

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1082 (Delegate Braveboy)
Economic Matters

Unemployment Insurance - Compensation for Lawyer or Agent Representation in Claim Proceedings

This bill repeals the authority of the unemployment insurance (UI) chief hearing examiner and the Board of Appeals to limit the fee a lawyer may charge for representing a UI claimant in an appeals proceeding before a hearing examiner, a special examiner, and the Board of Appeals. The bill also repeals the prohibition against an agent who represents a claimant or an employer charging or accepting compensation.

Fiscal Summary

State Effect: None. The Department of Labor, Licensing, and Regulation (DLLR) can implement the required regulations with existing budgeted resources.

Local Effect: None.

Small Business Effect: Lawyers representing UI claimants who file an appeal receive a meaningful benefit from the removal of limitations on the fee that may be charged to a claimant. Individuals who may act as an agent for a claimant or an employer also benefit from allowing them to receive compensation.

Analysis

Current Law/Background: A claimant for UI benefits who has been denied benefits may file an appeal of that denial to the Appeals Division of DLLR. Additionally, an employer may appeal a determination granting benefits to a former employee. If an appeal is filed, a hearing is held by a hearing examiner who then issues a written decision. That decision is appealable by a claimant, an employer, or DLLR to the Board

of Appeals. An individual may represent him or herself in any proceeding before the hearing examiner or the Board of Appeals. A lawyer representing an interested party in a UI appeal proceeding must be admitted to practice by the Court of Appeals of Maryland.

In a proceeding before a hearing examiner, a special examiner, or the Board of Appeals a claimant may be represented by a lawyer or another agent authorized by the claimant. An employer may appear for itself or be represented by a lawyer or another agent authorized by the employer. A lawyer may not charge a claimant an amount greater than the amount approved by the chief hearing examiner or the Board of Appeals. There is no limitation on the fee a lawyer may charge an employer. An agent may not charge a fee for representing a claimant or an employer.

The Code of Maryland Regulations (COMAR 09.32.06.02) allows a lawyer to charge a claimant an amount not less than \$25 and not more than \$100 in a case that does not require attendance at a hearing. The fee may be at least \$100 in a case that requires representation at a hearing; however, that amount may not exceed 150% of the claimant's weekly benefit amount, per hearing. Requests for approval of fees greater than \$25 must be accompanied by an itemized account of services rendered in the case. The chief hearing examiner or the Board of Appeals must set the fee, but in the case of a fee set by the chief hearing examiner, the fee is reviewable by the Board of Appeals upon written protest of either the claimant or the attorney.

As advised by DLLR, approximately 46,700 appeals were heard by hearing examiners in calendar 2009. The Board of Appeals heard approximately 4,655 appeals in fiscal 2009. The exact number of claimants represented by an attorney is not known, but the majority of claimants represent themselves in appeals proceedings.

Additional Information

Prior Introductions: None.

Cross File: SB 500 (Senator Raskin) - Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2010
mpc/rhh

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