

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2490:

Morgan (Danny)

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 2001, Section 30, which relates to taxing of costs; modifying procedure for award of certain costs under certain circumstances; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 2001, Section 30, is amended to read as follows:

Section 30. A. 1. If the Workers' Compensation Court before which any proceedings for compensation or concerning an award of compensation have been brought, under the Workers' Compensation Act, determines that such proceedings have not been brought on a reasonable ground, or that denial of benefits has not been based on a reasonable ground, the Court shall assess the total cost of the proceedings on the party, who has brought them or the party who has unreasonably denied payment of benefits.

2. In the event a respondent fails to pay travel expenses as required by an order of the Court within twenty-five (25) business days of such order, the Court shall assess a Five Hundred Dollar (\$500.00) penalty against the respondent and payable to the claimant.

B. Claims for services or treatment rendered or supplies furnished pursuant to Section 14 of this title shall not be enforceable unless approved by the Court. If approved, such claim

shall become a lien upon the compensation awarded, but shall be paid therefrom only in the manner fixed by the Court.

C. A claim for legal services shall be determined by the Court on a quantum meruit basis.

1. A claim for legal services in contested temporary disability cases shall not exceed ten percent (10%) of the amount of the award for temporary disability. Legal service fees paid in uncontested cases for temporary total disability shall not exceed ten percent (10%) based on quantum meruit as ordered by the Court.

2. (a) A claim for legal services shall not exceed twenty percent (20%) of the amount of the award for permanent disability or death benefits.

(b) If a respondent has made a written offer of settlement to an employee before trial on the issue of permanent disability and the employee receives an award for permanent disability in an amount equal to or less than the settlement amount, upon motion by the respondent, attorney fees shall be awarded to the claimant's attorney only on the value of the percentage of permanent disability awarded in excess of the value of the percentage of permanent disability contained within the written offer of settlement.

(c) Written offers of settlement made pursuant to this section shall be confidential, shall not be made part of a court case file until after trial on the matter, and are inadmissible in trial. The Court shall promulgate rules as necessary to effectuate the provisions of this section.

D. Claims for legal services for temporary disability awards shall be paid periodically. Claims for legal fees for permanent total disability awards shall be paid periodically at the rate of twenty percent (20%) of each weekly check to the claimant until the

attorney fee is satisfied, based upon a maximum of four hundred (400) weeks of compensation. The right to any such attorney fee shall be vested at the time the award therefor becomes final. Claims for legal services for permanent partial disability awards may be paid in a lump sum the same to be deducted from the end of the award. Claims for legal services for death awards may be paid in a lump sum which shall be deducted from the periodic compensation payments at a rate of ten percent (10%) per payment until the attorney fee is satisfied.

SECTION 2. This act shall become effective November 1, 2004.

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