

SB0053S01 compared with SB0053

~~{deleted text}~~ shows text that was in SB0053 but was deleted in SB0053S01.

Inserted text shows text that was not in SB0053 but was inserted into SB0053S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Karen Mayne proposes the following substitute bill:

WORKERS' COMPENSATION COORDINATION OF BENEFITS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to the coordination between workers' compensation benefits and health benefit plans.

Highlighted Provisions:

This bill:

- ▶ modifies a requirement that the Labor Commission provide notice to a health benefit plan of the filing of an application for a hearing;
- ▶ requires the Labor Commission to allow a health benefit plan to become a party to a hearing regarding a workers compensation claim; and
- ▶ eliminates language that provides for a repeal of provisions related to the

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coordination between workers' compensation benefits and health benefit plans.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

[31A-22-619.6, as last amended by Laws of Utah 2016, Chapter 348](#)

[34A-2-213, as last amended by Laws of Utah 2016, Chapter 348](#)

[63I-1-231, as last amended by Laws of Utah 2017, Chapters 53 and 181](#)

[63I-1-234, as last amended by Laws of Utah 2016, Chapter 39](#)

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

[Section 1. Section 31A-22-619.6 is amended to read:](#)

31A-22-619.6. Coordination of benefits with workers' compensation claim --

Health insurer's duty to pay.

(1) As used in this section:

(a) "Employee" means an employee, worker, or operative as defined in Section 34A-2-104.

(b) "Employer" is as enumerated and defined in Section 34A-2-103.

(c) "Health benefit plan":

(i) means the same as that term is defined in Section 31A-1-301;

(ii) includes:

(A) a health maintenance organization;

(B) a third party administrator that offers, sells, manages, or administers a health benefit plan; and

(C) the Public Employees' Benefit and Insurance Program created in Section 49-20-103; and

(iii) excludes a health benefit plan offered by an insurer that has a market share in the state's fully insured market that is less than 2%, as determined in the department's annual Market Share Report published by the department.

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(d) "Workers' compensation carrier" means any of the entities an employer may use to provide workers' compensation benefits for its employees under Section 34A-2-201.

(e) "Workers' compensation claim" means a claim for compensation for medical benefits under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act.

(2) (a) For medical claims incurred on or after July 1, 2014, an employee's health benefit plan may not delay or deny payment of benefits due to the employee under the terms of a health benefit plan by claiming that treatment for the employee's injury or disease is the responsibility of the employer's workers' compensation carrier if:

(i) the employee or a health care provider on behalf of an employee files an application for hearing regarding the workers' compensation claim with the Division of Adjudication under Section 34A-2-801; and

(ii) the health benefit plan received a notice from the Labor Commission that an application for hearing was filed in accordance with Subsection (2)(a)(i).

(b) The Labor Commission shall provide the notice required by Subsection (2)(a)(ii) in accordance with Subsection 34A-2-213(2).

(c) Upon request by a health benefit plan that receives notice under Subsection 34A-2-213(2)(a), the Labor Commission shall allow the health benefit plan to become a party to a hearing under Subsection (2)(a)(i).

(3) A health benefit plan that receives a medical claim from the employee or a health care provider and a notice from the Labor Commission in accordance with Subsection (2):

(a) shall pay the medical claim directly to the health care provider in the dollar amount paid under the limits, terms, and conditions of the employee's health benefit plan; and

(b) may send a notice to the Labor Commission or the attorney for the injured worker informing the parties that the health benefit plan paid a claim under the provisions of this section.

(4) If the claims for medical services paid pursuant to Subsection (3) are determined to be compensable by the workers' compensation carrier in a final order under Section 34A-2-801 or under the terms of a settlement agreement under Section 34A-2-420, the workers' compensation carrier shall pay the health benefit plan and employee in accordance with Subsection 34A-2-213(3)(b).

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(5) (a) A health care provider who receives payment for a medical claim from a health benefit plan under the provisions of Subsection (3) may not request additional payment for the medical claim from the workers' compensation carrier if the final order under Section 34A-2-801 or terms of the settlement agreement under Section 34A-2-420 determine that the medical claim was compensable by the workers' compensation carrier.

(b) A health benefit plan that is reimbursed under the provisions of Subsection 34A-2-213(3) for a medical claim may not seek reimbursement or autorecovery from the health care provider for any difference between the amount of the claim paid by the health benefit plan and the reimbursement to the health benefit plan by the workers' compensation carrier under Subsection 34A-2-213(3).

(c) If a final order of the Labor Commission under Section 34A-2-801 or the terms of a settlement agreement under Section 34A-2-420 determines that a medical claim is compensable by the workers' compensation carrier, the workers' compensation carrier may not seek reimbursement or autorecovery from a health care provider for any part of the medical claim that is the responsibility of the workers' compensation carrier under the order or settlement agreement.

~~[(6) This section sunsets in accordance with Section 63I-1-231.]~~

Section 2. Section 34A-2-213 is amended to read:

34A-2-213. Coordination of benefits with health benefit plan -- Timely payment of claims.

