§ 538. Representation and witness fees and other expenses. 1. Fees and compensation of representatives. (a) No fee shall be charged in any proceeding under this article by the commissioner, by the appeal board or by any court.

(b) In any proceeding under this article a party may be represented by an agent, but no fees for services rendered by such agent shall be allowable unless such agent is registered with the appeal board or is an attorney.

(c) Claims of representatives for services rendered to a claimant in connection with any claim arising under this article shall not be enforceable unless approved by the appeal board and shall in no event exceed the benefit allowed, except as provided in paragraph (d) of this subdivision. In approving any fee requested by a representative pursuant to this section, the appeal board shall consider the following factors: (i) the total benefit allowed; (ii) the time spent in providing representation; (iii) the legal and factual complexities involved; and (iv) such other factors as the appeal board may deem relevant.

(d) In addition to any fee which may be allowed by the appeal board for services rendered to the claimant, an attorney representing a claimant shall be entitled to a fee not to exceed the sum of five hundred dollars and necessary printing and other disbursements in each of the following cases: (1) On an appeal from a decision of the appeal board in favor of the claimant. (2) On a motion for leave to appeal to the court of appeals from a decision of the appellate division of the supreme court which relates to a decision of the appeal board in favor of the claimant. (3) On an appeal to the court of appeals from a decision of the appellate division of the supreme court which relates to a decision of the appeal board in favor of the claimant. When a claimant takes such appeal, the court shall allow a fee and disbursements only if it finds the appeal to have been meritorious.

(e) The court shall appoint an attorney to represent the claimant if he is unrepresented in each of the cases described in paragraph (d) hereof, except when the claimant takes an appeal to the court of appeals. Fees and disbursements provided in such paragraph (d) shall be fixed by the court in which the appeal is taken or the motion for leave to appeal is made. Such fees and disbursements shall be paid by the commissioner as part of the expenses incurred in the administration of

this article.

(f) Any person, firm, or corporation who shall exact or receive any remuneration or gratuity for any services rendered to or on behalf of a claimant except as allowed by this section and in an amount approved by the board or a court shall be guilty of a misdemeanor. The appeal board shall order the restitution of any fee paid by a claimant to a representative to the extent that it exceeds the amount authorized by this section.

2. Fees of witnesses and other expenses. Fees of witnesses and other expenses, except representation services, involved in proceedings under this article shall be paid at a rate to be established by regulation of the commissioner except that such fees and other expenses involved in proceedings before referees and the appeal board shall be paid at a rate to be established by regulation of this board. Such fees or other expenses shall be treated as expenses under this article.

3. Representatives; lists. * (a) The appeal board shall establish the qualifications and procedures for the registration of agents authorized to represent claimants in connection with any claims arising under this article. An agent shall be registered as authorized to represent claimants by providing the appeal board with his name, business address and telephone number and by posting a bond with the appeal board in the amount of five hundred dollars for the benefit of claimants charged fees by said representative in excess of those approved pursuant to this section and with respect to which restitution has been ordered pursuant to paragraph (f) of subdivision one of this section. An agent shall be registered as authorized to represent an employer by providing the appeal board with a letter of authorization from the employer. No agent may be registered who knowingly violates paragraph (c) of subdivision one of this section.

* NB Expires December 31, 2028

(b) An attorney who is available to represent claimants may notify the appeal board by providing his name, business address and telephone number.

* (c) The appeal board shall maintain lists of authorized agents and attorneys who are available to represent claimants and shall make such

lists available to claimants on request.

* NB Expires December 31, 2028