

34:15-64
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2023 **CHAPTER:** 114

NJSA: 34:15-64 Raises maximum workers' compensation fees for evaluating physicians; expands circumstances for which physician legal fees are permitted.

BILL NO: S3309 (Substituted for A4832 (1R))

SPONSOR(S) Stack, Brian P. and others

DATE INTRODUCED: 11/3/2022

COMMITTEE: **ASSEMBLY:** --

SENATE: Labor

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 05/25/2023

SENATE: 03/20/2023

DATE OF APPROVAL: 7/20/2023

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (S3309 enacted) Yes

S3309

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A4832 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

CL/JA

P.L. 2023, CHAPTER 114, *approved July 20, 2023*

Senate, No. 3309

1 AN ACT concerning certain workers' compensation fees and
2 amending R.S.34:15-64.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. R.S.34:15-64 is amended to read as follows:

8 34:15-64. a. The commissioner, director and the judges of
9 compensation may make such rules and regulations for the conduct
10 of the hearing not inconsistent with the provisions of this chapter as
11 may, in the commissioner's judgment, be necessary. The official
12 conducting any hearing under this chapter may allow to the party in
13 whose favor judgment is entered, costs of witness fees and a
14 reasonable attorney fee, not exceeding 20% of the judgment; and a
15 reasonable fee not exceeding \$400 for any one witness, except that
16 the following fees may be allowed for a medical witness:

17 (1) (a) A fee of not more than **[\$600]** \$1,000 paid to an
18 evaluating physician for an opinion regarding the need for medical
19 treatment or for an estimation of permanent disability, if the
20 physician provides the opinion or estimation in a written report; and

21 (b) An additional fee of not more than \$400 paid to the
22 evaluating physician who makes a court appearance to give
23 testimony; or

24 (2) (a) A fee of not more than \$450 paid to a treating physician
25 for the preparation and submission of a report including the entire
26 record of treatment, medical history, opinions regarding diagnosis,
27 prognosis, causal relationships between the treated condition and
28 the claim, the claimant's ability to return to work with or without
29 restrictions, what, if any, restrictions are appropriate, and the
30 anticipated date of return to work, and any recommendations for
31 further treatment; and

32 (b) (i) An additional fee of not more than \$300 per hour, with
33 the total amount not to exceed \$2,500, paid to the treating physician
34 who gives testimony concerning causal relationship, ability to work
35 or the need for treatment; or

36 (ii) An additional fee of not more than \$300 per hour, with the
37 total amount not to exceed \$1,500, paid to the treating physician
38 who gives a deposition concerning causal relationship, ability to
39 work or the need for treatment.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 b. (1) No fee for an evaluating physician pursuant to this
2 section shall be contingent on whether a judgment or award is or is
3 not made in favor of the petitioner.

4 (2) No evaluating or treating physician shall charge any fee for a
5 report, testimony or deposition in excess of the amount permitted
6 pursuant to the provisions of this section.

7 (3) A psychologist, nurse practitioner, or licensed clinical social
8 worker who provides psychological treatment may be paid a fee, as
9 permitted in accordance with the provisions of this section, for a
10 report or testimony concerning that provider's course of treatment
11 of the injured worker in that provider's role as a provider of
12 treatment.

13 c. A fee shall be allowed at the discretion of the judge of
14 compensation when, in the official's judgment, the services of an
15 attorney and medical witnesses are necessary for the proper
16 presentation of the case. In determining a reasonable fee for
17 medical witnesses, the official shall consider (1) the time,
18 personnel, and other cost factors required to conduct the
19 examination; (2) the extent, adequacy and completeness of the
20 medical evaluation; (3) the objective measurement of bodily
21 function and the avoidance of the use of subjective complaints; and
22 (4) the necessity of a court appearance of the medical witness.
23 When, however, at a reasonable time, prior to any hearing
24 compensation has been offered and the amount then due has been
25 tendered in good faith or paid within 26 weeks from the date of the
26 notification to the employer of an accident or an occupational
27 disease or the employee's final active medical treatment or within
28 26 weeks after the employee's return to work whichever is later or
29 within 26 weeks after employer's notification of the employee's
30 death, the reasonable allowance for an attorney fee shall be based
31 upon the amount of compensation, theretofore offered, tendered in
32 good faith or paid after the establishment of an attorney-client
33 relationship pursuant to a written agreement, and the amount of the
34 judgment or award in excess of the amount of compensation,
35 theretofore offered. When the amount of the judgment is less than
36 \$200, an attorney fee may be allowed not in excess of \$50.

