



## LETTER OF INFORMATION

**Bill:** HB 1012 - Labor and Employment – Workers’ Compensation Claims – Fees for Legal Services

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**Date:** March 22, 2023

Dear Chair Melony Griffith and Vice Chair Katherine Klausmeier,

The Maryland-National Capital Park and Planning Commission (the “Commission”) takes no position on this bill. However, the Commission respectfully requests the Finance Committee to consider this information and include it in the record.

**What the Bill Does:** This bill requires the Workers’ Compensation Commission (WCC) to order a fee of up to \$2,000 be paid for legal services rendered on behalf of a covered employee if no compensation is payable to the covered employee, but the covered employee is awarded a medical benefit at a hearing. WCC must order the fee to be paid by (1) the employer or its insurer; (2) a self-insured employer; or (3) the Uninsured Employers’ Fund (UEF).

**Background Information:** The Commission was established in 1927 to provide regional long-range planning and park acquisition and development. Since its formation, the Commission has strived to attract and retain the best employees. The Commission designs, develops and administers quality, cost-effective benefits programs. There are significant benefits to workers compensation for both the employee and employer, and the Commission complies with the current law, and practices fair and reasonable policies to ensure employees are fully compensated for workplace injuries. The Commission is committed to timely and effective treatment so that employees can fully recover.

Under current Maryland law, if an employee covered under workers’ compensation insurance has suffered an accidental personal injury, compensable hernia, or occupational disease, the employee is entitled to compensation benefits (i.e. money paid directly to the employee) paid by the employer or its insurer. However, any fee owed to an attorney representing the employee is paid by the employee themselves, via a reduction in benefits payable to them (i.e. the attorneys fee becomes a lien on the compensation benefits payable to the employee). There is already a provision in the regulations for an attorney’s fee in the absence of compensation awarded in exceptional circumstances. Presently, the need for such an attorney’s fee is just that, an exceptional circumstance. The purpose of this bill is to turn the extraordinary circumstance into an every-day occurrence by providing for attorney’s fees where **no** compensation benefits are awarded, from which the attorney is typically paid; effectively requiring the employer to pay for the employee’s lawyer. If enacted, the \$2,000 fee will apply in situations where a claimant is no longer entitled to compensation benefits, either via the running of the

statute of limitations or via settlement, but is still entitled to ongoing medical treatment. This incentivizes attorneys to continually request payment directly from the employer, which will increase costs without necessarily improving outcomes for employees. As a public agency we are extremely concerned about ballooning costs associated with this bill.

**Potential Increase in Workers Compensation Costs:** Requiring employers to pay a fee up to \$2,000 for legal services rendered on behalf of the covered employee will have the effect of increasing costs in workers' compensation claims. As a public employer who pays claims from tax dollars of the citizens of Montgomery and Prince George's counties, we are especially sensitive to this, particularly in light of the lack of guidelines for calculating the fee. There is no provision for how the fee will be calculated or whether it is limited to the number of times the \$2000 fee can be awarded in a claim. The effect of this bill will be to incentivize multiple hearings to secure an attorney's fee rather than protecting the interests of the employees and maintaining the balance between the interests of employers and employees.