

# SENATE, No. 3309

## STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED NOVEMBER 3, 2022

**Sponsored by:**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Assemblywoman SHANIQUE SPEIGHT**

**District 29 (Essex)**

**SYNOPSIS**

Raises maximum workers' compensation fees for evaluating physicians;  
expands circumstances for which physician legal fees are permitted.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 5/25/2023)

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

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
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     (3) A psychologist, nurse practitioner, or licensed clinical social  
2     worker who provides psychological treatment may be paid a fee, as  
3     permitted in accordance with the provisions of this section, for a  
4     report or testimony concerning that provider's course of treatment  
5     of the injured worker in that provider's role as a provider of  
6     treatment.

7     c. A fee shall be allowed at the discretion of the judge of  
8     compensation when, in the official's judgment, the services of an  
9     attorney and medical witnesses are necessary for the proper  
10    presentation of the case. In determining a reasonable fee for  
11    medical witnesses, the official shall consider (1) the time,  
12    personnel, and other cost factors required to conduct the  
13    examination; (2) the extent, adequacy and completeness of the  
14    medical evaluation; (3) the objective measurement of bodily  
15    function and the avoidance of the use of subjective complaints; and  
16    (4) the necessity of a court appearance of the medical witness.  
17    When, however, at a reasonable time, prior to any hearing  
18    compensation has been offered and the amount then due has been  
19    tendered in good faith or paid within 26 weeks from the date of the  
20    notification to the employer of an accident or an occupational  
21    disease or the employee's final active medical treatment or within  
22    26 weeks after the employee's return to work whichever is later or  
23    within 26 weeks after employer's notification of the employee's  
24    death, the reasonable allowance for an attorney fee shall be based  
25    upon the amount of compensation, theretofore offered, tendered in  
26    good faith or paid after the establishment of an attorney-client  
27    relationship pursuant to a written agreement, and the amount of the  
28    judgment or award in excess of the amount of compensation,  
29    theretofore offered. When the amount of the judgment is less than  
30    \$200, an attorney fee may be allowed not in excess of \$50.

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

40    (cf: P.L.2018, c.105, s.1)

41  
42    2. This act shall take effect immediately.  
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#### 45                   STATEMENT

46  
47    This bill establishes parity in workers' compensation fees  
48    between evaluating physicians of claimants for a written opinion

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1 regarding the need for medical treatment or providing an estimation  
2 of permanent disability. The bill sets the maximum fees of  
3 evaluating physicians for claimants for the written reports at  
4 \$1,000. The maximum fee of \$1,000 represents an increase of \$400  
5 over the current maximum of \$600, in the case of a claimant's  
6 evaluating physician.

7 The bill provides that a psychologist, nurse practitioner, or  
8 licensed clinical social worker who provides psychological  
9 treatment may be paid a fee for a report or testimony concerning  
10 that provider's course of treatment of the injured worker in that  
11 provider's role as a provider of treatment as permitted by law.