
HOUSE BILL 1485

State of Washington 60th Legislature 2007 Regular Session

By Representatives Green, Conway and Williams

Read first time 01/22/2007. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to attorneys' fees for industrial insurance
2 appeals; and amending RCW 51.52.120.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.52.120 and 2003 c 53 s 285 are each amended to read
5 as follows:

6 (1) It shall be unlawful for an attorney engaged in the
7 representation of any worker or beneficiary to charge for services in
8 the department any fee in excess of a reasonable fee, of not more than
9 thirty percent of the increase in the award secured by the attorney's
10 services. Such reasonable fee shall be fixed by the director or the
11 director's designee for services performed by an attorney for such
12 worker or beneficiary, if written application therefor is made by the
13 attorney, worker, or beneficiary within one year from the date the
14 final decision and order of the department is communicated to the party
15 making the application.

16 (2) If, on appeal to the board, the order, decision, or award of
17 the department is reversed or modified and additional relief is granted
18 to a worker or beneficiary, or in cases where a party other than the
19 worker or beneficiary is the appealing party and the worker's or

1 beneficiary's right to relief is sustained by the board, the board
2 shall fix a reasonable fee for the services of his or her attorney in
3 proceedings before the board if written application therefor is made by
4 the attorney, worker, or beneficiary within one year from the date the
5 final decision and order of the board is communicated to the party
6 making the application. In fixing the amount of such attorney's fee,
7 the board shall take into consideration the fee allowed, if any, by the
8 director, for services before the department, and the board may review
9 the fee fixed by the director. Any attorney's fee set by the
10 department or the board may be reviewed by the superior court upon
11 application of such attorney, worker, or beneficiary. The department
12 or self-insured employer, as the case may be, shall be served a copy of
13 the application and shall be entitled to appear and take part in the
14 proceedings. Where the board, pursuant to this section, fixes the
15 attorney's fee, it shall be unlawful for an attorney to charge or
16 receive any fee for services before the board in excess of that fee
17 fixed by the board.

18 (3) Any person who violates subsection (1) or (2) of this section
19 is guilty of a misdemeanor.

20 (4) If, on appeal to the board from a decision or order of the
21 department denying treatment or payment for treatment, the decision is
22 reversed or modified and the treatment is ordered to be allowed or paid
23 for, a reasonable fee for the services of the worker's attorney shall
24 be fixed by the board, and the board shall order reimbursement for all
25 reasonable costs of litigation, including but not limited to fees of
26 medical and other witnesses. In cases of self-insured employers, the
27 attorney fees fixed by the board and the costs set by the board shall
28 be payable directly by the self-insured employer. In all other cases,
29 the fees and costs shall be paid by the department out of the
30 administrative fund.

31 (5) If, on an appeal by a state fund or self-insured employer to a
32 department decision or order allowing treatment or paying for
33 treatment, the decision or order is affirmed in whole or part, a
34 reasonable fee for the services of the worker's attorney shall be fixed
35 by the board, and the board shall order reimbursement for all
36 reasonable costs of litigation, including but not limited to fees of
37 medical and other witnesses. Such fees and costs shall be payable
38 directly by the state fund or self-insured employer.

1 (6) The attorneys' fees and costs set out in subsections (4) and
2 (5) of this section shall be paid within ten days of the date of the
3 board's order. If such fees and costs are not paid within ten days,
4 interest shall be payable on the fees and costs at a rate of twelve
5 percent per annum. If such fees and costs are not paid within ten
6 days, the claimant may enforce the board's order pursuant to RCW
7 51.32.200 or 51.32.215. In such instances, the superior court may
8 award reasonable attorneys' fees and costs associated with the
9 proceedings before superior court.

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