(1) (a) This section applies if:

(i) a health benefit plan paid medical claims under Section 31A-22-619.6; and

(ii) the Labor Commission under 34A-2-801 issued an order or approved the terms of a settlement agreement under Section 34A-2-420, which:

(A) found that the medical claims are compensable under Title 34A, Chapter 2, Workers' Compensation Act, or Title 34A, Chapter 3, Utah Occupational Disease Act; and

(B) is final under Section 34A-2-801.

(b) For purposes of this section, "workers' compensation carrier" means any of the entities an employer may use to provide workers' compensation benefits for its employees under Section 34A-2-201.

(2) (a) The Labor Commission shall provide a health benefit plan with notice that an

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application for hearing has been filed in accordance with Subsection 31A-22-619.6(2)(a)(i) ~~if either the employee or a health care provider requests that the commission send the notice~~.

(b) The Labor Commission shall prepare and provide notice to an injured employee of the employee's right to payment by the employee's health benefit plan under Section 31A-22-619.6. The notice provided under this Subsection (2) shall include the process the employee shall follow to obtain payment from a health benefit plan for a medical claim that is the subject of an application for hearing under Section 34A-2-801.

(3) (a) The Labor Commission shall, within three business days after the date on which the order under Section 34A-2-801 or approval of the terms of a settlement agreement under Section 34A-2-420 is signed by the administrative law judge, send a copy of the order or terms of the settlement agreement to:

- (i) a health benefit plan that made payments under Section 31A-22-619.6;
- (ii) the workers' compensation carrier; and
- (iii) the injured worker.

(b) The workers' compensation carrier shall, within 15 business days after the day on which the Labor Commission's order under Section 34A-2-801 or settlement agreement under Section 34A-2-420 is final, pay:

(i) the health benefit plan, in the amount the plan paid to the health care provider for medical claims that are compensable under the order or the terms of the settlement agreement, plus interest accrued at the rate of 8% per annum from the date the health benefit plan paid the medical claims until the date the workers' compensation carrier reimburses the health benefit plan, unless, in settlement negotiations, the health benefit plan agreed to waive, in whole or in part, reimbursement for medical claims paid, interest accrued, or both; and

(ii) the employee, in the amount of:

(A) any co-payments, coinsurance, deductibles, or other out-of-pocket expenses paid or incurred by the employee; and

(B) interest accrued at the rate of 8% per annum from the date the employee paid the expenses described in Subsection (3)(b)(ii)(A) until the date the workers' compensation carrier reimburses the employee.

(4) If the Labor Commission determines that a workers' compensation carrier did not make the payment required by Subsection (3) within the time period required in Subsection (3),

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the commissioner shall:

(a) assess and collect a penalty from the workers' compensation carrier in:

(i) the amount of \$500 for failure to pay the amount required by Subsections (3)(b)(i) and (ii) within the period of time required by Subsections (3)(b)(i) and (ii); and

(ii) an additional amount of \$500 for each calendar month:

(A) that accrues after the penalty is assessed under Subsection (4)(a)(i); and

(B) for which the amount required by Subsections (3)(b)(i) and (ii) are not paid;

(b) deposit any penalties collected under this Subsection (4) into the Uninsured Employers' Fund created in Section 34A-2-704; and

(c) notify the Utah Insurance Department of the workers' compensation carrier's failure to pay the health benefit plan or the employee in accordance with this section.

(5) The penalty imposed by Subsection (4) is in addition to any action taken or penalty imposed by the Utah Insurance Department under Title 31A, Insurance Code.

(6) The commission may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish procedures for:

(i) assessing and collecting penalties under Subsection (4); and

(ii) providing notice as required by this section; and

(b) enforce the provisions of this section.

~~[(7) This section sunsets in accordance with Section 63I-1-234.]~~

Section ~~{1}~~3. Section **63I-1-231** is amended to read:

63I-1-231. Repeal dates, Title 31A.

(1) Section 31A-2-217, Coordination with other states, is repealed July 1, 2023.

(2) Section 31A-22-615.5 is repealed July 1, 2022.

~~[(3) Section 31A-22-619.6, Coordination of benefits with workers' compensation claim--Health insurer's duty to pay, is repealed on July 1, 2018.]~~

~~[(4) (3) Section 31A-22-642, Insurance coverage for autism spectrum disorder, is repealed on January 1, 2019.]~~

Section ~~{2}~~4. Section **63I-1-234** is amended to read:

63I-1-234. Repeal dates, Titles 34 and 34A.

(1) Section 34A-2-202.5 is repealed December 31, 2020.

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(2) Section 34A-2-705 and Subsection 59-9-101(2)(c)(iv) are repealed July 1, 2018.

~~[(3) Section 34A-2-213, Coordination of benefits with health benefit plan -- Timely payment of claims, is repealed July 1, 2018.]~~

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Legislative Review Note

Office of Legislative Research and General Counsel†