



LEGISLATIVE POSITION:

Unfavorable

Senate Bill 433

Labor and Employment – Worker’s Compensation Claims – Fees for Legal Services

Senate Finance Committee

Tuesday, March 8, 2022

Dear Chairwoman Kelley and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,500 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

Workers Compensation is designed to provide balance between the interests of injured workers and the interests of employers by regulating all aspects of the claims such as the types of benefits available, the rates at which benefits are paid, and the payment of injured workers’ attorney’s fees.

Employers are responsible for the payment of the fees associated with their defense of the claims and injured workers are responsible for the fees associated with their pursuit of their claims. Employers pay their fees directly through a third-party administrator, if they are self-insured or through insurance premiums, which are priced based on various claim statistics. Injured workers pay their fees through percentages taken from indemnity benefits awarded by the MDWCC and established by regulations in COMAR, which were recently updated by the MDWCC last summer and effective October 2021.

If indemnity benefits are not awarded, for whatever reason, then fees are not paid by the injured worker. This is true regardless of when the issue arises in the claim – beginning, middle or years down the road. The statute and regulations already provide a penalty, when appropriate, for one party to pay the other’s fees, in the case of objectionable behavior on the part of one against the other. Therefore, this legislation including responsibility for payment of the injured workers’ fees by *(a)(2)(II) the employer or its insurer; and (a)(2)(III) a self-insured employer* is unnecessary and may unfairly prejudice Maryland’s employers by burdening them with not only their own cost of defense but by some unknown variable representing the injured workers’ cost to pursue their own claims.

The fiscal note shows no need for this legislation. The cap and percentage for attorneys' fees were raised and the issue of punitive fees was clarified in recent COMAR updates. The Maryland Workers' Compensation Commission is best suited to regulate the award of attorney's fees in these matters.

For these reasons, the Maryland Chamber of Commerce respectfully requests an **unfavorable report** on **SB 433**.

