

Regular Session, 2003

ACT No. 1204

SENATE BILL NO. 819

BY SENATOR DARDENNE

AN ACT

To amend and reenact R.S. 23:1201(F)(introductory paragraph) and to enact R.S. 23:1201(I) and (J) and to repeal R.S. 23:1121(C) and 1201.2, relative to workers' compensation; to provide for the payment of medical benefits; to require certain documentation of medical treatment; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1201(F)(introductory paragraph) is hereby amended and reenacted and R.S. 23:1201(I) and (J) are hereby enacted to read as follows:

§1201. Time and place of payment; failure to pay timely; failure to authorize; penalties and attorney fees

* * *

F. Failure to provide payment in accordance with this Section **or failure to consent to the employee's request to select a treating physician or change physicians when such consent is required by R.S. 23:1121** shall result in the assessment of a penalty in an amount **up equal to the greater of** twelve percent of any unpaid compensation or medical benefits, or fifty dollars per calendar day, ~~whichever is greater~~, for each day in which any and all compensation or medical benefits remain unpaid **or such consent is withheld**, together with

reasonable attorney fees for each disputed claim; however, the fifty dollars per calendar day penalty shall not exceed a maximum of two thousand dollars in the aggregate for any claim. The maximum amount of penalties which may be imposed at a hearing on the merits regardless of the number of penalties which might be imposed under this Section is eight thousand dollars. An award of penalties and attorney fees at any hearing on the merits shall be res judicata as to any and all claims for which penalties may be imposed under this Section which precedes the date of the hearing.

Penalties shall be assessed in the following manner:

* * *

R.S. 23:1201(I) is all new law.

I. Any employer or insurer who at any time discontinues payment of claims due and arising under this Chapter, when such discontinuance is found to be arbitrary, capricious, or without probable cause, shall be subject to the payment of a penalty not to exceed eight thousand dollars and a reasonable attorney fee for the prosecution and collection of such claims. The provisions as set forth in R.S. 23:1141 limiting the amount of attorney fees shall not apply to cases where the employer or insurer is found liable for attorney fees under this Section. The provisions as set forth in R.S. 22:658(C) shall be applicable to claims arising under this Chapter.

R.S. 23:1201(J) is all new law.

J. Notwithstanding the fact that more than one violation in this Section which provides for an award of attorney fees may be applicable, only one reasonable attorney fee may be awarded against the employer or insurer in connection with any hearing on the merits of

any disputed claim filed pursuant to this Section, and an award of such single attorney fee shall be res judicata as to any and all conduct for which penalties may be imposed under this Section which precedes the date of the hearing.

Section 2. R.S. 23:1121(C) and 1201.2 are hereby repealed.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____