

pending final disposition of the costs of appeal. The department may transcribe or arrange for the transcription of the record in any proceeding for which it is ordered to pay the cost of the record.

(c) As a condition of filing a notice of appeal to the District Court of Appeal, First District, an employer who has not secured the payment of compensation under this chapter in compliance with s. 440.38 shall file with the notice of appeal a good and sufficient bond, as provided in s. 59.13, conditioned to pay the amount of the demand and any interest and costs payable under the terms of the order if the appeal is dismissed, or if the District Court of Appeal, First District, affirms the award in any amount. Upon the failure of such employer to file such bond with the judge of compensation claims or the District Court of Appeal, First District, along with the notice of appeal, the District Court of Appeal, First District, shall dismiss the notice of appeal.

(6) An award of compensation for disability may be made after the death of an injured employee.

~~(7) An injured employee claiming or entitled to compensation shall submit to such physical examination by a certified expert medical advisor approved by the agency or the judge of compensation claims as the agency or the judge of compensation claims may require. The place or places shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer, or carrier may select and pay for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation shall be payable for any period during which the employee may refuse to submit to examination. Any interested party shall have the right in any case of death to require an autopsy, the cost thereof to be borne by the party requesting it; and the judge of compensation claims shall have authority to order and require an autopsy and may, in her or his discretion, withhold her or his findings and award until an autopsy is held.~~

Section 26. Subsections (1), (2), and (3) of section 440.34, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

440.34 Attorney's fees; costs.—

(1) A fee, gratuity, or other consideration may not be paid for ~~services rendered~~ for a claimant in connection with any proceedings arising under this chapter, unless approved as reasonable by the judge of compensation claims or court having jurisdiction over such proceedings. Except as provided by this subsection, Any attorney's fee approved by a judge of compensation claims for benefits secured on behalf of services rendered to a claimant must equal to 20 percent of the first \$5,000 of the amount of the benefits secured, 15 percent of the next \$5,000 of the amount of the benefits secured, 10 percent of the remaining amount of the benefits secured to be provided during the first 10 years after the date the claim is filed, and 5 percent of the benefits secured after 10 years. The judge of compensation claims shall not approve a compensation order, a joint stipulation for lump-sum settlement, a stipulation or agreement between a claimant and his or her attorney, or any other agreement related to benefits under this chapter that

~~provides for an attorney's fee in excess of the amount permitted by this section. The judge of compensation claims is not required to approve any retainer agreement between the claimant and his or her attorney. The retainer agreement as to fees and costs may not be for compensation in excess of the amount allowed under this section. However, The judge of compensation claims shall consider the following factors in each case and may increase or decrease the attorney's fee if, in her or his judgment, the circumstances of the particular case warrant such action:~~

- ~~(a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.~~
- ~~(b) The fee customarily charged in the locality for similar legal services.~~
- ~~(c) The amount involved in the controversy and the benefits resulting to the claimant.~~
- ~~(d) The time limitation imposed by the claimant or the circumstances.~~
- ~~(e) The experience, reputation, and ability of the lawyer or lawyers performing services.~~
- ~~(f) The contingency or certainty of a fee.~~

~~(2) In awarding a reasonable claimant's attorney's fee, the judge of compensation claims shall consider only those benefits secured by to the claimant that the attorney is responsible for securing. An attorney is not entitled to attorney's fees for representation in any issue that was ripe, due, and owing and that reasonably could have been addressed, but was not addressed, during the pendency of other issues for the same injury. The amount, statutory basis, and type of benefits obtained through legal representation shall be listed on all attorney's fees awarded by the judge of compensation claims. For purposes of this section, the term "benefits secured" means benefits obtained as a result of the claimant's attorney's legal services rendered in connection with the claim for benefits. However, such term does not include future medical benefits to be provided on any date more than 5 years after the date the claim is filed. In the event an offer to settle an issue pending before a judge of compensation claims, including attorney's fees as provided for in this section, is communicated in writing to the claimant or the claimant's attorney at least 30 days prior to the trial date on such issue, for purposes of calculating the amount of attorney's fees to be taxed against the employer or carrier, the term "benefits secured" shall be deemed to include only that amount awarded to the claimant above the amount specified in the offer to settle. If multiple issues are pending before the judge of compensation claims, said offer of settlement shall address each issue pending and shall state explicitly whether or not the offer on each issue is severable. The written offer shall also unequivocally state whether or not it includes medical witness fees and expenses and all other costs associated with the claim.~~

~~(3) If any party the claimant should prevail in any proceedings before a judge of compensation claims or court, there shall be taxed against the nonprevailing party employer the reasonable costs of such proceedings, not~~

to include ~~the attorney's fees of the claimant.~~ A claimant shall be responsible for the payment of her or his own attorney's fees, except that a claimant shall be entitled to recover a reasonable attorney's fee from a carrier or employer:

(a) Against whom she or he successfully asserts a petition for medical benefits only, if the claimant has not filed or is not entitled to file at such time a claim for disability, permanent impairment, wage-loss, or death benefits, arising out of the same accident;

(b) In any case in which the employer or carrier files a response to petition denying benefits with the Office of the Judges of Compensation Claims and the injured person has employed an attorney in the successful prosecution of the petition;

(c) In a proceeding in which a carrier or employer denies that an accident occurred for which compensation benefits are payable, and the claimant prevails on the issue of compensability; or

(d) In cases where the claimant successfully prevails in proceedings filed under s. 440.24 or s. 440.28.

Regardless of the date benefits were initially requested, attorney's fees shall not attach under this subsection until 30 days after the date the carrier or employer, if self-insured, receives the petition. ~~In applying the factors set forth in subsection (1) to cases arising under paragraphs (a), (b), (c), and (d), the judge of compensation claims must only consider only such benefits and the time reasonably spent in obtaining them as were secured for the claimant within the scope of paragraphs (a), (b), (c), and (d).~~

(7) If an attorney's fee is owed under paragraph (3)(a), the judge of compensation claims may approve an alternative attorney's fee not to exceed \$1,500 only once per accident, based on a maximum hourly rate of \$150 per hour, if the judge of compensation claims expressly finds that the attorney's fee amount provided for in subsection (1), based on benefits secured, fails to fairly compensate the attorney for disputed medical-only claims as provided in paragraph (3)(a) and the circumstances of the particular case warrant such action.

Section 27. Subsection (7) is added to section 440.38, Florida Statutes, to read:

440.38 Security for compensation; insurance carriers and self-insurers.—

(7) Any employer who meets the requirements of subsection (1) through a policy of insurance issued outside of this state must at all times, with respect to all employees working in this state, maintain the required coverage under a Florida endorsement using Florida rates and rules pursuant to payroll reporting that accurately reflects the work performed in this state by such employees.