

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:

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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 (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

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

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.