



# HOUSE BILL 26: Workers' Comp/Approval of Disputed Legal Fees.

2017-2018 General Assembly

<b>Committee:</b>		<b>Date:</b>	August 16, 2017
<b>Introduced by:</b>		<b>Prepared by:</b>	Amy Darden Staff Attorney
<b>Analysis of:</b>	S.L. 2017-124		

**OVERVIEW:** *S.L. 2017-124 provides that if an employer has begun paying workers compensation benefits pursuant to a Commission-approved agreement with its injured employee, the employee is not entitled to compensation for additional medical treatment for a condition or injury not identified in the agreement, unless the employee provides that the injury or condition is causally related to the compensable injury. The act also requires the Commission to give notice of the amount of the approved attorneys' fees in a workers' compensation case to all attorneys who represented the injured worker. This act became effective July 20, 2017, and applies to claims accrued or pending on or after that date.*

**CURRENT LAW:** In *Wilkes v. City of Greenville*, the NC Supreme Court held that once an employer issues direct payment to an employee pursuant to a Commission-approved agreement by the employer to pay compensation, the employee is entitled to a presumption that additional medical treatment is causally related to the employee's compensable injury unless the employer rebuts this presumption with evidence that the condition or treatment is not causally related to the compensable injury.

In workers' compensation proceedings, the amount of the fee for the injured employee's attorney must be approved by the Industrial Commission, and the Commission also hears and determines any dispute between the employee's current and past attorneys over the division of the approved fee. In making that determination, the Commission currently is not required to disclose the total amount of the approved fee to the employee's past attorney.

**BILL ANALYSIS:** S.L. 2017-124 clarifies an employee must prove that an injury, not identified in an award arising out of the employer's prior agreement to pay compensation, is causally related to the compensable injury.

This act also amends G.S. 97-90(f) to require the Industrial Commission to provide notice of the total amount of the fee approved for division between attorneys to an injured worker's current and previous attorneys of record if there is a dispute over the division of the fee between the attorneys.

**EFFECTIVE DATE:** This act became effective July 20, 2017, and applies to claims pending on or after that date.

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