

Lien Fee Public Meeting Comments - October 2, 2012

A lien claimant is not a party to a case until case in chief is resolved. Is our lien going to be dismissed if we don't pay the fee? Can we re-file when we do become party to the case?

How is it that the lien claimant can predict when case in chief is going to be dismissed? If the case in chief is dismissed, we are not getting our money back. If found not AOE/COE, we have already spent \$100 or \$150, and it is lost. Suggestion: allow filing lien after the case in chief is resolved. Suggestion: pay the fee at the time of the lien DOR, not at the time the lien is filed.

The problem is with the active liens already in the system. We are being forced to pay an activation fee on something that might never get to court. On new claims, we could hold off until the underlying case is finalized. Speaker is thinking of going back and withdrawing all liens so the board won't dismiss them. If issue is bill review, we don't need to file lien under new law.

Regarding interpreters, many of the fees are less than the lien filing fee. The Division should address the situation where the amount in dispute is less than the fee.

The filing fee puts undue burden on providers. Question: if you file your DOR this year and request a hearing, but the hearing isn't until next year, it's not the lien claimant's fault, so it should be clarified whether they have to file activation fee. As for reimbursement, the statute says 30 days for demand. What if there is a hearing scheduled so you don't have 30 days to make demand? Can you do discovery without a lien being filed? Insurance companies should have to talk to you without you having to file a lien.

The filing fee is arbitrary and unconstitutional. I'm owed money, I go through the process. Now legislation was passed. The Division should consider not making it retroactive. The original lien filing fee was not retroactive. This fee makes me wonder, can I stay in business? If it is a medical interpretation, how am I able to provide a copy of a medical report as required to support my lien?

The filing fee should only be applicable if dispute exceeds some sort of threshold.

Court certified interpreters were first hit with new regulation, and now a lien fee. There are no consequences for carriers who do not pay. We have a huge shortage of certified interpreters.

If we have an interpreter in the field who calls and says "There is an injured worker here without an interpreter, can I help him out?" we used to say "Yes" and we'll figure out the money later.

As soon as lien is filed, it should show up in liens. We've been left off EAMS even when we have stamped copy showing that we've filed it. Workers' Compensation Judges should order the Division to refund fee if lien isn't entered into EAMS. Fee should be refunded if lien settled without intervention of court. Regulations should require the WCAB to show where the money is going, so it doesn't look like an arbitrary number.

Medical providers have liens that have been filed but not entered into EAMS. How can they want our money but they can't get our lien into the file. We shouldn't have to file liens and pay filing fees when insurance company fails to pay or object within the time allowed by law. Regulations should clarify when the filing fee is required and when it is not, that is, if no denial, no objection.

Regarding the orders that the Board may issue, there is concern that the Workers' Compensation Judge becomes privy to settlement negotiations in order to resolve reimbursement. That's contrary to civil court. The Division should address that in regulations.

Being a provider of services and being punished for filing a lien doesn't make any sense. It's the carrier's responsibility for refusing to pay. Adjusters plan not to even talk to the provider until the lien filing fee is paid. Carriers should be penalized for pushing providers into that position.

What if we settle for less than my demand? The issues in liens are not so much fee schedules, but also the penalties and interest.

Regarding the suggested technique of withdrawing a lien, CSIMS learned that there are 400,000 exact duplicates in the EAMS system, not counting the number of slight spelling variations. Only 78,000 of the 5.9 million liens show a disposition. So if you were to withdraw your lien, the EAMS system probably wouldn't reflect that. The question is, if there are duplicate liens, which one do I pay the activation fee on? The order for defendant to reimburse the filing fee – it isn't going to happen.

What often happens with liens is that we file, and a couple of days before the hearing, the defendant pays the bill. What happens with our filing fee in that situation?

What about companion cases? How do we know which case is active. Another issue: I had a case taken off calendar over my objection, so now I'm going to have to pay a filing fee to have it heard next year. We are the ones getting penalized with fees; where are the penalties for the carriers?

Suggestion to clear out some of these liens; put some of the burden on the other side. There should be a penalty on insurance company if any sum is found owed and unpaid.

What about liens already filed, but could be subject to IBR? How will IBR fee be addressed in IBR decisions?