



Maryland Association for Justice, Inc.

2020 Position Paper

HB 767 / SB 619

Workers' Compensation – Fees for Legal Services

SUPPORT

- Allows for an attorney fee up to \$2,000.00 for “medical only” claims
- Will limit insurance denials for medical care
- Currently, attorneys who represent injured workers on “medical only” claims may only do so “pro bono”

The Maryland Association for Justice (MAJ) supports Workers' Compensation – Fees for Legal Services, which would amend Md. Code Ann., Lab. & Empl. § 9-731 and expand the Maryland Workers' Compensation Commission's (“Commission”) authority to permit injured workers the ability to contract with an attorney directly for representation for “medical only” claims. The bill would also codify the Commission's current regulatory power (COMAR 14.09.04.03) to award an attorney's fee to be paid by an Employer, an Insurer, or the Uninsured Employers' Fund if the injured worker lacks sufficient funds to pay an attorney directly. The bill also “caps” the amount of the fee in these circumstances at \$2,000.00.

Under § 9-731, the Commission has oversight over, and determines the amount of the fee awarded to, an injured worker's attorney. An attorney may not accept a fee directly from an injured worker. An attorney may not accept a fee that was not awarded by the Commission. Attorney's fees for attorneys of injured workers are awarded by the Commission and paid from a portion of the “compensation” that is granted to an injured worker. However, when no “compensation” can be awarded to an injured worker, no attorney fee can be awarded by the Commission. Thus, when there is no possibility for “compensation” to be paid to the claimant, and the claim is “medical only” in nature, injured workers cannot hire attorneys to represent their interests.

This change will grant the Commission the discretion and continued oversight over the fees paid to claimant's attorneys for injured worker. This bill will permit those workers with older claims, but who still require medical care, the ability to hire attorneys when the prior attorney, for whatever reason (death, retirement, disbarment, etc.), is no longer available to continue to represent the injured worker.

MAJ respectfully urges a FAVORABLE Report