

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

A Bill

HOUSE BILL 1823

4
5 By: Representative Nickels
6

For An Act To Be Entitled

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

Subtitle

10
11
12
13 TO REGULATE FEE AWARDS FOR LEGAL SERVICES
14 IN WORKERS' COMPENSATION CASES.

15
16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

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

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

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

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

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



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

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

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

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

(iii) 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~~ that substantiates the claim.

(C)(i) ~~Whenever~~ If the commission finds that a claim has not been controverted but further finds that bona fide legal services have been rendered ~~in respect to~~ pursue 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 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.

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

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

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