

ASSEMBLY, No. 4832

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 27, 2022

Sponsored by:
Assemblyman RAJ MUKHERJI
District 33 (Hudson)

SYNOPSIS

Raises maximum workers' compensation fees for evaluating physicians.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain workers' compensation fees and
2 amending R.S.34:15-64.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. R.S.34:15-64 is amended to read as follows:

8 34:15-64. a. The commissioner, director and the judges of
9 compensation may make such rules and regulations for the conduct
10 of the hearing not inconsistent with the provisions of this chapter as
11 may, in the commissioner's judgment, be necessary. The official
12 conducting any hearing under this chapter may allow to the party in
13 whose favor judgment is entered, costs of witness fees and a
14 reasonable attorney fee, not exceeding 20% of the judgment; and a
15 reasonable fee not exceeding \$400 for any one witness, except that
16 the following fees may be allowed for a medical witness:

17 (1) (a) A fee of not more than **[\$600]** \$1,000 paid to an
18 evaluating physician for an opinion regarding the need for medical
19 treatment or for an estimation of permanent disability, if the
20 physician provides the opinion or estimation in a written report; and

21 (b) An additional fee of not more than \$400 paid to the
22 evaluating physician who makes a court appearance to give
23 testimony; or

24 (2) (a) A fee of not more than \$450 paid to a treating physician
25 for the preparation and submission of a report including the entire
26 record of treatment, medical history, opinions regarding diagnosis,
27 prognosis, causal relationships between the treated condition and
28 the claim, the claimant's ability to return to work with or without
29 restrictions, what, if any, restrictions are appropriate, and the
30 anticipated date of return to work, and any recommendations for
31 further treatment; and

32 (b) (i) An additional fee of not more than \$300 per hour, with
33 the total amount not to exceed \$2,500, paid to the treating physician
34 who gives testimony concerning causal relationship, ability to work
35 or the need for treatment; or

36 (ii) An additional fee of not more than \$300 per hour, with the
37 total amount not to exceed \$1,500, paid to the treating physician
38 who gives a deposition concerning causal relationship, ability to
39 work or the need for treatment.

40 b. (1) No fee for an evaluating physician pursuant to this
41 section shall be contingent on whether a judgment or award is or is
42 not made in favor of the petitioner.

43 (2) No evaluating or treating physician shall charge any fee for a
44 report, testimony or deposition in excess of the amount permitted
45 pursuant to the provisions of this section.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. A fee shall be allowed at the discretion of the judge of
2 compensation when, in the official's judgment, the services of an
3 attorney and medical witnesses are necessary for the proper
4 presentation of the case. In determining a reasonable fee for
5 medical witnesses, the official shall consider (1) the time,
6 personnel, and other cost factors required to conduct the
7 examination; (2) the extent, adequacy and completeness of the
8 medical evaluation; (3) the objective measurement of bodily
9 function and the avoidance of the use of subjective complaints; and
10 (4) the necessity of a court appearance of the medical witness.
11 When, however, at a reasonable time, prior to any hearing
12 compensation has been offered and the amount then due has been
13 tendered in good faith or paid within 26 weeks from the date of the
14 notification to the employer of an accident or an occupational
15 disease or the employee's final active medical treatment or within
16 26 weeks after the employee's return to work whichever is later or
17 within 26 weeks after employer's notification of the employee's
18 death, the reasonable allowance for an attorney fee shall be based
19 upon the amount of compensation, theretofore offered, tendered in
20 good faith or paid after the establishment of an attorney-client
21 relationship pursuant to a written agreement, and the amount of the
22 judgment or award in excess of the amount of compensation,
23 theretofore offered. When the amount of the judgment is less than
24 \$200, an attorney fee may be allowed not in excess of \$50.

25 d. All counsel fees of claimants' attorneys for services
26 performed in matters before the Division of Workers'
27 Compensation, whether or not allowed as part of a judgment, shall
28 be first approved by the judge of compensation before payment.
29 Whenever a judgment or award is made in favor of a petitioner, the
30 judges of compensation or referees of formal hearings shall direct
31 amounts to be deducted for the petitioner's expenses and to be paid
32 directly to the persons entitled to the same, the remainder to be paid
33 directly to the petitioner.

34 (cf: P.L.2018, c.105, s.1)

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36 2. This act shall take effect immediately.

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STATEMENT

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41 This bill establishes parity in workers' compensation fees
42 between evaluating physicians of claimants for a written opinion
43 regarding the need for medical treatment or providing an estimation
44 of permanent disability. The bill sets the maximum fees of
45 evaluating physicians for claimants for the written reports at
46 \$1,000. The maximum fee of \$1,000 represents an increase of \$400
47 over the current maximum of \$600, in the case of a claimant's
48 evaluating physician.