State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

HOUSE BILL 2137

AN ACT

AMENDING SECTION 23-966, ARIZONA REVISED STATUTES; RELATING TO WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
H.B. 2137

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 23-966, Arizona Revised Statutes, is amended to read:

23-966. Failure of employer to pay claim or comply with commission order; reimbursement of funds

A. If a self-insured employer or other employer authorized by the commission to process or pay claims directly pursuant to this chapter does not fully comply with the provisions of the workers' compensation law relating to the processing or payment of compensation, medical benefits or the final orders of the commission, the workers' compensation claims shall be assigned by the commission to the special fund established by section 23-1065. The special fund shall ensure that these claims are processed and that compensation, benefits or amounts due are paid. The special fund may use third-party processors or other legal, medical, claims or labor market personnel to assist in the processing and payment of claims assigned under this section.

B. In addition to expenditures authorized under subsection A of this section, the special fund may use monies for any expense or service that is necessary to ensure that claims assigned under subsection A of this section are processed and paid, necessary to assist in the determination of liability of a claim that is assigned under this section or necessary to assist in the collection of monies owed to the special fund under this section, including collection against the cash, securities, bond and other assets of the employer. These expenses may include travel, discovery procedures and employing any third-party processor, expert, consultant or professional, including an attorney, auditor, examiner or actuary. The special fund shall reimburse the administrative fund for all expenses incurred by the administrative fund related to the processing and payment of claims assigned under this section.

C. THE SPECIAL FUND IS THE SUCCESSOR IN INTEREST TO ALL EXCESS INSURANCE POLICIES IN EFFECT AT THE TIME OF AN ASSIGNMENT UNDER SUBSECTION A OF THIS SECTION THAT INSURE ANY PART OF THE SELF-INSURED EMPLOYER'S FINANCIAL OBLIGATIONS UNDER THE WORKERS' COMPENSATION LAWS. THE SPECIAL FUND'S RECOVERY RIGHTS UNDER THIS SUBSECTION ARE SUBJECT TO APPLICABLE COVERAGE TERMS AND POLICY LIMITS IN THE EXCESS POLICY. THE EXCESS INSURER SHALL MAKE PAYMENT DIRECTLY TO THE SPECIAL FUND FOR ALL COVERED AMOUNTS SPENT UNDER THIS SECTION, INCLUDING ADMINISTRATIVE COSTS, NECESSARY EXPENSES AND ATTORNEY FEES TO THE EXTENT COVERED BY THE EXCESS POLICY. UNLESS RECOVERED FROM AN EXCESS INSURER, the special fund shall have a claim against the employer for all monies that are spent or anticipated to be spent under this section, including administrative costs, necessary expenses and attorney fees. Any claim by the special fund shall be made on the cash, securities or bond filed under section 23-961 or applicable rules or on any other asset of the employer.