

LABOR COMMISSION AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies provisions related to payment of workers' compensation benefits.

Highlighted Provisions:

This bill:

- ▶ repeals language related to liability for extended benefits;
- ▶ imposes time frames within which claims for reimbursement from the Employers' Reinsurance Fund may be submitted; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-416, as last amended by Laws of Utah 2008, Chapter 90

34A-2-703, as last amended by Laws of Utah 2011, Chapter 366

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

Section 1. Section **34A-2-416** is amended to read:

34A-2-416. Additional benefits in special cases.

~~(+)~~ Benefits received by a wholly dependent person under this chapter or Chapter 3, Utah Occupational Disease Act, extend indefinitely if at the termination of the benefits:

30 ~~[(a)]~~ (1) the wholly dependent person is still in a dependent condition; and
 31 ~~[(b)]~~ (2) under all reasonable circumstances the wholly dependent person should be
 32 entitled to additional benefits.

33 ~~[(2) If benefits are extended under Subsection (1):]~~

34 ~~[(a) the liability of the employer or insurance carrier involved may not be extended;~~
 35 ~~and]~~

36 ~~[(b) the additional benefits allowed shall be paid out of the Employers' Reinsurance~~
 37 ~~Fund created in Subsection 34A-2-702(1).]~~

38 Section 2. Section 34A-2-703 is amended to read:

39 **34A-2-703. Payments from Employers' Reinsurance Fund.**

40 If an employee, who has at least a 10% whole person permanent impairment from any
 41 cause or origin, subsequently incurs an additional impairment by an accident arising out of and
 42 in the course of the employee's employment during the period of July 1, 1988, to June 30,
 43 1994, inclusive, and if the additional impairment results in permanent total disability, the
 44 employer or its insurance carrier and the Employers' Reinsurance Fund are liable for the
 45 payment of benefits as follows:

46 (1) The employer or its insurance carrier is liable for the first \$20,000 of medical
 47 benefits and the initial 156 weeks of permanent total disability compensation as provided in
 48 this chapter or Chapter 3, Utah Occupational Disease Act.

49 (2) Reasonable medical benefits in excess of the first \$20,000 shall be paid in the first
 50 instance by the employer or its insurance carrier. Then, as provided in Subsection (5), the
 51 Employers' Reinsurance Fund shall reimburse the employer or its insurance carrier for 50% of
 52 those expenses.

53 (3) After the initial 156-week period under Subsection (1), permanent total disability
 54 compensation payable to an employee under this chapter or Chapter 3, Utah Occupational
 55 Disease Act, becomes the liability of and shall be paid by the Employers' Reinsurance Fund.

56 (4) If it is determined that the employee is permanently and totally disabled, the
 57 employer or its insurance carrier shall be given credit for all prior payments of temporary total,

58 temporary partial, and permanent partial disability compensation made as a result of the
59 industrial accident. ~~[Any]~~ An overpayment by the employer or its insurance carrier shall be
60 reimbursed by the Employers' Reinsurance Fund under Subsection (5).

61 (5) (a) (i) Upon receipt of a duly verified petition, the Employers' Reinsurance Fund
62 shall reimburse the employer or its insurance carrier for the Employers' Reinsurance Fund's
63 share of medical benefits and compensation paid to or on behalf of an employee.

64 (ii) A request for Employers' Reinsurance Fund reimbursements shall be accompanied
65 by satisfactory evidence of payment of the medical or disability compensation for which the
66 reimbursement is requested. ~~[Each]~~

67 (iii) A request is subject to review as to reasonableness by the administrator. The
68 administrator may determine the manner of reimbursement.

69 (b) A decision of the administrator under Subsection (5)(a) may be appealed in
70 accordance with Part 8, Adjudication.

71 (c) An employer or its insurance carrier shall submit to the Employers' Reinsurance
72 Fund, by June 30, 2018, a request for reimbursement related to medical benefits or
73 compensation paid on or before July 1, 2016.

74 (d) An employer or its insurance carrier shall submit to the Employers' Reinsurance
75 Fund a request for reimbursement related to medical benefits or compensation paid after July 1,
76 2016, within 24 months of the later of:

77 (i) the date the benefits or compensation are paid by the employer or its insurance
78 carrier; or

79 (ii) the date the Employers' Reinsurance Fund is determined to be liable.

80 (e) Requests for reimbursement not submitted in accordance with Subsection (5)(c) or
81 (5)(d) are considered untimely and the Employers' Reinsurance Fund may not reimburse the
82 benefits or compensation paid.

83 (6) If, at the time an employee is determined to have a permanent, total disability, the
84 employee has other actionable workers' compensation claims, the employer or insurance carrier
85 that is liable for the last industrial accident resulting in permanent total disability shall be liable

86 for the benefits payable by the employer as provided in this section and Section [34A-2-413](#).
87 The employee's entitlement to benefits for prior actionable claims shall then be determined
88 separately on the facts of those claims. [~~Any~~] A previous permanent partial disability arising
89 out of those claims shall then be considered to be impairments that may give rise to Employers'
90 Reinsurance Fund liability under this section.