

803 KAR 25:160. Charges by medical providers for testimony and reports in workers' compensation claims.

RELATES TO: KRS Chapter 342

STATUTORY AUTHORITY: KRS Chapter 13A, 342.035(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.035 requires the executive director of the Office of Workers' Claims to promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a claim by an injured employee against the employer.

Section 1. Applicability. This administrative regulation shall apply to charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a workers' compensation claim before an administrative law judge.

Section 2. Charges for Medical Reports.

(1) Physicians may charge not more than their usual and customary fee up to a maximum of \$200 for completion of a Form 107 or Form 108. Forms 107 and 108 are incorporated by reference in 803 KAR 25:011.

(2) Medical providers and other health care professionals may charge not more than their usual and customary fee up to a maximum of seventy-five (75) dollars per page, with a maximum up to but not to exceed \$200, for the completion of a narrative report containing brief findings resulting from physical or psychological examination, summary of testing performed, diagnosis, records reviewed, impairment rating as determined under the latest available edition of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association with appropriate references to the chapter and page number involved, restrictions and limitations noted, if any, and whether the condition is the result of the arousal of a preexisting dormant disabling condition.

Section 3. Charges for Depositions.

(1) Medical providers or other health care professionals may charge a maximum fee not to exceed their usual and customary fee for testimony, but in no event to exceed a maximum fee of \$250 for the first one-half (1/2) hour of testimony, and a maximum fee of \$100 for each one-quarter (1/4) hour increment thereafter. These time periods shall include consultation, if any, with attorneys for the parties immediately preceding the deposition but not the time spent reviewing records or otherwise preparing for the deposition.

(2) A party or attorney scheduling a deposition shall notify the medical provider or other health care professional to be deposed of the cancellation of the deposition as soon as practicable after occurrence of an event giving rise to the cancellation. In the event that notice is given to the medical provider or health care professional less than forty-eight (48) hours prior to the time scheduled for the deposition, the medical provider or health care professional may charge a cancellation fee not to exceed \$125.

(3) In the event that inclement weather causes the cancellation of a scheduled deposition, a cancellation fee shall not be charged. A cancellation fee may be assessed, however, if the party relying upon inclement weather as grounds for cancellation of a deposition cannot show that a National Weather Service travel advisory was in effect or other indication that severe weather conditions made travel to the deposition site unduly hazardous.

Section 4. Access to Records; Certification and Mailing.

(1) A party who is authorized to review records of a medical provider and requests a review pursuant to KRS 342.035(7) shall submit a written request to the medical

provider, describing the records to be reviewed, not less than three (3) days in advance of the date on which the review is to take place.

(2) Charges for copies of medical records in a workers' compensation case shall not exceed fifty (50) cents per page plus the actual cost of postage if the records are to be mailed. If a party requests certified copies of medical records, the fee charged by the medical provider for a certification of records shall not exceed a maximum of ten (10) dollars.

(21 Ky.R. 1809; eff. 3-6-1995; TAm eff. 8-9-2007; Crt eff. 3-29-2019.)