

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1611

By: Representative Miller  
By: Senator J. Payton

## For An Act To Be Entitled

AN ACT TO AMEND PORTIONS OF THE WORKERS' COMPENSATION LAW THAT RESULTED FROM INITIATED MEASURE 1948, NO. 4; TO AMEND THE WORKERS' COMPENSATION LAW; TO ALLOW ATTORNEY'S FEES TO BE AWARDED ON MEDICAL BENEFITS OR SERVICES AWARDED UNDER THE WORKERS' COMPENSATION LAW; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND PORTIONS OF THE WORKERS' COMPENSATION LAW THAT RESULTED FROM INITIATED MEASURE 1948, NO. 4.; AND TO ALLOW ATTORNEY'S FEES TO BE AWARDED ON MEDICAL BENEFITS OR SERVICES AWARDED UNDER THE WORKERS' COMPENSATION LAW.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 11-9-715(a), concerning attorney fees for legal services, is amended to read as follows:

(a)(1)(A) Fees for legal services rendered in respect of a claim shall not be valid unless approved by the Workers' Compensation Commission.

(B) Attorney's fees shall be twenty-five percent (25%) of compensation for indemnity benefits payable to the injured employee or dependents of a deceased employee. ~~Attorney's fees shall not be awarded on medical benefits or services except as provided in subdivision (a)(4) of this section.~~



(2)(A) Whenever the commission finds that a claim against the Treasurer of State, as custodian of the Second Injury Trust Fund or as custodian of the Death and Permanent Total Disability Trust Fund, has been controverted, in whole or in part, the commission shall direct that fees for legal services be paid from the fund, in addition to compensation awarded, and the fees shall be allowed only on the amount of compensation controverted and awarded from the fund.

(B)(i) In all other cases whenever the commission finds that a claim has been controverted, in whole or in part, the commission shall direct that fees for legal services be paid to the attorney for the claimant as follows: One-half ( $\frac{1}{2}$ ) by the employer or carrier in addition to compensation awarded; and one-half ( $\frac{1}{2}$ ) by the injured employee or dependents of a deceased employee out of compensation payable to them.

(ii) The fees shall be allowed only on the amount of compensation ~~for indemnity benefits~~ controverted and awarded.

(iii) However, the commission shall not find that a claim has been controverted if the claimant or his or her representative has withheld from the respondent during the period of time allotted for the respondent to determine its position any medical information in his or her possession which substantiates the claim.

(C)(i) Whenever the commission finds that a claim has not been controverted but further finds that bona fide legal services have been rendered in respect to the claim, then the commission shall direct the payment of the fees by the injured employee or dependents of a deceased employee out of the compensation awarded.

(ii) In determining the amount of fees when a claim is not controverted, the commission shall use its discretion in awarding an attorney's fee not to exceed twenty-five percent (25%) and in so doing shall take into consideration the nature, length, and complexity of the services performed and the benefits resulting to the compensation beneficiaries.

~~(3) In any case where attorney's fees are allowed by the commission, the limitations expressed in the first sentence herein shall apply.~~

~~(4)~~ Medical providers may voluntarily contract with the attorney for the claimant to recover disputed bills, and the attorney may charge a reasonable fee to the medical provider as a cost of collection.

SECTION 2. Arkansas Code § 11-9-715(e), concerning the applicability of the limitations on attorney's fees, is amended to read as follows:

(e) The amendments made by this act of ~~2001~~ 2023 regarding attorney's fees contained in this section shall be effective with respect to benefits payable in connection with disability or death due to injuries occurring on or after ~~July 1, 2001~~ the effective date of this act.