

Missouri YMCA Youth in Government Policy Proposals

Policy Issue 1

Issue Question: How would statutorily mandated fees for attorney representation of an injured worker impact the extent of attorney involvement in workers' compensation cases? Would fee limitations reduce the number of cases where the injured worker is represented by an attorney?

Background/History: Section 287.260 states that attorney's fees for workers' compensation cases should be "fair and reasonable." Since the statutes do not set specific fees for attorney representation of an injured worker, the Division has set a policy that attorney fees are 25% of the amount awarded the claimant. Critics have claimed that a contingent fee such as this creates an incentive to overstate claims thereby increasing attorney compensation and attorney representation. Critics also believe that attorney involvement increases the cost of cases. Others believe that limiting fees of attorneys would jeopardize the ability of injured workers to be adequately represented on their case. There are a number of other states that have statutory limitations on attorney's fees. In 2005, a provision was included in a workers' compensation reform bill that provided for some limitation on attorneys' fees for those benefits offered to the injured worker that were offered without the assistance of an attorney. However, this provision does not contain specific limitations on fees to attorneys for work done. Although the issue of attorney fees has been infrequently discussed in relation to specific legislation, the issue has been discussed by business interests who believe it is necessary to limit attorney fees to specific fees based on the work done.

Resources: There are several resources available, The International Association of Industrial Accident Boards and Commission www.iaiabc.org; the Workers' Compensation Research Institute www.wcrinet.com and the Missouri Division of Workers' Compensation for data on attorney involvement.

Policy Issue 2

Issue Question: How would a medical fee schedule for workers' compensation affect the cost of medical treatment of a work-related injury? Do the current medical costs associated with a workers' compensation injury require guidelines such as a medical fee schedule to control costs?

Background/History: Missouri has never had a workers' compensation medical fee schedule. Many states do. Missouri relies on section 287.140 for guidance which section states that all medical fees shall be "fair and reasonable" and that a health care provider "shall not charge a fee for treatment and care...greater than the usual and customary fee the provider receives for the same treatment or service when the payor for such treatment or service is a private individual or a private health insurance carrier." Essentially it is left up to the insurance carriers who pay the medical treatment charges to work out any fee requirements with the health care provider. Some critics of this arrangement believe that it does not adequately control health care costs in workers' compensation and that a fee schedule would.

Resources: There are several resources available, The International Association of Industrial Accident Boards and Commission www.iaiaabc.org; the Workers' Compensation Research Institute www.wcrinet.com and the Missouri Division of Workers' Compensation for data on medical fees.