

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S2/15/01 S3/8/01

A Bill

SENATE BILL 439

5 By: Senator Simes
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE 11-9-715 TO REVISE
10 THE AMOUNT OF ATTORNEY' S FEES TO BE AWARDED IN
11 WORKERS' COMPENSATION CASES; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 AN ACT TO AMEND ARKANSAS CODE 11-9-715
15 TO REVISE THE AMOUNT OF ATTORNEY' S FEES
16 TO BE AWARDED IN WORKERS' COMPENSATION
17 CASES.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 *SECTION 1. Arkansas Code 11-9-715 is amended to read as follows:*
24 *11-9-715. Fees for legal services.*

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

27 *(B) The fees shall not exceed thirty percent (30%) of the*
28 *first one thousand dollars (\$1,000) of compensation, or part thereof, twenty*
29 *percent (20%) of all sums in excess of one thousand dollars (\$1,000),*
30 *~~but less than three thousand dollars (\$3,000) of compensation, and ten percent~~*
31 *~~(10%) of all sums in excess of three thousand dollars (\$3,000) of~~*
32 *compensation.*

33 *(2) (A) Whenever the commission finds that a claim against the*
34 *Treasurer of State, as custodian of the Second Injury Trust Fund, has been*
35 *controverted, in whole or in part, the commission shall direct that fees for*
36 *legal services be paid from the fund, in addition to compensation awarded,*

1 and the fees shall be allowed only on the amount of compensation controverted
2 and awarded from the fund.

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

9 (ii) The fees shall be allowed only on the amount of
10 compensation controverted and awarded.

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

16 (C) Whenever the commission finds a claim has not been
17 controverted but further finds that bona fide legal services have been
18 rendered in respect to the claim, then the commission shall direct the
19 payment of the fees out of the compensation awarded.

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

23 (4) In determining the amount of fees, the commission shall take
24 into consideration the nature, length, and complexity of the services
25 performed, and the benefits resulting to the compensation beneficiaries.

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

32 (2) The maximum fees allowable pursuant to this subsection shall
33 be the sum of ~~two hundred fifty dollars (\$250)~~ seven hundred fifty dollars
34 (\$750) on appeals to the full Commission from a decision of the
35 administrative law judge, and the sum of ~~five hundred dollars (\$500)~~ one
36 thousand five hundred dollars (\$1,500) on appeals to the Arkansas Court of

1 Appeals or Supreme Court from a decision of the commission.

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

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

9 (2) No additional fee shall be payable with respect to
10 uncontroverted charges incurred in connection with treatment by the new
11 physician.

12 (d)(1) No fees for legal services rendered by the claimant's attorney
13 with respect to the preliminary conference procedure shall be awarded by the
14 commission.

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

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

24 (e) Fees for legal services rendered by the claimant's attorney with
25 respect to medical expenses of a repeated and continuing course of treatment
26 controverted by the employer or carrier shall be payable only in connection
27 with such controverted expenses incurred during a two-year period beginning
28 with the first date on which such expenses were incurred.

29 (f) The amendments regarding attorney's fees contained in this section
30 shall be effective with respect to benefits payable in connection with
31 disability or death due to injuries occurring on or after July 1, 1986.

32 /s/ Simes
33
34
35
36