STATE OF NEW YORK

946

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to attorney's fees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 24 of the workers' compensation law, as amended by chapter 494 of the laws of 1950, is amended to read as follows:

§ 24. Costs and fees. 1. If the court before which any proceedings for compensation or concerning an award of compensation have been brought, under this chapter, determine that such proceedings have not been so brought upon reasonable ground, it shall assess the cost of the proceedings upon the party who has so brought them.

2. Claims of attorneys and counselors-at-law for legal services in connection with any claim arising under this chapter, and claims for services or treatment rendered or supplies furnished pursuant to subdivision (b) of section thirteen of this [~~chapter~~] article, shall not be enforceable unless approved by the board. [~~If~~] The board shall approve such application in an amount commensurate with the services rendered, whether the attorney or licensed representative engaged in dilatory tactics or failed to comply in a timely manner with board rules and the amount of compensation awarded, having due regard for the financial state of the claimant in accordance with each applicable provision of the following schedule:

(a) When an award is made directing the continuation of weekly compensation benefits for temporary total or partial disability, the attorney's fee shall be one-third of one week's compensation.

(b) When an award is made that increases the amount of compensation awarded or paid for a previous period or periods of temporary total or

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD03815-01-1

partial disability, the attorney's fee shall be fifteen percent of the increased compensation.

(c) When an award is made for schedule loss of use or permanent facial disfigurement pursuant to paragraphs a through t of subdivision three of section fifteen of this article, the attorney's fee shall be fifteen percent of the compensation due in excess of the employer or carrier's previous payments.

(d) When an award is made for permanent total disability pursuant to subdivision one of section fifteen of this article or permanent partial disability pursuant to paragraph w of subdivision three of section fifteen of this article, the attorney's fee shall be equivalent to fifteen percent of the compensation due in excess of the employer or carrier's previous payments, plus a sum equivalent to fifteen weeks of compensation at the rate fixed by the board.

(e) When an award is made for death benefits pursuant to section sixteen of this article, the attorney's fee shall be equivalent to fifteen percent of the compensation due in excess of the employer or carrier's previous payments, plus a sum equivalent to fifteen weeks of compensation at the rate fixed by the board.

(f) When an award is made pursuant to section thirty-two of this article, the attorney's fee shall be fifteen percent of any benefits to be paid by the employer or carrier under the agreement. However, if the attorney has previously been awarded a fee pursuant to this subdivision, any un-accrued balance of any attorney fees under the foregoing paragraphs shall be waived.

3. When so approved, such claim or claims shall become a lien upon the compensation awarded, and upon any moneys ordered paid under an award by the board into the special funds provided for in subdivision nine of section fifteen[~~, subdivision nine,~~] and section twenty-five-a of this article, and any other section of this chapter, but shall be paid therefrom only in the manner fixed by the board. Any other person, firm or corporation who shall exact or receive fee or gratuity for any services rendered on behalf of a claimant except in an amount determined by the board, shall be guilty of a misdemeanor. Any person, firm or corporation who shall solicit the business of appearing before the board on behalf of a claimant, or who shall make it a business to solicit employment for a lawyer in connection with any claim for compensation under this chapter shall be guilty of a misdemeanor. In case an award is affirmed upon an appeal to the appellate division, the same shall be payable with interest thereon from the date when said award was made by the board except as provided in section twenty-seven of this [~~chapter~~] article.

§ 2. This act shall take effect immediately.