

ATTORNEY FEE GUIDELINES

Joint Resolution R07-1-01

(Ohio Industrial Commission and Ohio Bureau of Workers' Compensation)

Authorizations to Receive Checks

March 28, 2007

WHEREAS, pursuant to R.C. 4121.43, the Administrator of Workers' Compensation shall set standards and inform injured workers of the procedure for attorney, or other representative pick up of compensation payment checks and ensure that injured workers have recently executed a proper authorization to pick up a check; and

WHEREAS, the Commission shall protect parties against unfair fees and set reasonable standards for those attorneys, agents, or representatives who practice before the Bureau of Workers' Compensation and the Industrial Commission pursuant to R.C. 4123.06; and

WHEREAS, the Commission and the Administrator adopted Joint Resolution R06-1-02 on November 1, 2006; and

WHEREAS, based on inquiries received on the impact of the revision made to the second paragraph of Part I of Joint Resolution R03-1-03 by Joint Resolution R06-1-02 and after further review and discussion, the Commission and the Administrator find it necessary and appropriate to rescind Joint Resolution R06-1-02; and

WHEREAS, the Commission and the Administrator of Workers' Compensation also find it necessary and proper to revise the procedures set forth in the second paragraph of part I of the Joint Resolution R03-1-03 to provide that on all types of compensation, other than percentage of permanent partial compensation, the authorization must be filed prior to, at the hearing, or prior to the date of the payment of compensation whether the award of compensation was made at a hearing or made without a hearing.

THEREFORE BE IT RESOLVED that the Joint Resolution R06-1-02 dated November 1, 2006 be rescinded.

BE IT FURTHER RESOLVED, that the Industrial Commission and the Administrator shall establish the following procedures:

I. HONORING AUTHORIZATIONS

All authorizations to receive payment shall be executed on a form provided by the Bureau of Workers' Compensation. As used in this Resolution, "executed" shall mean signed and dated by the injured worker. Any authorization not completed in its entirety, altered but not initialed by the party altering the form, or not filed within the proper time periods specified below will not be honored.

On all types of compensation, other than percentage of permanent partial compensation, the authorization must be filed prior to, at the hearing, or prior to the date of payment of the award of compensation, whether the award of compensation was made at a hearing or without a hearing.

Unless otherwise prohibited in this Resolution, an attorney for the injured worker or any other person may be authorized by the injured worker to receive a compensation payment issued by the Bureau of Workers' Compensation, payable to the injured worker under an award of compensation.

The delivery of the warrant shall be made by mail to the address indicated by the injured worker in the authorization request, or at a place designated by the Administrator. In a self-insuring employer's claim, the injured worker and the employer may agree on a payment delivery; however, such agreement is to be based on the same principles as outlined in this Resolution and shall be honored by the self-insuring employer.

Subject to limitations herein, authorizations will be honored for the following types of compensation, and said authorization shall identify the award to be covered: Percentage of Permanent Partial Disability, Permanent

Partial, Impairment of Earning Capacity, Violation of Specific Safety Requirement, Lump Sum Settlement, Change of Occupation, Facial Disfigurement, Wage Loss Compensation, Temporary Total Disability, Permanent Total Disability and Death benefits.

An attorney for an injured worker may be authorized by an injured worker to receive a workers' compensation warrant payable to the injured worker for an award of compensation for temporary total, permanent total or death benefits only should the award represent an accrued payment of compensation resulting from a Bureau or Commission order.

- A. As used in this Resolution, accrued compensation is compensation for temporary total disability paid for a specific period of time as set forth within an order. Ongoing or continuing compensation for temporary total disability is defined as any bi-weekly pension payments made into the future beyond the date of initial warrants resulting from an order.
- B. Permanent total disability compensation received from a Commission order where permanent total disability is paid for a period of time prior to the date of mailing is accrued compensation for the purposes of this Resolution.

