

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 coordination between workers' compensation benefits and health benefit plans.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 [31A-22-619.6](#), as last amended by Laws of Utah 2016, Chapter 348
27 [34A-2-213](#), as last amended by Laws of Utah 2016, Chapter 348
28 [63I-1-231](#), as last amended by Laws of Utah 2017, Chapters 53 and 181
29 [63I-1-234](#), as last amended by Laws of Utah 2016, Chapter 39

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

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

33 **[31A-22-619.6. Coordination of benefits with workers' compensation claim --](#)**
34 **Health insurer's duty to pay.**

35 (1) As used in this section:

36 (a) "Employee" means an employee, worker, or operative as defined in Section
37 [34A-2-104](#).

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

39 (c) "Health benefit plan":

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

41 (ii) includes:

42 (A) a health maintenance organization;

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

45 (C) the Public Employees' Benefit and Insurance Program created in Section
46 [49-20-103](#); and

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

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

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

55 (2) (a) For medical claims incurred on or after July 1, 2014, an employee's health
56 benefit plan may not delay or deny payment of benefits due to the employee under the terms of

57 a health benefit plan by claiming that treatment for the employee's injury or disease is the
58 responsibility of the employer's workers' compensation carrier if:

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

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

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

66 (c) Upon request by a health benefit plan that receives notice under Subsection
67 [34A-2-213](#)(2)(a), the Labor Commission shall allow the health benefit plan to become a party
68 to a hearing under Subsection (2)(a)(i).

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

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

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

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

81 (5) (a) A health care provider who receives payment for a medical claim from a health
82 benefit plan under the provisions of Subsection (3) may not request additional payment for the
83 medical claim from the workers' compensation carrier if the final order under Section
84 [34A-2-801](#) or terms of the settlement agreement under Section [34A-2-420](#) determine that the
85 medical claim was compensable by the workers' compensation carrier.

86 (b) A health benefit plan that is reimbursed under the provisions of Subsection
87 [34A-2-213](#)(3) for a medical claim may not seek reimbursement or autorecovery from the health

88 care provider for any difference between the amount of the claim paid by the health benefit
89 plan and the reimbursement to the health benefit plan by the workers' compensation carrier
90 under Subsection 34A-2-213(3).

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

97 [~~(6) This section sunsets in accordance with Section 631-1-231.~~]

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

99 **34A-2-213. Coordination of benefits with health benefit plan -- Timely payment**
100 **of claims.**

101 (1) (a) This section applies if:

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

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

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

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

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

111 (2) (a) The Labor Commission shall provide a health benefit plan with notice that an
112 application for hearing has been filed in accordance with Subsection 31A-22-619.6(2)(a)(i) [~~if~~
113 ~~either the employee or a health care provider requests that the commission send the notice~~].

114 (b) The Labor Commission shall prepare and provide notice to an injured employee of
115 the employee's right to payment by the employee's health benefit plan under Section
116 31A-22-619.6. The notice provided under this Subsection (2) shall include the process the
117 employee shall follow to obtain payment from a health benefit plan for a medical claim that is
118 the subject of an application for hearing under Section 34A-2-801.

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

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

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

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

135 (ii) the employee, in the amount of:

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

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

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

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

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

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

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

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

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

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

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

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

158 (a) establish procedures for:

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

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

161 (b) enforce the provisions of this section.

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

163 Section 3. Section 63I-1-231 is amended to read:

164 **63I-1-231. Repeal dates, Title 31A.**

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

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

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

169 [~~(4)~~] (3) Section 31A-22-642, Insurance coverage for autism spectrum disorder, is
170 repealed on January 1, 2019.

171 Section 4. Section 63I-1-234 is amended to read:

172 **63I-1-234. Repeal dates, Titles 34 and 34A.**

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

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

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