

176.081 LEGAL SERVICES OR DISBURSEMENTS; LIEN; REVIEW.**Subdivision 1. Limitation of fees...**

(c) If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. Subject to the foregoing maximum amount for attorney fees, up to 20 percent of the first \$130,000 of periodic compensation awarded to the employee may be withheld from the periodic payments for attorney fees or disbursements if the payor of the funds clearly indicates on the check or draft issued to the employee for payment the purpose of the withholding, the name of the attorney, the amount withheld, and the gross amount of the compensation payment before withholding. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be available to an attorney who procures a benefit on behalf of the employee and be based solely upon genuinely disputed claims or portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. The existence of a dispute is dependent upon a disagreement after the employer or insurer has had adequate time and information to take a position on liability. Neither the holding of a hearing nor the filing of an application for a hearing alone may determine the existence of a dispute. Except where the employee is represented by an attorney in other litigation pending at the department or at the Office of Administrative Hearings, a fee may not be charged after June 1, 1996, for services with respect to a medical or rehabilitation issue arising under section 176.102, 176.135, or 176.136 performed before the ~~employee has consulted with the department~~ attorney has filed with the commissioner and served on the employer or insurer, and any attorney representing the employer or insurer, a request for certification of dispute containing the name of the employer and its insurer, the date of the injury, and describing the benefits claimed, and the department certifies that there is a dispute and that it has tried to resolve the dispute. If within 30 days of the filing of the request the department has not issued a determination of whether a dispute exists, the dispute shall be certified if all of the following apply:

- 1) the insurer has not approved the requested benefit;
- 2) the employee, their attorney, or their treating provider has submitted any and all additional information requested by the insurer necessary to determine whether the requested benefit is disputed or approved; and

32 3) the insurer has had at least seven calendar days to review any such additional
33 information.

34 In cases of non-emergency inpatient surgery, if the employer or insurer have requested a second
35 opinion pursuant to section 176.135, subd. 1a, or an examination pursuant to section 176.155,
36 subd. 1, a dispute shall not be certified until after 45 days following a written request for an
37 examination or second opinion.