II. AUTHORIZATIONS REGARDING AWARD FOR PERCENTAGES OF PERMANENT PARTIAL DISABILITY AND TENTATIVE ORDERS

On any compensation paid pursuant to the filing of a C-92 Application, the authorization must be filed with the application, with the agreement of permanent partial disability, with the election, with the Industrial Commission at hearing, or after hearing but prior to the date of mailing of the hearing officer order.

III. AUTHORIZATIONS WILL NOT BE HONORED WITH RESPECT TO THE ONGOING OR CONTINUING PAYMENT OF COMPENSATION FOR TEMPORARY TOTAL, PERMANENT TOTAL OR DEATH BENEFITS.

- A. No authorization will be honored on the ongoing payment for permanent total disability benefits received by an injured worker.
- B. No authorization will be honored on the ongoing payment of temporary total disability compensation under 4123.56(A).
- C. No authorization will be honored for the ongoing payment of death benefits.
- D. Any authorization, other than C-230 or such other form as designated by the Bureau of Workers' Compensation will not be honored.

IV. ADDITIONAL CLAIMS

In the case of an award that has been split between two or more claims, an original authorization must be filed for each claim.

V. TIME LIMITS

Authorizations will be honored for eighteen months from the date executed. An authorization timely filed will be honored for any hearing, appeal, or reconsideration on the original issue. An authorization shall not continue in effect after said award or awards have been paid.

VI. CANCELLATION OF AUTHORIZATION

If cancellation of the authorization is desired, the request shall be in writing and must be filed prior to the order of payment.

VII. GUIDELINES FOR ATTORNEY REPRESENTATIVES OF INJURED WORKERS BEFORE THE INDUSTRIAL COMMISSION AND BUREAU OF WORKERS' COMPENSATION

BE IT FURTHER RESOLVED that the following guidelines are adopted by the Industrial Commission and Bureau of Workers' Compensation for attorney representatives of injured workers:

- A. There shall be no attorney's fee charged unless services are rendered.
- B. There shall be a written fee agreement between an injured worker and his attorney representative. This standard shall become effective for all attorney-client relationships that are established beginning sixty days after the effective date of this Resolution. It is strongly recommended that a copy of the written fee agreement be provided to the injured worker by the attorney representative.
- C. No attorney shall charge a fee for the ongoing or continuing payment of compensation for temporary total disability, under the provisions of R.C. 4123.56(A) as discussed in Division I of this Resolution. This standard does not preclude a minimal fee being charged for ancillary administrative services performed for an injured worker in a workers' compensation claim but does prohibit a fee being charged for the mere filing of C-84 forms.
- D. No attorney shall charge a fee on the ongoing or continuing payment of compensation for permanent total disability received by an injured worker as discussed in Division I of this Resolution, beyond the fee approved by the Industrial Commission through the provisions of R.C. 4123.64 and 4123.06 and Ohio Adm.Code 4121-3-10.
- E. It is impermissible for an attorney representative of an injured worker to cause a delay in any manner of the filing of medical reports, where such delay results in the payment of an accrued award of compensation to an injured worker.
- F. Notwithstanding anything contrary to this section, an attorney may charge a further fee with respect to continuing compensation if a later dispute arises in the claim requiring additional legal services.
- G. It is improper to file a suit for an attorney fee unless the issue has been submitted to the Commission on the fee dispute and the Commission has made a final determination in favor of the attorney.

BE IT FURTHER RESOLVED should the Industrial Commission find following a hearing that any of the guidelines set forth within Division VII of this Resolution have been abridged or should the Industrial Commission suspend or reprimand any person admitted to the practice of law under the provisions of R.C. 4123.06, the Industrial Commission shall forthwith refer such matter to the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court for possible referral to a Certified Grievance Committee of the Ohio State Bar Association, a Certified Grievance Committee of the Bar Association of the community in which the attorney resides, or the Disciplinary Counsel of the Supreme Court.

BE IT FURTHER RESOLVED that Joint Resolution R07-1-01 shall be effective for all authorizations to receive checks filed on or after April 15, 2007.

Modification

This resolution was modified to correct citations and is effective September 26, 2018.