37 d. All counsel fees of claimants' attorneys for services
38 performed in matters before the Division of Workers'
39 Compensation, whether or not allowed as part of a judgment, shall
40 be first approved by the judge of compensation before payment.
41 Whenever a judgment or award is made in favor of a petitioner, the
42 judges of compensation or referees of formal hearings shall direct
43 amounts to be deducted for the petitioner's expenses and to be paid
44 directly to the persons entitled to the same, the remainder to be paid
45 directly to the petitioner.

46 (cf: P.L.2018, c.105, s.1)

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48 2. This act shall take effect immediately.

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STATEMENT

This bill establishes parity in workers' compensation fees between evaluating physicians of claimants for a written opinion regarding the need for medical treatment or providing an estimation of permanent disability. The bill sets the maximum fees of evaluating physicians for claimants for the written reports at \$1,000. The maximum fee of \$1,000 represents an increase of \$400 over the current maximum of \$600, in the case of a claimant's evaluating physician.

The bill provides that a psychologist, nurse practitioner, or licensed clinical social worker who provides psychological treatment may be paid a fee for a report or testimony concerning that provider's course of treatment of the injured worker in that provider's role as a provider of treatment as permitted by law.



Raises maximum workers' compensation fees for evaluating physicians; expands circumstances for which physician legal fees are permitted.

SENATE, No. 3309

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED NOVEMBER 3, 2022

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex)

SYNOPSIS

Raises maximum workers' compensation fees for evaluating physicians; expands circumstances for which physician legal fees are permitted.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/25/2023)

S3309 STACK, SCUTARI

2

1 AN ACT concerning certain workers' compensation fees and
2 amending R.S.34:15-64.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. R.S.34:15-64 is amended to read as follows:

8 34:15-64. a. The commissioner, director and the judges of
9 compensation may make such rules and regulations for the conduct
10 of the hearing not inconsistent with the provisions of this chapter as
11 may, in the commissioner's judgment, be necessary. The official
12 conducting any hearing under this chapter may allow to the party in
13 whose favor judgment is entered, costs of witness fees and a
14 reasonable attorney fee, not exceeding 20% of the judgment; and a
15 reasonable fee not exceeding \$400 for any one witness, except that
16 the following fees may be allowed for a medical witness:

17 (1) (a) A fee of not more than **[\$600]** \$1,000 paid to an
18 evaluating physician for an opinion regarding the need for medical
19 treatment or for an estimation of permanent disability, if the
20 physician provides the opinion or estimation in a written report; and

21 (b) An additional fee of not more than \$400 paid to the
22 evaluating physician who makes a court appearance to give
23 testimony; or

24 (2) (a) A fee of not more than \$450 paid to a treating physician
25 for the preparation and submission of a report including the entire
26 record of treatment, medical history, opinions regarding diagnosis,
27 prognosis, causal relationships between the treated condition and
28 the claim, the claimant's ability to return to work with or without
29 restrictions, what, if any, restrictions are appropriate, and the
30 anticipated date of return to work, and any recommendations for
31 further treatment; and

32 (b) (i) An additional fee of not more than \$300 per hour, with
33 the total amount not to exceed \$2,500, paid to the treating physician
34 who gives testimony concerning causal relationship, ability to work
35 or the need for treatment; or

36 (ii) An additional fee of not more than \$300 per hour, with the
37 total amount not to exceed \$1,500, paid to the treating physician
38 who gives a deposition concerning causal relationship, ability to
39 work or the need for treatment.

