

By: Representative Brown

To: Insurance

HOUSE BILL NO. 1519

1 AN ACT TO AMEND SECTION 71-3-63, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THAT THE STATUTORILY ALLOWED ATTORNEY'S FEES IN WORKERS'
3 COMPENSATION CASES SHALL BE IN ADDITION TO, AND NOT DEDUCTED FROM,
4 THE CLAIMANT'S FULL AWARD OF BENEFITS; AND FOR RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 **SECTION 1.** Section 71-3-63, Mississippi Code of 1972, is
7 amended as follows:

8 71-3-63. (1) No claim for legal services or for any other
9 services rendered in respect of a claim or award for compensation,
10 to or on account of any person, shall be valid unless approved by
11 the commission or, if proceedings for review of the order of the
12 commission in respect of such claim or award are had before any
13 court, unless approved by such court. Any claim so approved
14 shall, in the manner and to the extent fixed by the commission or
15 such court, be a lien upon such compensation.

16 (2) Any person (a) who receives any fee, other
17 consideration, or any gratuity on account of services so rendered,
18 unless such consideration or gratuity is approved by the
19 commission or such court, or (b) who makes it a business to
20 solicit employment for a lawyer or for himself in respect of any
21 claim or award for compensation, shall be guilty of a misdemeanor
22 and, upon conviction thereof, shall for each offense be punished
23 by a fine of not more than One Thousand Dollars (\$1,000.00) or by
24 imprisonment not to exceed one (1) year, or by both such fine and
25 imprisonment.

26 (3) Representation of one other than himself or herself
27 before the commission shall be considered the practice of law, and
28 all statutes applying to and regulating the practice in all other

29 courts of law in this state shall likewise apply to practice
30 before the commission, insofar as the qualifications of those
31 practicing before the commission are concerned. This paragraph
32 shall not be construed as tightening the rules of evidence which
33 are otherwise relaxed in other sections of this chapter.

34 In no instance shall the amount recovered by an attorney for
35 an appearance before the commission exceed twenty-five percent
36 (25%) of the total award of compensation, which amount shall be in
37 addition to, and not deducted from, the claimant's full award of
38 benefits. Such limitations, however, shall not be construed as
39 applying to a fee awarded for additional services by any superior
40 court. Legal services rendered where no motion to controvert has
41 been filed by either employer or employee shall be considered as
42 consultation, and that factor shall be taken into consideration in
43 awarding a fee. In all instances, fees shall be awarded on the
44 basis of fairness to both attorney and client. Although
45 exceptions may be made in the interest of justice, it shall be
46 deemed conducive to the best interest of all concerned for the
47 commission to approve contracts for attorneys' fees voluntarily
48 entered into between attorney and client, within the limitations
49 hereinabove set out.

50 When an award of compensation becomes final and an attorney's
51 fee is outstanding, a partial lump sum settlement sufficient to
52 cover the attorney's fee approved therein by the commission shall
53 be made immediately, from payments last to become due, and the
54 deductions allowed by the law shall be borne equally by the
55 attorney and the client.

56 **SECTION 2.** This act shall take effect and be in force from
57 and after July 1, 2005.