

Langseth, Charles

APPEALABLE ORDERS

Attorney fees for services rendered only before Department

The Board does not have authority to determine the reasonableness of a fee for an attorney's services rendered before the Department except in conjunction with a request to fix a fee for services rendered in proceedings before the Board. Review of a Department order concerning the reasonableness of the attorney fee for services rendered only before the Department is obtained by application to superior court, not by appeal to the Board. RCW 51.52.120. ...*In re Charles Langseth*, BIIA Dec., 89 2249 (1989)

Scroll down for order.

**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON**

1 2 3 4	IN RE: CHARLES LANGSETH)	DOCKET NO. 89 2249
	<u>CLAIM NO. J-614916</u>)	ORDER DENYING APPEAL

5 On May 26, 1989 we received a request from the Department of Labor and Industries to
6 consider a letter filed by the claimant's attorney with the Department on May 16, 1989, as an appeal of
7 a Department order dated April 20, 1989. In his letter the claimant's attorney questions the
8 determination made by the Department concerning reasonable attorney's fees. In its order of April 20,
9 1989 the Department affirmed an order dated April 10, 1989 which set the attorney's fee at \$3,331.17,
10 minus \$519.28 paid, leaving a balance of \$2,811.89. On May 30, 1989 we received an Amended
11 Notice of Appeal appealing "only that portion" of the orders of April 10, 1989 and April 20, 1989 "which
12 denies attorney a reasonable fee of \$1800 for preserving the claimant's award of PPD Category 4
13 from the Department's issuance of an order for repayment ..."

14 The authority of the Department and this Board to set attorney's fees is contained in RCW
15 51.52.120. Our authority to set attorney's fees is limited to a determination of the reasonable fee for
16 an attorney's services in proceedings before the Board. We do not have the authority to determine the
17 reasonableness of a fee for an attorney's services rendered before the Department. That
18 determination is to be made by the Department itself. The only occasion when this Board may review
19 any attorney's fee fixed by the Department is in conjunction with a written request that we fix a fee for
20 services in proceedings before the Board. That is not the situation here.

21 Moreover, RCW 51.52.120(2) provides, in part:

22 Any attorney's fee set by the department or the board may be reviewed by
23 the superior court upon application of such attorney, worker, or
24 beneficiary. (Emphasis added.)

25 Our jurisdiction generally extends to any "order, decision, or award" of the Department. RCW
26 51.52.060. The order of April 20, 1989 is certainly an "order, decision, or award" of the Department.
27 Furthermore, the order itself states that an appeal from the order can be made to the Board of
28 Industrial Insurance Appeals. However, RCW 51.52.120 deals specifically with the setting of
29 attorney's fees, and specifically provides that a review of the Department's decision in that regard is by
30 application to the superior court. We believe the specific language of RCW 51.52.120 overrides the
31 general grant of jurisdiction given to the Board under RCW 51.52.060. The mere fact that the order of
32 April 20, 1989 states that it is appealable to the Board does not give us jurisdiction to review that order,
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1 absent a statutory grant of the authority to do so. See In re Laverne Alvarado, BIIA Dec., 87 4566
2 (1988).
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4 If the claimant's attorney desires to have the Department's attorney's fee determination
5 reviewed, it is incumbent upon him to make application to the superior court. This Board does not
6 have jurisdiction to review the propriety of the Department's determination concerning the
7 reasonableness of an attorney's fee for services rendered solely before the Department.
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10 This appeal, therefore, must be **DENIED**.

11 It is so ORDERED.

12 Dated this 6th day of June, 1989.

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14 BOARD OF INDUSTRIAL INSURANCE APPEALS
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18 /s/
19 SARA T. HARMON CHAIRPERSON
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22 /s/
23 FRANK E. FENNERTY, JR. MEMBER
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26 /s/
27 PHILLIP T. BORK MEMBER
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