40 b. (1) No fee for an evaluating physician pursuant to this
41 section shall be contingent on whether a judgment or award is or is
42 not made in favor of the petitioner.

43 (2) No evaluating or treating physician shall charge any fee for a
44 report, testimony or deposition in excess of the amount permitted
45 pursuant to the provisions of this section.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 (3) A psychologist, nurse practitioner, or licensed clinical social
2 worker who provides psychological treatment may be paid a fee, as
3 permitted in accordance with the provisions of this section, for a
4 report or testimony concerning that provider's course of treatment
5 of the injured worker in that provider's role as a provider of
6 treatment.

7 c. A fee shall be allowed at the discretion of the judge of
8 compensation when, in the official's judgment, the services of an
9 attorney and medical witnesses are necessary for the proper
10 presentation of the case. In determining a reasonable fee for
11 medical witnesses, the official shall consider (1) the time,
12 personnel, and other cost factors required to conduct the
13 examination; (2) the extent, adequacy and completeness of the
14 medical evaluation; (3) the objective measurement of bodily
15 function and the avoidance of the use of subjective complaints; and
16 (4) the necessity of a court appearance of the medical witness.
17 When, however, at a reasonable time, prior to any hearing
18 compensation has been offered and the amount then due has been
19 tendered in good faith or paid within 26 weeks from the date of the
20 notification to the employer of an accident or an occupational
21 disease or the employee's final active medical treatment or within
22 26 weeks after the employee's return to work whichever is later or
23 within 26 weeks after employer's notification of the employee's
24 death, the reasonable allowance for an attorney fee shall be based
25 upon the amount of compensation, theretofore offered, tendered in
26 good faith or paid after the establishment of an attorney-client
27 relationship pursuant to a written agreement, and the amount of the
28 judgment or award in excess of the amount of compensation,
29 theretofore offered. When the amount of the judgment is less than
30 \$200, an attorney fee may be allowed not in excess of \$50.

31 d. All counsel fees of claimants' attorneys for services
32 performed in matters before the Division of Workers'
33 Compensation, whether or not allowed as part of a judgment, shall
34 be first approved by the judge of compensation before payment.
35 Whenever a judgment or award is made in favor of a petitioner, the
36 judges of compensation or referees of formal hearings shall direct
37 amounts to be deducted for the petitioner's expenses and to be paid
38 directly to the persons entitled to the same, the remainder to be paid
39 directly to the petitioner.

40 (cf: P.L.2018, c.105, s.1)

41

42 2. This act shall take effect immediately.

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STATEMENT

46

47 This bill establishes parity in workers' compensation fees
48 between evaluating physicians of claimants for a written opinion

S3309 STACK, SCUTARI

4

1 regarding the need for medical treatment or providing an estimation
2 of permanent disability. The bill sets the maximum fees of
3 evaluating physicians for claimants for the written reports at
4 \$1,000. The maximum fee of \$1,000 represents an increase of \$400
5 over the current maximum of \$600, in the case of a claimant's
6 evaluating physician.

7 The bill provides that a psychologist, nurse practitioner, or
8 licensed clinical social worker who provides psychological
9 treatment may be paid a fee for a report or testimony concerning
10 that provider's course of treatment of the injured worker in that
11 provider's role as a provider of treatment as permitted by law.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 3309

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2023

The Senate Labor Committee reports favorably, Senate Bill, No. 3309.

This bill establishes parity in workers' compensation fees between evaluating physicians of claimants for a written opinion regarding the need for medical treatment or providing an estimation of permanent disability. The bill sets the maximum fees of evaluating physicians for claimants for the written reports at \$1,000. The maximum fee of \$1,000 represents an increase of \$400 over the current maximum of \$600, in the case of a claimant's evaluating physician.

