Technical Amendment
October 31, 2022
EDUCATION AND LABOR CABINET
(Technical Amendment)

803 KAR 25:075. Attorney fee discount.

RELATES TO: KRS Chapter 342
STATUTORY AUTHORITY: KRS 342.260, 342.320
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260 requires the Commissioner of the Department of Workers' Claims to promulgate administrative regulations as he considers necessary to carry on the work of the department and the work of the administrative law judges. KRS 342.320 requires the administrative law judges to approve the payment of the attorney's fee in any case involving benefits under KRS Chapter 342, and KRS 342.120, as effective between April 4, 1994 and December 12, 1996, provides the method by which an employer or its insurance carrier and the Special Fund share liabilities for awards or injuries occurring after April 4, 1994. This administrative regulation establishes a mechanism for crediting the employer, the employer's insurance carrier, and the Special Fund for the payment of attorneys' fees for injuries occurring and disabilities arising after April 4, 1994, and prior to December 12, 1996, when the claimant elects to repay an attorney's fee through the reduction of weekly benefits.

Section 1. Employer's Calculation. For injuries occurring and disabilities arising on or after April 4, 1994, and prior to December 12, 1996, the employer or the insurance carrier making payment on behalf of the employer shall be entitled to credit for the lump sum value of any attorney's fee paid. The following formula shall be used:
(1) Employer weeks awarded - weeks paid = R weeks.
(2) R weeks = P weeks (present worth).
(3) Employer share of attorney fee divided by P weeks = Y rate.
(4) Weekly rate -Y rate = Employer reduced rate.

Section 2. Special Fund Credit. The Education and Labor Cabinet, Department of Workers' Claims Division of Workers' Compensation Funds shall calculate its lump sum credit for attorney's fees in cases involving injuries occurring and disabilities arising on or after April 4, 1994, and prior to December 12, 1996, as follows:
(1) Employer weeks awarded - weeks paid = R weeks.
(2) R weeks = P weeks (present worth).
(3) Total weeks awarded - weeks paid = total remaining (TR) weeks.
(4) TR weeks = PW weeks (present worth).
(5) PW weeks - P weeks = SF (Special Fund) weeks.
(6) SF share of attorney fee divided by SF weeks = SF rate reduction.

Section 3. Procedure. The calculations set forth in Sections 1 and 2 of this administrative regulation shall be completed by the Division of Workers' Compensation Funds and the results forwarded to the other payers, as well as to the plaintiff, when the plaintiff elects to repay an attorney's fee through the reduction of weekly benefits. Any disagreements as to the application of the formula shall be resolved by the administrative law judge upon motion by any party.
(803 KAR 025:075. 21 Ky.R. 2345; 2709; eff. 4-20-1995; TAm eff. 8-9-2007; 46 Ky.R. 3013; 47 Ky.R. 544; eff. 12-1-2020; TAm eff. 10-31-2022; Recodified to 120 KAR 001:075; eff. 6-29-2026.)
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