

Attorney Retainer Agreements

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Montana Department of
LABOR & INDUSTRY

Retainer Agreement Approval

ARM 24.29.3802

- All agreements must be approved by the Department
- Submitted within 30 days of undertaking
- Specifically state the terms of the fee agreement
- Signed and dated by the claimant and attorney
- Feel free to contact us to verify dates of injury
- Electronic submissions go to dlierdbp&s@mt.gov
- Approvals will be sent through Montana File Transfer

Claimant Legal Fees and Costs Reporting

ARM 24.29.4332

On a per-claim basis, report the amount of legal fees and costs received for each claim with an approved agreement, when the attorney actually receives a fee from the claimant or on behalf of a claimant.

- **Initial legal fee report** must be reported within 14 days
- **Subsequent legal fee reports** must be reported within 14 days of each six-month anniversary of the date of Injury or OD as long as there exists the potential for fee payments
- **Final legal fee report** must be filed at any time prior to or within 14 days of the next six-month anniversary of the date of Injury or OD if potential for fee payments no longer exists.
- Claimant attorney must also submit a legal fee report upon:
 - Notification of reporting error
 - Request by the department

Items that can delay processing:

- Missing or incorrect DOI
- Missing or incorrect employer
- No fee schedule selected
- Missing date for Agreement

STATE OF MONTANA DEPARTMENT OF LABOR AND INDUSTRY EMPLOYMENT STANDARDS DIVISION P.O. BOX 8011 HELENA, MT 59604-8011	ATTORNEY RETAINER AGREEMENT	MAIL ROOM DATE
INSTRUCTIONS: Complete the form and return to Department for approval.		
Attorney: _____		Claimant: _____
Address: _____		Address: _____
City/State/Zip: _____		City/State/Zip: _____
Phone: _____		Date (s) of Accident: _____ Employers: _____
The above-named claimant hereby employs the above-named attorney and the attorney agrees to represent claimant in his claim for workers' compensation or occupational disease benefits arising out of an industrial accident or occupational disease suffered by the claimant on or about the above-noted day while employed by the above-noted employer and claimant hereby requests that the Department of Labor and Industry enter the attorney as attorney of record and direct all future correspondence to said attorney.		
Check A, B, or C as applicable:		
A. Claimant and attorney agree to a fee schedule as follows: ☐ For cases that have been settled without an order of the workers' compensation judge or the Supreme Court twenty percent (20%) of the amount of additional compensation payments the claimant receives due to the efforts of the attorney. For cases that go to a hearing before the worker's compensation judge or the Supreme Court, twenty-five percent (25%) of the amount of additional compensation payments the claimant receives from an order of the worker's compensation judge or the Supreme Court due to the efforts of the attorney.		
☐ B. Claimant and attorney agree that claimant shall pay for services rendered by attorney on behalf of claimant at the rate of \$ _____ per hour (not more than \$100.00 per hour); provided that the total fee shall not exceed the percentages set forth above in subsection "A".		
☐ C. Application is made for approval of a variance from the guideline fees to charge at the rate of _____. Documentation for the requested variance is attached. If the variance is not approved, the attorney and the claimant agree to a fee of A _____ or B _____, as set forth above.		

Where the initial compensability of the claim is not in dispute, no fee shall be charged upon temporary total disability benefits paid during the healing period or upon medical benefits. If the insurer has denied liability, the attorney fee shall apply to all monies, including medical benefits, obtained for the claimant through the efforts of the attorney.	
The following benefits shall not be considered as a basis for calculation of attorney fees:	
(1) The amount of medical and hospital benefits received by the claimant, unless the workers' compensation insurer has denied all liability, including medical and hospital benefits, or unless the insurer has denied the payment of certain medical and hospital costs and the attorney has been successful in obtaining such benefits for the claimant. (2) Benefits received by the claimant with the assistance of the attorney in filling out initial claim forms only. (3) An undisputed portion of impairment benefits received by the claimant based on an impairment rating. (4) Benefits initiated or offered by the insurer when such initiation or offer is supported by documentation in the claimant's file and has not been the subject of a dispute with the claimant. (5) Any other benefits not obtained due to the actual, reasonable and necessary efforts of the attorney.	
The claimant agrees to pay or reimburse all costs incurred by the attorney in investigating and prosecuting the claim.	
Claimant does hereby authorize the attorney to act on his behalf exercising all powers authorized by the laws of the State of Montana relating to the attorney-client relationship. It is understood by the claimant that the attorney may select co-counsel as the attorney believes necessary and expeditious in handling the claim, and that any payment received by co-counsel shall be made by sharing the above-referenced fee between the attorney and the co-counsel.	
In the event a dispute arises between any claimant and the claimant's attorney relative to attorney's fee in a workers' compensation claim, upon request of either the claimant or the attorney, or upon notice of any party of a violation of Section 39-71-613, MCA or ARM 24.29.3802, the workers' compensation court shall review the matter and issue an order resolving the dispute pursuant to procedures set forth in ARM 24.29.201, et seq.	
The attorney and claimant understand that the Department retains its authority to regulate the attorney fee amount in any workers' compensation case even though the contract of employment fully complies with Section 39-71-613, MCA, and ARM 24.29.3802.	
Claimant acknowledges a copy of this agreement and agrees that a copy be filed with the Department of Labor and Industry.	
DATED: _____	SOCIAL SECURITY #: _____
_____ ATTORNEY SIGNATURE	_____ CLIENT SIGNATURE
LOWER PORTION TO BE COMPLETED BY DEPARTMENT ONLY	
This agreement is hereby: ☐ APPROVED ☐ A ☐ B ☐ C ☐ NOT APPROVED	
INITIALS: _____	DATE: _____

FR7050 (New 1/7/20) Rev. 5/05