who fails to notify the employee's employer or the division within  
374 180 days after the cause of action arises is barred from a claim of benefits arising from the  
375 occupational disease.

376 (b) The cause of action is considered to arise on the date the employee first:

377 (i) suffers disability from the occupational disease; and

378 (ii) knows, or in the exercise of reasonable diligence should have known, that the  
379 occupational disease is caused by employment.

380 (3) The following constitute notification of an occupational disease:

381 (a) an employer's report filed with the:

382 (i) division; or

383 (ii) workers' compensation insurance carrier;

384 (b) a physician's injury report filed with the:

385 (i) division;

386 (ii) employer; or

387 (iii) workers' compensation insurance carrier;

388 (c) a workers' compensation insurance carrier's report to the division; or

389 (d) the payment of any medical or disability benefit by the employer or the employer's  
390 workers' compensation insurance carrier.

391 (4) (a) An employer and the employer's workers' compensation insurance carrier, if  
392 any, shall file a report in accordance with the rules described in Subsection (4)(b) of any  
393 occupational disease resulting in:

394 (i) medical treatment;

395 (ii) loss of consciousness;

396 (iii) loss of work;

397 (iv) restriction of work; or

398 (v) transfer to another job.

399 (b) An employer or the employer's workers' compensation insurance carrier, if any,

400 shall file a report required under Subsection (4)(a) and any subsequent reports of a previously  
401 reported occupational disease as may be required by the commission within the time limits and  
402 in the manner established by rule by the commission made in accordance with Title 63G,  
403 Chapter 3, Utah Administrative Rulemaking Act, under Subsection [34A-2-407\(5\)](#).

404 (c) A report is not required:

405 (i) for a minor injury that requires first aid treatment only, unless a treating physician  
406 files, or is required to file, the Physician's Initial Report of Work Injury or Occupational  
407 Disease with the division;

408 (ii) for occupational diseases that manifest after the employee is no longer employed by  
409 the employer with which the exposure occurred; or

410 (iii) when the employer is not aware of an exposure occasioned by the employment that  
411 results in an occupational disease as defined by Section [34A-3-103](#).

412 (5) An employer or its workers' compensation insurance carrier, if any, shall provide  
413 the employee with:

414 (a) a copy of the report submitted to the division; and

415 (b) a statement, as prepared by the division, of the employee's rights and  
416 responsibilities related to the occupational disease.

417 (6) An employer shall maintain a record in a manner prescribed by the division of  
418 occupational diseases resulting in:

419 (a) medical treatment;

420 (b) loss of consciousness;

421 (c) loss of work;

422 (d) restriction of work; or

423 (e) transfer to another job.

424 (7) An employer or a workers' compensation insurance carrier who refuses or neglects  
425 to make a report, maintain a record, or file a report with the division as required by this section  
426 is subject to citation and civil assessment in accordance with Subsection [34A-2-407\(8\)](#).

427 (8) (a) Except as provided in Subsection (8)(c), a physician, surgeon, or other health  
428 care provider attending an occupationally diseased employee shall:

429 (i) comply with the rules, including the schedule of fees, for services as adopted by the  
430 commission;

431 (ii) make reports to the division at any and all times as required as to the condition and  
432 treatment of an occupationally diseased employee or as to any other matter concerning  
433 industrial cases being treated; and

434 (iii) comply with rules made under Section 34A-2-407.5.

435 (b) A physician, as defined in Section 34A-2-111, who is associated with, employed  
436 by, or bills through a hospital is subject to Subsection (8)(a).

437 (c) A hospital is not subject to the requirements of Subsection (8)(a) except a hospital  
438 is subject to rules made by the commission under Subsections 34A-2-407(9)(a)(ii) and (iii) and  
439 Section 34A-2-407.5.

440 (d) The commission's schedule of fees may reasonably differentiate remuneration to be  
441 paid to providers of health services based on:

442 (i) the severity of the employee's condition;

443 (ii) the nature of the treatment necessary; and

444 (iii) the facilities or equipment specially required to deliver that treatment.

