

1 INTERIM STUDY PROPOSAL 2025-030

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

As Engrossed: S3/17/25

A Bill

SENATE BILL 287

6
7 By: Senator J. Payton

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9 Filed with: Senate Committee on Public Health, Welfare, and Labor
10 pursuant to A.C.A. §10-3-217.

11 **For An Act To Be Entitled**

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

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19 **Subtitle**

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

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

27
28 SECTION 1. Arkansas Code § 11-9-715 is amended to read as follows:

29 11-9-715. Fees for legal services.

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

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

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

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

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

15 (1) One-half (½) of the fees for legal
 16 services by the employer or carrier in addition to compensation awarded; and

17 (2) ~~one-half~~ One-half (½) of the fees
 18 for legal services by the injured employee or dependents of a deceased
 19 employee out of compensation payable to them.

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

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

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

30 (1) One-half (½) by the employer or
 31 carrier in addition to compensation awarded; and

32 (2) One-half (½) by the injured employee
 33 or dependents of the deceased employee out of the compensation payable to
 34 them.

35 (b) Fees for legal services regarding
 36 controverted medical benefits shall be paid by the employer or carrier, in

1 addition to the medical benefits awarded.

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

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

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

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

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

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

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

35 (3) In determining the amount of fees, the commission and the
36 court shall take into consideration the nature, length, and complexity of the

1 services performed and the benefits resulting to the compensation
2 beneficiary.

3 (c)(1) The fee for legal services rendered by the claimant's attorney
4 in connection with a change of physician requested by the injured employee,
5 controverted by the employer or carrier and awarded by the commission, shall
6 be ~~two hundred dollars (\$200)~~ one thousand dollars (\$1,000).

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

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

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

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

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

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

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32 /s/J. Payton
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35 Referred requested by the Arkansas Senate

36 Prepared by: ANS/AMS