

WORKERS' COMPENSATION ADJUDICATION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill enacts provisions related to add-on fees in workers' compensation cases.

Highlighted Provisions:

This bill:

- ▶ repeals provisions authorizing the Labor Commission to award attorney fees;
- ▶ defines terms;
- ▶ in certain workers' compensation cases, authorizes the Labor Commission to award an add-on fee to a claimant to be paid by the workers' compensation insurance carrier; and
- ▶ if the Labor Commission awards an add-on fee, establishes the amount of the add-on fee.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

REPEALS AND REENACTS:

34A-1-309, as repealed and reenacted by Laws of Utah 2018, Chapter 273

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



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 Section 34A-1-309 is repealed and reenacted to read:

29 **34A-1-309. Add-on fees.**

30 (1) As used in this section:

31 (a) "Carrier" means a workers' compensation insurance carrier, the Uninsured
 32 Employers' Fund, an employer that does not carry workers' compensation insurance, or a
 33 self-insured employer as defined in Section 34A-2-201.5.

34 (b) "Indemnity compensation" means a workers' compensation claim for indemnity
 35 benefits that arises from or may arise from a denial of a medical claim.

36 (c) "Medical claim" means a workers' compensation claim for medical expenses or
 37 recommended medical care.

38 (d) "Unconditional denial" means a carrier's denial of a medical claim:

39 (i) after the carrier completes an investigation; or

40 (ii) 90 days after the day on which the claim was submitted to the carrier.

41 (2) (a) The commission may award an add-on fee to a claimant to be paid by the carrier
 42 if:

43 (i) a medical claim is at issue;

44 (ii) the carrier issues an unconditional denial of the medical claim;

45 (iii) the claimant hires an attorney to represent the claimant during the formal
 46 adjudicative process before the commission;

47 (iv) after the carrier issues the unconditional denial, the commission orders the carrier
 48 or the carrier agrees to pay the medical claim; and

49 (v) any award of indemnity compensation in the case is less than \$5,000.

50 (b) An award of an add-on fee under this section is in addition to:

51 (i) the amount awarded for the medical claim or indemnity compensation; and

52 (ii) any amount for attorney fees agreed upon between the claimant and the claimant's
 53 attorney.

54 (c) An award under this section is governed by the law in effect at the time the claimant
 55 files an application for hearing with the Division of Adjudication.

56 (3) If the commission awards an add-on fee under this section, the commission shall
 57 award the add-on fee in the following amount:

58 (a) $\hat{\$}$ \rightarrow **the lesser of** $\leftarrow \hat{\$}$ 25% of the medical expenses the commission awards to the
 58a claimant $\hat{\$}$ \rightarrow **or \$25,000** $\leftarrow \hat{\$}$, for a case that

59 is resolved at the commission level;

60 (b) ~~the lesser of~~ 30% of the medical expenses the Utah Court of Appeals awards to
60a the claimant ~~or \$30,000~~ , for

61 a case that is resolved on appeal before the Utah Court of Appeals; or

62 (c) ~~the lesser of~~ 35% of the medical expenses that the Utah Supreme Court awards
62a to the claimant ~~or \$35,000~~ ,

63 for a case that is resolved on appeal before the Utah Supreme Court.

64 (4) If a court invalidates any portion of this section, the entire section is invalid.

65 **Section 2. Effective date.**

66 If approved by two-thirds of all the members elected to each house, this bill takes effect
67 upon approval by the governor, or the day following the constitutional time limit of Utah
68 Constitution, Article VII, Section 8, without the governor's signature, or in cast of a veto, the
69 date of veto override.