

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

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S3/17/25

A Bill

SENATE BILL 287

By: Senator J. Payton

For An Act To Be Entitled

AN ACT TO MODIFY CERTAIN ATTORNEY FEES FOR
CONTROVERTED MEDICAL EXPENSES, APPEALS, AND CHANGES
OF PHYSICIANS UNDER THE WORKERS' COMPENSATION LAW
THAT RESULTED FROM INITIATED MEASURE 1948, NO. 4; AND
FOR OTHER PURPOSES.

Subtitle

TO MODIFY CERTAIN ATTORNEY FEES FOR
CONTROVERTED MEDICAL EXPENSES, APPEALS,
AND CHANGES OF PHYSICIANS UNDER THE
WORKERS' COMPENSATION LAW THAT RESULTED
FROM INITIATED MEASURE 1948, NO. 4.

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

SECTION 1. Arkansas Code § 11-9-715 is amended to read as follows:

11-9-715. Fees for legal services.

(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.~~

(C) Attorney's fees regarding controverted medical benefits shall be twelve and one-half (12½%) of the controverted medical benefits up to a maximum fee of five thousand dollars (\$5,000).



(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)(a) 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 regarding indemnity benefits be paid to the attorney for the claimant as follows:

(1) One-half ($\frac{1}{2}$) of the fees for legal services by the employer or carrier in addition to compensation awarded; and

(2) ~~one-half~~ One-half ($\frac{1}{2}$) of the fees for legal services by the injured employee or dependents of a deceased employee out of compensation payable to them.

(b) The fees for legal services regarding controverted medical benefits shall be paid by the employer or carrier, in addition to the medical benefits awarded.

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

(iii)(a) 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 regarding indemnity benefits be paid to the attorney for the claimant as follows:

(1) One-half ($\frac{1}{2}$) by the employer or carrier in addition to compensation awarded; and

(2) One-half ($\frac{1}{2}$) by the injured employee or dependents of the deceased employee out of the compensation payable to them.

(b) Fees for legal services regarding controverted medical benefits shall be paid by the employer or carrier, in addition to the medical benefits awarded.

~~(iii)~~(iv) 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~~ subdivision (a)(1) of this section 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.

(b)(1) If the claimant prevails on appeal, the attorney for the claimant shall be entitled to an additional fee at the full commission and appellate court levels in addition to the fees provided in subdivision (a)(1) of this section, the additional fee to be paid equally by the employer or carrier and by the injured employee or dependents of a deceased employee, as provided above and set by the commission or appellate court.

(2) The maximum fees allowable pursuant to this subsection shall be the sum of ~~five hundred dollars (\$500)~~ two thousand five hundred dollars (\$2,500) on appeals to the full commission from a decision of the administrative law judge and the sum of ~~one thousand dollars (\$1,000)~~ five thousand dollars (\$5,000) on appeals to the Court of Appeals or Supreme Court from a decision of the commission.

(3) In determining the amount of fees, the commission and the court shall take into consideration the nature, length, and complexity of the services performed and the benefits resulting to the compensation beneficiary.

(c)(1) The fee for legal services rendered by the claimant's attorney

in connection with a change of physician requested by the injured employee, controverted by the employer or carrier and awarded by the commission, shall be ~~two hundred dollars (\$200)~~ one thousand dollars (\$1,000).

(2) ~~No additional fee shall~~ An additional fee shall not be payable with respect to uncontroverted charges incurred in connection with treatment by the new physician.

(d)(1) ~~No fees~~ Fees for legal services rendered by the claimant's attorney with respect to the preliminary conference procedure shall not be awarded by the commission.

(2) However, the claimant's attorney or other representative may charge a reasonable fee to the claimant for representation in connection with the conference.

(3) Unless compensability of a claim is controverted by the employer or carrier, fees for legal services by the claimant's attorney with respect to disability for loss of wage-earning capacity shall be payable only for amounts awarded at a contested hearing which exceed the amount, if any, which the employer or carrier agreed in writing to accept at the preliminary conference.

(e) The amendments made by ~~this act of 2001~~ Acts 2001, No. 1281, 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, and before the effective date of this act.

(f) The amendments made by this act regarding attorney 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 the effective date of this act.

/s/J. Payton