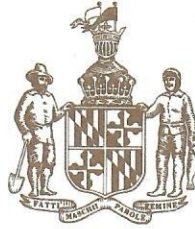


N. SCOTT PHILLIPS, ESQ.
Legislative District 10
Baltimore County

Judiciary Committee



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THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

TESTIMONY OF DELEGATE N. SCOTT PHILLIPS
Before the
JUDICIARY COMMITTEE HOUSE OF DELEGATES
House Bill 800

March 2, 2022

Mr. Chairman Clippinger, Vice-Chairman Moon and Fellow Committee Members,

HB is a crossfile of SB 071 which is sponsored by Senator Benjamin Brooks. The same bill was offered as HB650 in the previous session of the House. The bill will clarify the law on how to treat the net recovery of a Workers' Compensation claim in cases where the workers' compensation is subject to an execution on a judgment for child support arrearages. Arrearage under Maryland law means the payor of child support is at least 30 days behind in child support payments.

Application of the present law as it pertains to workers compensation needs consistency in application. Questions remain on the limitations on the amount that can be seized from a workers compensation award for purposes of satisfying child support arrearages. Under current law the debtor who owes arrearages will be able to protect seventy five percent (75%) of the award or final settlement if he or she timely files the appropriate claim in Circuit Court. The balance of the award (25%) may be subject to a garnishment for child support arrearages.

However, to protect 75% of the settlement from garnishment a motion must be filed with the Circuit Court that issued the child support garnishment within 30 days or the debtor who owes arrearages will not be able to limit the claim to 25% of the settlement. If the debtor fails to file the motion within 30 days, then the debtor waives the exemption and total amount of worker's compensation award may be subject to arrearages.

The relevant case that established this procedure is a case decided in THE COURT OF SPECIAL APPEALS of Maryland in 2016. The Court of Special Appeals held the Circuit Court should have ruled that the Worker's Compensation Commission lacked subject matter jurisdiction to decide whether money that was in the hands of an insurer for settlement of a workers' compensation claim was exempt from garnishment to pay a judgment in a child support action. Only a circuit court has subject matter jurisdiction over garnishments. In the child support garnishment proceeding, the recipient of the settlement, as judgment debtor, was entitled to file a motion within 30 days of when the garnishment was served on the insurance company asking the court to find that his share of the settlement monies (or part of his share) was exempt from garnishment under CJ section 11-504. He failed to do so. Instead,

he sought relief from the Commission, which did not have jurisdiction over the matter and was then subject to seizure of the entire award for child support arrearages.

The changes proposed by this legislation are of interest to insurance companies in who hold the monies in such workers compensation claims, as well as the parties to any court proceeding for child support. The proposed change treats the monies paid workers compensation claims in the same manner as personal injury claims. As such, twenty-five percent of the net recovery of Workers' Compensation indemnity benefits, including any weekly benefits or settlement proceeds payable to the debtor, would be applied to child support arrearages.

The change in the law only addresses Worker's Compensation and allows for the consistent treatment of settlement monies in Worker's Compensation settlement claims. The 25% applied to child support arrearages is 25% of the net recovery distributed to the debtor in arrearages after attorneys' fees, expenses, medical bills and satisfaction of any liens or subrogation claims are paid out.

This bill was favorably voted out of Committee as HB 650 in 2022. I ask that you favorably vote for this change in the Maryland Code that would end inconsistency on how the Courts should allocate workers compensation claims for child support arrearages.

Respectfully submitted,

Delegate N. Scott Phillip