

FEB 18 2004
Place On Calendar

HOUSE FILE 2305
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 591)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of attorney fees in workers'
2 compensation cases.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2305

1 Section 1. Section 86.39, Code 2003, is amended to read as
2 follows:

3 86.39 FEES -- APPROVAL.

4 1. All fees or claims for legal, medical, hospital, and
5 burial services rendered under this chapter and chapters 85,
6 85A, 85B, and 87 are subject to the approval of the workers'
7 compensation commissioner. For services rendered in the
8 district court and appellate courts, ~~the-attorney's-fee-is~~
9 attorney fees are subject to the approval of a ~~judge-of-the~~
10 district court judge.

11 2. Attorney fees for services rendered under this chapter
12 and chapters 85, 85A, 85B, and 87 on behalf of an employee
13 shall be limited to the maximum amounts of twenty-five percent
14 of an award or settlement. Attorney fees shall be paid by the
15 employee from the proceeds of an award or settlement. All
16 attorney-client employment contracts for services rendered
17 under this chapter and chapters 85, 85A, 85B, and 87 that are
18 entered into and signed on or after January 1, 2005, shall be
19 subject to the conditions of this section.

20 EXPLANATION

21 This bill relates to the regulation of attorney fees in
22 workers' compensation cases under Code chapters 85, 85A, 85B,
23 86, and 87. The bill provides that attorney fees in such
24 cases are limited to the maximum amounts of 25 percent of an
25 award or settlement. The attorney fees are to be paid by the
26 employee from the proceeds of the award or settlement. The
27 provisions of the bill apply to attorney-client employment
28 contracts, for services rendered in workers' compensation
29 cases, that are entered into and signed on or after January 1,
30 2005.

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HOUSE FILE 2305**H-8171**

1 Amend House File 2305 as follows:

2 1. Page 1, by inserting after line 19 the
3 following:

4 "Sec. ____ . NEW SECTION. 87.10A WORKERS'
5 COMPENSATION INSURANCE COMMISSIONS.

6 The commissioner of insurance, in consultation with
7 the workers' compensation commissioner, shall adopt a
8 commission schedule for licensed insurance agents who
9 write workers' compensation policies, including
10 commissions received for renewal of such policies.
11 The schedule shall provide that a commission shall not
12 exceed eight percent of the total premium charged to
13 the employer."

14 2. By renumbering as necessary.

By HUSER of Polk

H-8171 FILED MARCH 5, 2004

HOUSE FILE 2305**H-8170**

1 Amend House File 2305:

2 1. Page 1, by inserting after line 19, the
3 following:

4 "3. Notwithstanding subsection 2, attorney fees
5 for services rendered under this chapter and chapters
6 85, 85A, 85B, and 87 on behalf of an employee, may be
7 paid by an employee on an hourly basis for those
8 services rendered for which payment by a contingent
9 fee agreement is not appropriate. The commissioner,
10 by rule, shall identify those services rendered by an
11 attorney that may be paid on an hourly basis by an
12 employee."

By HUSER of Polk

H-8170 FILED MARCH 5, 2004

HOUSE FILE 2305

H-8172

1 Amend House File 2305 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Sec. ____ Section 85.27, subsection 3, Code 2003,
5 is amended to read as follows:

6 3. Notwithstanding section 85.26, subsection 4,
7 charges believed to be excessive or unnecessary may be
8 referred by the employer, insurance carrier, or health
9 service provider to the workers' compensation
10 commissioner for determination, and the commissioner
11 may utilize the procedures provided in sections 86.38
12 and 86.39, or set by rule, and conduct such inquiry as
13 the commissioner deems necessary. Any health service
14 provider charges not in dispute shall be paid directly
15 to the health service provider prior to utilization of
16 procedures provided in sections 86.38 and 86.39 or set
17 by rule. A health service provider rendering
18 treatment to an employee whose injury is compensable
19 under this section agrees to be bound by such charges
20 as allowed by the workers' compensation commissioner
21 and shall not recover in law or equity any amount in
22 excess of charges set by the commissioner. When a
23 dispute under chapter 85, 85A, or 85B regarding
24 reasonableness of a fee for medical services arises
25 between a health service provider and an employer or
26 insurance carrier, the health service provider,
27 employer, or insurance carrier shall not seek payment
28 from the injured employee. The workers' compensation
29 commissioner, in consultation with the insurance
30 commissioner, shall adopt a fee schedule for medical
31 services provided as described in this section. The
32 fee schedule shall be set to ensure that workers'
33 compensation premiums charged to employers in this
34 state shall be kept at a minimum and to avoid
35 substantial increases due to increases in the cost of
36 medical services. In addition, the fee schedule shall
37 be set, if applicable, at an amount that does not
38 exceed the rates set for similar services for purposes
39 of Medicaid as approved by the department of human
40 services."

