STATE OF NEW YORK

5838

2023-2024 Regular Sessions

IN ASSEMBLY

March 23, 2023

Introduced by M. of A. JACOBSON -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the payment of fees allowed for representation in unemployment compensation cases

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

Section 1. Subdivision 1 of section 538 of the labor law is amended by adding a new paragraph (g) to read as follows:

(g) When approved by the appeal board, claims of representatives for services rendered to a claimant in connection with any claim arising under this article shall become a lien upon the benefit allowed, but shall be paid therefrom only in the manner fixed by the appeal board as follows:

(i) 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 appeal board, shall be guilty of a misdemeanor. Any person, firm or corporation who shall solicit the business of appearing before the appeal 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 benefits under this article shall be guilty of a misdemeanor.

(ii) A fee allowed under this paragraph shall upon a contingency basis and be equal to fifteen percent of the amount of the benefits to be paid to the claimant at the conclusion of services rendered. This shall be the only amount to be paid to the representative unless changed by a court. The representative may not charge for out of pocket expenses including but not limited to telephone, postage, other office expenses and travel. In order to receive this fee, the representative and the claimant must execute a retainer in which the terms of the fee arrangement is clearly written in simple language. A sample retainer agreement shall be produced by the department of labor. The application for a fee

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

LBD09900-01-3

shall be made orally at the last hearing. Upon the time of the application at the last hearing, the administrative judge may require a fee application in writing describing the services rendered. A sample fee application shall be produced by the department of labor. The fee application shall not require an itemization of hours which the representative worked on the case or out of pocket expenses of the representative. All forms shall have a link to translated versions in frequently used non-English languages.

§ 2. This act shall take effect on the first of January next succeeding the date upon which it shall have become a law.