

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

SENATE BILL 287

5 By: Senator J. Payton
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For An Act To Be Entitled

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

16 TO MODIFY CERTAIN ATTORNEY FEES FOR
17 CONTROVERTED MEDICAL EXPENSES, APPEALS,
18 AND CHANGES OF PHYSICIANS UNDER THE
19 WORKERS' COMPENSATION LAW THAT RESULTED
20 FROM INITIATED MEASURE 1948, NO. 4.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 11-9-715 is amended to read as follows:

26 11-9-715. Fees for legal services.

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

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

34 (C) Attorney's fees regarding controverted medical
35 benefits shall be twelve and one-half (12½%) of the controverted medical
36 benefits.



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

8 (B)(i)(a) In all other cases whenever the commission finds
9 that a claim has been controverted, in whole or in part, the commission shall
10 direct that fees for legal services regarding indemnity benefits be paid to
11 the attorney for the claimant as follows:

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

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

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

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

23 (iii)(a) In all other cases, whenever the commission
24 finds that a claim has been controverted in whole or in part the commission
25 shall direct that fees for legal services regarding indemnity benefits be
26 paid to the attorney for the claimant as follows:

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

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

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

35 ~~(iii)~~(iv) However, the commission shall not find
36 that a claim has been controverted if the claimant or his or her

1 representative has withheld from the respondent during the period of time
2 allotted for the respondent to determine its position any medical information
3 in his or her possession which substantiates the claim.

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

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

14 (3) In any case where attorney's fees are allowed by the
15 commission, the limitations expressed in ~~the first sentence herein~~
16 subdivision (a)(1) of this section shall apply.

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

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

26 (2) The maximum fees allowable pursuant to this subsection shall
27 be the sum of ~~five hundred dollars (\$500)~~ two thousand five hundred dollars
28 (\$2,500) on appeals to the full commission from a decision of the
29 administrative law judge and the sum of ~~one thousand dollars (\$1,000)~~ five
30 thousand dollars (\$5,000) on appeals to the Court of Appeals or Supreme Court
31 from a decision of the commission.

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

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

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

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

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

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

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

19 (e) The amendments made by ~~this act of 2001~~ Acts 2001, No. 1281,
20 regarding attorney's fees contained in this section shall be effective with
21 respect to benefits payable in connection with disability or death due to
22 injuries occurring on or after July 1, 2001, and before the effective date of
23 this act.

24 (f) The amendments made by this act regarding attorney fees contained
25 in this section shall be effective with respect to benefits payable in
26 connection with disability or death due to injuries occurring on or after the
27 effective date of this act.

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