The bill provides that a psychologist, nurse practitioner, or licensed clinical social worker who provides psychological treatment may be paid a fee for a report or testimony concerning that provider's course of treatment of the injured worker in that provider's role as a provider of treatment as permitted by law.

ASSEMBLY, No. 4832

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED OCTOBER 27, 2022

Sponsored by:
Assemblyman RAJ MUKHERJI
District 33 (Hudson)

SYNOPSIS

Raises maximum workers' compensation fees for evaluating physicians.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain workers' compensation fees and
2 amending R.S.34:15-64.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. R.S.34:15-64 is amended to read as follows:

8 34:15-64. a. The commissioner, director and the judges of
9 compensation may make such rules and regulations for the conduct
10 of the hearing not inconsistent with the provisions of this chapter as
11 may, in the commissioner's judgment, be necessary. The official
12 conducting any hearing under this chapter may allow to the party in
13 whose favor judgment is entered, costs of witness fees and a
14 reasonable attorney fee, not exceeding 20% of the judgment; and a
15 reasonable fee not exceeding \$400 for any one witness, except that
16 the following fees may be allowed for a medical witness:

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21 (b) An additional fee of not more than \$400 paid to the
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23 testimony; or

24 (2) (a) A fee of not more than \$450 paid to a treating physician
25 for the preparation and submission of a report including the entire
26 record of treatment, medical history, opinions regarding diagnosis,
27 prognosis, causal relationships between the treated condition and
28 the claim, the claimant's ability to return to work with or without
29 restrictions, what, if any, restrictions are appropriate, and the
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32 (b) (i) An additional fee of not more than \$300 per hour, with
33 the total amount not to exceed \$2,500, paid to the treating physician
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38 who gives a deposition concerning causal relationship, ability to
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42 not made in favor of the petitioner.

43 (2) No evaluating or treating physician shall charge any fee for a
44 report, testimony or deposition in excess of the amount permitted
45 pursuant to the provisions of this section.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. A fee shall be allowed at the discretion of the judge of
2 compensation when, in the official's judgment, the services of an
3 attorney and medical witnesses are necessary for the proper
4 presentation of the case. In determining a reasonable fee for
5 medical witnesses, the official shall consider (1) the time,
6 personnel, and other cost factors required to conduct the
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9 function and the avoidance of the use of subjective complaints; and
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11 When, however, at a reasonable time, prior to any hearing
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13 tendered in good faith or paid within 26 weeks from the date of the
14 notification to the employer of an accident or an occupational
15 disease or the employee's final active medical treatment or within
16 26 weeks after the employee's return to work whichever is later or
17 within 26 weeks after employer's notification of the employee's
18 death, the reasonable allowance for an attorney fee shall be based
19 upon the amount of compensation, theretofore offered, tendered in
20 good faith or paid after the establishment of an attorney-client
21 relationship pursuant to a written agreement, and the amount of the
22 judgment or award in excess of the amount of compensation,
23 theretofore offered. When the amount of the judgment is less than
24 \$200, an attorney fee may be allowed not in excess of \$50.

25 d. All counsel fees of claimants' attorneys for services
26 performed in matters before the Division of Workers'
27 Compensation, whether or not allowed as part of a judgment, shall
28 be first approved by the judge of compensation before payment.
29 Whenever a judgment or award is made in favor of a petitioner, the
30 judges of compensation or referees of formal hearings shall direct
31 amounts to be deducted for the petitioner's expenses and to be paid
32 directly to the persons entitled to the same, the remainder to be paid
33 directly to the petitioner.

34 (cf: P.L.2018, c.105, s.1)

35

36 2. This act shall take effect immediately.

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STATEMENT

40

41 This bill establishes parity in workers' compensation fees
42 between evaluating physicians of claimants for a written opinion
43 regarding the need for medical treatment or providing an estimation
44 of permanent disability. The bill sets the maximum fees of
45 evaluating physicians for claimants for the written reports at
46 \$1,000. The maximum fee of \$1,000 represents an increase of \$400
47 over the current maximum of \$600, in the case of a claimant's
48 evaluating physician.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4832

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 16, 2023

The Assembly Labor Committee reports favorably Assembly Bill No. 4832 with committee amendments.

