

1  
2 State of Arkansas  
3 88th General Assembly  
4 Regular Session, 2011

# A Bill

HOUSE BILL 1823

5  
6 By: Representative Nickels

7 Filed with: Interim House Committee on Judiciary  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

9  
10 AN ACT TO REGULATE FEE AWARDS FOR LEGAL SERVICES IN  
11 WORKERS' COMPENSATION CASES; AND FOR OTHER PURPOSES.

### Subtitle

12  
13  
14 TO REGULATE FEE AWARDS FOR LEGAL SERVICES  
15 IN WORKERS' COMPENSATION CASES.

16  
17  
18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 SECTION 1. Arkansas Code § 11-9-715(a), concerning attorney's fees in  
22 workers' compensation cases, is amended to read as follows:

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

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

31 (2)(A)(i) ~~Whenever~~ If the commission finds that all or part of a  
32 claim against the Treasurer of State, as custodian of the Second Injury Trust  
33 Fund or as custodian of the Death and Permanent Total Disability Trust Fund,  
34 has been controverted, ~~in whole or in part,~~ the commission shall direct that  
35 fees for legal services be paid from the fund, in addition to compensation  
36 awarded.

1                   (ii) ~~and the~~ The fees shall be allowed only on the  
2 amount of compensation controverted and awarded from the fund.

3                   (B)(i) In all other cases ~~whenever~~ if the commission finds  
4 that all or part of a claim has been controverted, ~~in whole or in part,~~ the  
5 commission shall direct that fees for legal services be paid to the attorney  
6 for the claimant as follows:

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

9                               (b) ~~one-half~~ One-half ( $\frac{1}{2}$ ) by the injured  
10 employee or dependents of a deceased employee out of compensation payable to  
11 ~~them~~ the injured employee or dependents of a deceased employee.

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

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

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

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

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

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

35

1           SECTION 2. Arkansas Code § 11-9-715, concerning attorney fee awards in  
2 workers' compensation cases, is amended to add an additional subsection to  
3 read as follows:

4           (f)(1) The commission also may award an attorney's fee of twenty  
5 percent (20%) of the amounts payable for medical benefits awarded to the  
6 injured employee or dependents of a deceased employee, not to exceed two  
7 thousand five hundred dollars (\$2,500).

8           (2) The fee awarded under subdivision (f)(1) of this section  
9 shall be paid solely by the employer or carrier.

10  
11 Referred by the Arkansas House of Representatives

12 Prepared by: DLP/VJF

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36