

**KENTUCKY BAR ASSOCIATION**  
**Ethics Opinion KBA E-188**  
Issued: September 1978

***This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.***

**Question:** May a group legal service plan accept a legal fee for handling a Workmen's Compensation case?

**Answer:** No.

**References:** DR 2-103(D)(5)(c); SCR 3.475

**OPINION**

The Committee is called upon to rule on the right of a group legal service program to file for a fee in those total disability cases where the claimant's award does not diminish the monthly benefits. Before addressing the question it should be noted that the fee paid to the attorney in these cases may very likely result in a claim against the decedent's estate for the amount of fees paid in advance.

Under SCR 3.475(2)(c) it clearly stated "The group, its agents or any member thereof does not directly or indirectly derive a profit from or receive any part of the consideration paid to the member of the association for the rendering of legal services under the arrangement." Since the prepayment of these fees would likely create a debt for the estate of the claimant it would violate SCR 3.475(2)(c) in that the group would be receiving a part of the consideration paid to the member. This rule is also set out in DR 2-103(D)(5)(c).

The Committee realizes that the fee only creates a potential debt against the estate of the claimant, but feels that until such time as it is determined that this is not a valid claim against the estate that the practice of filing for these fees by the group would be in violation of SCR 3.475. We feel that once the question of the repayment of attorney fees by the estate of the claimant is decided that this question may properly be resubmitted for reconsideration.

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***Note to Reader***

*This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.*