As amended, this bill establishes parity in workers' compensation fees between evaluating physicians of claimants for a written opinion regarding the need for medical treatment or providing an estimation of permanent disability. The bill sets the maximum fees of evaluating physicians for claimants for the written reports at \$1,000. The maximum fee of \$1,000 represents an increase of \$400 over the current maximum of \$600, in the case of a claimant's evaluating physician.

As amended, the bill provides that a psychologist, nurse practitioner, or licensed clinical social worker who provides psychological treatment may be paid a fee for a report or testimony concerning that provider's course of treatment of the injured worker in that provider's role as a provider of treatment as permitted by law.

COMMITTEE AMENDMENTS:

The committee amended the bill to provide that a psychologist, nurse practitioner, or licensed clinical social worker who provides psychological treatment may be paid a fee for a report or testimony concerning that provider's course of treatment of the injured worker in that provider's role as a provider of treatment as permitted by law.

The amendment adopted by committee makes this bill identical to Senate No. 3309 of the 2022-2023 Legislative Session.

Governor Murphy Takes Action on Legislation

07/20/2023

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

S-528/A-2815 (Ruiz, Pou/Murphy, Wimberly, McKnight) - Requires certain additional school district personnel to complete training program on suicide prevention

S-3089/A-4722 (Gopal, A.M. Bucco/McKeon) - Permits certain school districts to establish State military impact aid reserve account

S-3125/A-4947 (Cryan, Gopal/Lopez, Quijano, Atkins) - Expands "Daniel's Law" to prohibit disclosure of personal information concerning child protective investigators

S-3309/A-4832 (Stack, Scutari/Mukherji, Speight) - Raises maximum workers' compensation fees for evaluating physicians; expands circumstances for which physician legal fee permitted

S3406/A-4970 (Gopal, Cryan/Jasey, Carter, McKeon) - Requires public institutions of higher education to submit annual fiscal monitoring report; authorizes Secretary of Higher Education to appoint State monitor of certain institutions; requires higher education chief financial officers complete training; annually appropriates \$100,000

S-3444/A-5211 (Schepisi, Lagana/Karabinchak, Stanley) - Allows certain municipal water systems, under certain circumstances, to use lands preserved for recreation and conservation for drinking water wells and associated treatment equipment or facilities

S-3753/A-5299 (Madden, Turner/Murphy) - Designates State Office of Emergency Management as State Agency for Surplus Property

S-3783/A-5541 (Zwicker, Cruz-Perez/Quijano) - Modifies certain provisions of "New Jersey Innovation Evergreen Act" and "Food Desert Relief Act"

S-3796/A-5559 (Greenstein, Stanfield/Mejia, Reynolds-Jackson, Atkins) - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY 2024

S-3797/A-5558 (Codey, Greenstein/Lampitt, Swain, Stanley) - Appropriates funds to DEP for environmental infrastructure projects for FY 2024

S-3798/A-5422 (Ruiz, Corrado, Turner/Jasey, Lampitt, Mukherji) - Permits teacher, and professional staff member who provides special services, who retired from TPAF to return employment for up to two years without reenrollment in TPAF if employment commences during the 2023-2024 school year

S-3873/A-5507 (Zwicker, Johnson/Benson, Pintor Marin) - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for transportation infrastructure projects for FY2024; makes appropriation

A-4864/S-3795 (Mosquera, Sampson, Quijano/Lagana, Burgess) - Expands scope of Foreclosure Mediation Assistance Program during State of Emergency to allow use of program funds for payment to counselors who help disaster victims process applications for assistance

A-5175/SCS for S-3519 and 3593 (Verrelli, McKnight, Moen/Beach, Turner, Zwicker) - Changes certain General Election deadlines