41 2. By renumbering as necessary.

By HUSER of Polk

H-8172 FILED MARCH 5, 2004

HORBACH, CH
FREEMAN
OLSON

Succ
SF  1 By
2305

HSB 591
COMMERCE, REGULATION & LABOR

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
COMMERCE, REGULATION
AND LABOR BILL BY
CHAIRPERSON JENKINS)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of attorney fees in workers'
2 compensation cases.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 86.39, Code 2003, is amended to read as
2 follows:

3 86.39 FEES -- APPROVAL.

4 1. All fees or claims for legal, medical, hospital, and
5 burial services rendered under this chapter and chapters 85,
6 85A, 85B, and 87 are subject to the approval of the workers'
7 compensation commissioner. For services rendered in the
8 district court and appellate courts, ~~the-attorney's-fee-is~~
9 attorney fees are subject to the approval of a judge-of-the
10 district court judge.

11 2. Attorney fees for services rendered under this chapter
12 and chapters 85, 85A, 85B, and 87 on behalf of an employee
13 shall be limited to the maximum amounts of twenty percent of
14 the first twenty-five thousand dollars of an award or
15 settlement, fifteen percent of the next ten thousand dollars
16 of an award or settlement, and five percent of the remainder
17 of an award or settlement, not to exceed a maximum attorney
18 fee of twelve thousand dollars. Attorney fees shall be paid
19 by the employee from the proceeds of an award or settlement.

20 3. All attorney-client employment contracts for services
21 rendered under this chapter and chapters 85, 85A, 85B, and 87
22 that are entered into and signed on or after January 1, 2005,
23 shall be subject to the conditions of this section.

24 4. Attorney fees for services rendered under this chapter
25 and chapters 85, 85A, 85B, and 87 shall not be paid until the
26 fees are approved by the commissioner or a district judge, and
27 any contract for the payment of such attorney fees
28 contravening any provision of this section shall be void. An
29 attorney shall submit a motion for approval of attorney fees
30 within thirty days following final disposition of the award or
31 settlement. Except when attorney fees are to be paid by an
32 employer or insurer, the attorney fees shall be paid in either
33 of the following ways:

34 a. An employee may pay the attorney fees out of the
35 employee's personal funds or from the proceeds of a lump sum

1 award or settlement.

2 b. The commissioner or a district judge, upon request of
3 an employee, may order the payment of the attorney fees
4 directly to the attorney by deducting the attorney fees from
5 the weekly benefits payable to the employee in equal
6 installments over the duration of the award or settlement or
7 until the attorney fees have been paid.

8 5. At the commencement of an attorney-client relationship
9 for services rendered under this chapter and chapters 85, 85A,
10 85B, and 87, the attorney shall explain to the employee-client
11 the methods permitted by this section for payment of attorney
12 fees, and the employee shall select one of the methods. The
13 attorney shall submit a motion for approval of attorney fees
14 accompanied by a notarized form signed by the employee that
15 sets forth the method of payment selected by the employee and
16 that the employee fully understands the methods of payment
17 available. The form shall list all methods of payment
18 permitted in this section for the payment of attorney fees and
19 shall contain an explanation of each method in nontechnical
20 language.

21 6. In approving a claim for payment of attorney fees, the
22 commissioner or a district judge shall consider the extent,
23 complexity, and quality of services rendered, and in the case
24 of a death claim, the life expectancy and remarriage
25 probability tables contained in the rules. Attorney fees may
26 be denied or reduced upon proof of solicitation by an
27 attorney. However, this provision shall not be construed to
28 preclude advertising by an attorney that is in conformity with
29 the standards prescribed by the supreme court.

