

1                                   **WORKERS' COMPENSATION ATTORNEY FEES**  
2   **AMENDMENTS**

3   2018 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Karen Mayne**

6   House Sponsor: \_\_\_\_\_

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8 **LONG TITLE**

9 **General Description:**

10                   This bill modifies provisions of the Workers' Compensation Act related to attorney  
11 fees.

12 **Highlighted Provisions:**

13                   This bill:

14                   ▶ provides that to the extent allowed by court rule, an employee may be awarded  
15 reasonable attorney fees in an adjudication of a ~~§~~→ [medical benefits claim] workers'  
15a compensation claim where only medical benefits are at issue ←~~§~~ ; and

16                   ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18                   None

19 **Other Special Clauses:**

20                   None

21 **Utah Code Sections Affected:**

22 **AMENDS:**

23                   **34A-2-413**, as last amended by Laws of Utah 2016, Chapter 31

24                   **34A-2-801**, as last amended by Laws of Utah 2016, Chapters 187 and 242

25 **REPEALS AND REENACTS:**

26                   **34A-1-309**, as last amended by Laws of Utah 2009, Chapter 216



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

29 Section 1. Section **34A-1-309** is repealed and reenacted to read:

30 **34A-1-309. Attorney fees.**

31 For an adjudication of a ~~§~~ → **[medical benefits claim] workers' compensation claim where**  
 31a **only medical benefits are at issue** ← ~~§~~ , reasonable attorney fees may be  
 32 awarded in accordance with and to the extent allowed by rule adopted by the Utah Supreme  
 33 Court and implemented by the Labor Commission.

34 Section 2. Section **34A-2-413** is amended to read:

35 **34A-2-413. Permanent total disability -- Amount of payments -- Rehabilitation.**

36 (1) (a) In the case of a permanent total disability resulting from an industrial accident  
 37 or occupational disease, the employee shall receive compensation as outlined in this section.

38 (b) To establish entitlement to permanent total disability compensation, the employee  
 39 shall prove by a preponderance of evidence that:

40 (i) the employee sustained a significant impairment or combination of impairments as a  
 41 result of the industrial accident or occupational disease that gives rise to the permanent total  
 42 disability entitlement;

43 (ii) the employee has a permanent, total disability; and

44 (iii) the industrial accident or occupational disease is the direct cause of the employee's  
 45 permanent total disability.

46 (c) To establish that an employee has a permanent, total disability the employee shall  
 47 prove by a preponderance of the evidence that:

48 (i) the employee is not gainfully employed;

49 (ii) the employee has an impairment or combination of impairments that reasonably  
 50 limit the employee's ability to do basic work activities;

51 (iii) the industrial or occupationally caused impairment or combination of impairments  
 52 prevent the employee from performing the essential functions of the work activities for which  
 53 the employee has been qualified until the time of the industrial accident or occupational disease  
 54 that is the basis for the employee's permanent total disability claim; and

55 (iv) the employee cannot perform other work reasonably available, taking into  
 56 consideration the employee's:

57 (A) age;

58 (B) education;