445 (e) This Subsection (8) does not prohibit a contract with a provider of health services  
446 relating to the pricing of goods and services.

447 (9) A copy of the physician's initial report shall be furnished to the:

448 (a) division;

449 (b) employee; and

450 (c) employer or its workers' compensation insurance carrier.

451 (10) A person subject to reporting under Subsection (8)(a)(ii) or Subsection  
452 34A-2-407(9)(a)(iii) who refuses or neglects to make a report or comply with this section is  
453 subject to a civil assessment in accordance with Subsection 34A-2-407(8).

454 (11) (a) As used in this Subsection (11):

455 (i) "Balance billing" means charging a person, on whose behalf a workers'  
456 compensation insurance carrier or self-insured employer is obligated to pay medical benefits  
457 under this chapter or Chapter 2, Workers' Compensation Act, for the difference between what  
458 the workers' compensation insurance carrier or self-insured employer reimburses the hospital  
459 for covered medical services and what the hospital charges for those covered medical services.

460 (ii) "Covered medical services" means medical services provided by a hospital that are  
461 covered by workers' compensation medical benefits under this chapter or Chapter 2, Workers'

462 Compensation Act.

463 (iii) "Health benefit plan" means the same as that term is defined in Section  
464 [31A-22-619.6](#).

465 (iv) "Self-insured employer" means the same as that term is defined in Section  
466 [34A-2-201.5](#).

467 (b) Subject to Subsection (11)(d), a workers' compensation insurance carrier or  
468 self-insured employer may contract ~~Ŝ→~~ , **either in writing or by mutual** ~~Ĥ→~~ ~~[verbal]~~ **oral** ~~←Ĥ~~  
468b **agreement,** ~~←Ŝ~~  
468a with a hospital to establish reimbursement rates.

469 (c) Subject to Subsection (11)(d), ~~Ĥ→~~ **for the time period beginning on May 10, 2016,**  
469a **and ending on July 1, 2018,** ~~←Ĥ~~ a workers' compensation insurance carrier or  
470 self-insured employer that is reimbursing a hospital that has not entered into a contract  
471 described in Subsection (11)(b), shall reimburse the hospital for covered medical services at  
472 85% of the billed hospital fees for the covered medical services.

473 (d) A hospital may not engage in balance billing.

474 (e) Covered services paid under a health benefit plan are subject to coordination of  
475 benefits in accordance with Sections [31A-22-619.6](#) and [34A-2-213](#).

476 ~~[(H)]~~ (12) (a) An application for a hearing to resolve a dispute regarding an  
477 occupational disease claim shall be filed with the Division of Adjudication.

478 (b) After the filing, a copy shall be forwarded by mail to:

479 (i) (A) the employer; or

480 (B) the employer's workers' compensation insurance carrier;

481 (ii) the applicant; and

482 (iii) the attorneys for the parties.

483 ~~[(12)]~~ (13) (a) Subject to appellate review under Section [34A-1-303](#), the commission  
484 has exclusive jurisdiction to hear and determine:

485 (i) whether goods provided to or services rendered to an employee is compensable  
486 pursuant to this chapter and Chapter 2, Workers' Compensation Act, including the following:

487 (A) medical, nurse, or hospital services;

488 (B) medicines; and

489 (C) artificial means, appliances, or prosthesis;

490 (ii) except for amounts charged or paid under Subsection (11), the reasonableness of  
491 the amounts charged or paid for a good or service described in Subsection ~~[(12)]~~ (13)(a)(i); and

492 (iii) collection issues related to a good or service described in Subsection ~~[(12)]~~



493 (13)(a)(i).  
494           (b) Except as provided in Subsection [~~(12)~~] (13)(a), Subsection 34A-2-211(6), or  
495 Section 34A-2-212, a person may not maintain a cause of action in any forum within this state  
496 other than the commission for collection or payment of goods or services described in  
497 Subsection [~~(12)~~] (13)(a) that are compensable under this chapter or Chapter 2, Workers'  
498 Compensation Act.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**