30 7. In a claim that has been reopened under the provisions
31 of this chapter and chapters 85, 85A, 85B, and 87, attorney
32 fees may be approved by the commissioner or a district court
33 judge for services rendered in the reopening proceeding
34 subject to the limits set forth in subsection 2. If
35 additional benefits are not awarded to an employee in a

1 reopening proceeding, attorney fees shall not be approved.
2 8. Attorney fees for services rendered in representing an
3 employer in proceedings under this chapter and chapters 85,
4 85A, 85B, and 87 shall not exceed twelve thousand dollars for
5 each proceeding and shall not depend upon the result achieved
6 by the employer in the proceeding. Attorney fees for services
7 rendered on behalf of an employer may be paid on a periodic
8 basis by an employer during the pendency of a proceeding
9 without prior approval by the commissioner or a district
10 judge. An attorney of an employer shall submit a motion for
11 approval of attorney fees within thirty days following final
12 disposition of the award or settlement. Attorney fees that
13 have been approved shall be paid by the employer and shall not
14 exceed the amount the employer agreed by contract to pay.

15 EXPLANATION

16 This bill relates to the regulation of attorney fees in
17 workers' compensation cases under Code chapters 85, 85A, 85B,
18 86, and 87. The bill provides that attorney fees in such
19 cases are limited to the maximum amounts of 20 percent of the
20 first \$25,000 of the award or settlement, 15 percent of the
21 next \$10,000 of the award or settlement, and 5 percent of the
22 remainder of the award or settlement, but not to exceed a
23 maximum of \$12,000. The attorney fees are to be paid by the
24 employee from the proceeds of the award or settlement. The
25 provisions of the bill apply to attorney-client employment
26 contracts, for services rendered in workers' compensation
27 cases, that are entered into and signed on or after January 1,
28 2005.

29 The bill provides that attorney fees for services rendered
30 in a workers' compensation case shall not be paid until the
31 fees are approved by the workers' compensation commissioner or
32 by a district judge for services rendered in the district
33 court and appellate courts. The bill provides that any
34 contract for the payment of attorney fees other than as
35 provided in the bill is void. The bill provides that an

1 attorney shall submit a motion for approval of attorney fees
 2 within 30 days following final disposition of the award or
 3 settlement. The bill provides that except when the attorney
 4 fees are to be paid by the employer or insurer, the attorney
 5 fees shall be paid either from the employee's personal funds
 6 or from the proceeds of a lump sum award or settlement, or the
 7 commissioner or a district judge may, upon request of the
 8 employee, order the payment of the attorney fees directly to
 9 the attorney by deducting the attorney fees from the weekly
 10 benefits payable to the employee in equal installments over
 11 the duration of the award or settlement or until the attorney
 12 fees have been paid.

13 The bill provides that at the commencement of the attorney-
 14 client relationship for services rendered under Code chapters
 15 85, 85A, 85B, 86, and 87, the attorney shall explain to the
 16 employee what methods are permitted by the bill for the
 17 payment of attorney fees and the employee shall select one of
 18 the methods. The attorney shall submit a motion for approval
 19 of the attorney fees accompanied by a notarized form signed by
 20 the employee that sets forth the method of payment selected by
 21 the employee and that the employee fully understands the
 22 methods of payment available. The form must also list all
 23 methods of payment permitted by the bill with an explanation
 24 of each method in nontechnical language.

25 The bill provides that in approving a claim for payment of
 26 attorney fees, the commissioner or a district judge shall
 27 consider the extent, complexity, and quality of services
 28 rendered, and in the case of a death claim, the life
 29 expectancy and remarriage probability tables contained in the
 30 rules. The bill also provides that attorney fees may be
 31 denied or reduced upon proof of solicitation by an attorney,
 32 but advertising by an attorney is not prohibited so long as it
 33 is in conformity with the standards prescribed by the Iowa
 34 supreme court.

35 The bill provides that in a reopening of a workers'

1 compensation case, attorney fees may be approved for services
2 rendered in the reopening proceeding subject to the limits set
3 forth in the bill. If no additional benefits are awarded to
4 an employee in a reopening proceeding, attorney fees shall not
5 be approved.

6 The bill also provides that attorney fees for services
7 rendered in representing an employer in workers' compensation
8 proceedings shall not exceed \$12,000 for each proceeding and
9 shall not depend upon the result achieved by the employer in
10 the proceeding. The bill provides that attorney fees for
11 services rendered on behalf of an employer may be paid on a
12 periodic basis by an employer during the pendency of the
13 proceeding without prior approval by the commissioner or a
14 district judge. The bill provides that an attorney for an
15 employer shall submit a motion for approval of attorney fees
16 within 30 days following final disposition of the proceeding.
17 The bill also provides that an employer shall pay attorney
18 fees that have been approved and that do not exceed the amount
19 the employer agreed by contract to pay.

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