

The logo is centered on a yellow trapezoidal background. The text 'VWEC' is in a large, bold, blue font with a white swoosh underline. Below it are two horizontal lines, followed by '2016' in a smaller blue font. The words 'EDUCATIONAL' and 'CONFERENCE' are stacked in a bold, blue, sans-serif font.

VWEC
2016
**EDUCATIONAL
CONFERENCE**



Workers Compensation Health Care Provider Presentation



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Payment of Medical Expenses

Whenever an employee makes a claim pursuant to Virginia Code Section 65.2-601, all health care providers shall refrain from all debt collection activities relating to medical treatment received by the employee in connection with such claim, until an award is made on the employee's claim pursuant so 65.2-704.

The Statute of Limitations for collection of such debt shall be tolled during the period in which the applicable health care provider is required to refrain from debt collection activities hereunder



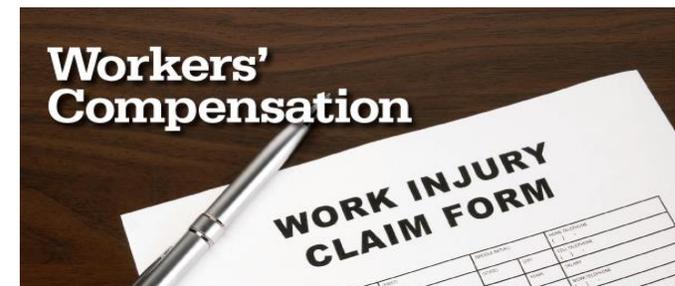


65.2-714. Fees of Physicians and Hospital Charges

- ▶ Fees of physicians and charges of hospitals for services shall be subject to the approval and award of the Commission.
- ▶ Further, the Commission shall have exclusive jurisdiction over all fee disputes or charges
- ▶ No physician shall be entitled to collect fees from an employer or insurance carrier until he has made the reports required by the Commission in connection with the case.
- ▶ No physician, hospital, or other health care provider shall “balance bill” an employee in connection with medical treatment, services, or supplies, in connection with an injury for which:
 - ▶ i) a claim has been filed with the Commission;
 - ▶ ii) payment has been made to the health care provider; or
 - ▶ iii) an award of compensation has been made pursuant to 65.2-704

Provider Disputes

- ▶ Virginia Code Section 65.2-605.1 pertaining to prompt payment, states that payment for health care services that the employer does not contest, deny, or consider incomplete shall be made to the health care provider within 60 days after receipt of each separate itemization of the health care services provided
- ▶ If the itemization or a portion thereof is contested, denied, or considered incomplete, the employer or its Workers Compensation insurance carrier shall notify the health care provider within 45 days after receipt of the itemization that it is contesting
- ▶ Payment due for any properly documented health care services that are neither contested within the 45 day period nor paid within the 60 day period, shall be increased by interest at the judgment rate of interest provided in 6.2-302 retroactive to the date payment was due





65.2-605.1. Prompt Payment

- ▶ No employer or workers' compensation carrier may seek recovery of a payment made to a health care provider for health care services rendered after July 1, 2014, to a claimant, unless such recovery is sought less than one year from the date payment was made to the health care provider, except in cases of fraud.
- ▶ No health care provider shall submit a claim to the Commission contesting the sufficiency of payment for health care services rendered to a claimant after July 1, 2014, unless:
 - ▶ (i) such claim is filed within one year of the date the last payment is received by the health care provider pursuant to this section or
 - ▶ (ii) if the employer denied or contested payment for any portion of the health care services, then, as to that service or portion thereof, such claim is filed within one year of the date the medical award covering such date of service for a specific item or treatment in question becomes final



Employer's Obligation to Pay for Medical Care

- ▶ Employer's liability for medical treatment depends upon three factors:
 - ▶ 1) whether the medical attention is causally related to the work injury
 - ▶ 2) whether such treatment was necessary
 - ▶ 3) whether the authorized treating physician rendered the treatment or referred the claimant for additional treatment

- ▶ Claimant has burden of proving these criteria are satisfied by a preponderance of the evidence

- ▶ If successful, the employer is liable for all necessary treatment



Is the medical treatment causally related to the compensable work injury

- ▶ Employer's must pay for medical coverage of treatment that is shown to be causally related to the compensable injury
- ▶ Factors to consider:
 - ▶ Does the claimant have a pre-existing condition that might be the actual cause
 - ▶ Is there a dispute as to how the accident occurred
- ▶ Medical evidence plays a pivotal role in disputes over causation. Examples of such evidence include:
 - ▶ Office notes of treating physicians
 - ▶ Physician testimony

Payment Issues

▶ Adjudication Requirements

- Appropriate where there has been no payment or where provider is dissatisfied with level of reimbursement
 - Initial decision is issued by a Deputy Commissioner after reviewing the evidence
 - There is a right of review by the Commission
 - Any appeals are made to the Virginia Court of Appeals and Supreme Court of Virginia
 - Such a claim is initiated by filing a request along with supporting evidence to the Commission

Payment Issues

- ▶ When filing a request with the Commission to resolve a dispute over payment for medical services rendered to an injured worker you must:
 - Send a copy of your submission to the Commission and all interested parties. These parties may include the insurance carrier or self-insured; the third party administrator if one has been assigned by the carrier or self-insured; the attorney for the latter parties; and the injured worker and his/her attorney.
 - Your submission must include: the medical bills and treatment reports which are in dispute; the actual balance you are seeking; and the dates of services.
 - Failure to provide copies of your submission to all interested parties and/or supporting information regarding your claim may result in rejection.



Panel Providers

- ▶ Virginia Code Section 65.2-603 states that after an accident, an employer shall furnish, free of charge to the injured employee, a physician chosen by the injured employee from a panel of at least three physicians selected by the employer
- ▶ The physician chosen by the claimant becomes the authorized treating physician
- ▶ Generally, the following charges may be covered where treatment is related to the compensable injury:
 - Charges billed by the authorized treating physician
 - Charges billed by a physician to whom the claimant is referred by the authorized treating physician
 - Charges for medically necessary treatment and diagnostic measures
 - Prescriptions
- ▶ All referrals made by the panel provider to another, shall make that provider to whom the referral was made a treating physician
- ▶ Important because all treating physicians are accorded great deference by the Commission

Fee Schedules

- ▶ On March 7, 2016, Governor McAuliffe signed legislation to establish a Workers Compensation Commission fee schedule in Virginia.
- ▶ It replaces the current system of reimbursing medical providers at “usual and customary rates.”
- ▶ Previously, Va. Code Section 65.2-605 stated that the employer's liability for medical charges is limited to “such charges as prevail in the same community for similar treatment[.]”
- ▶ The goal of the newly adopted fee schedule is to create fairness and transparency for employers, regarding the amounts due for medical services, thereby reducing litigation, while maintaining the number of providers who are willing to treat workers’ compensation patients.
- ▶ This new fee schedule goes into effect on January 1, 2018.
- ▶ It will set maximum amounts that providers may charge employers for medical services absent a contract between the parties



Fee Schedules

- ▶ The Virginia Workers' Compensation Commission is now tasked with implementing the fee schedule and establishing a 10 member regulatory advisory panel to assist in the development of regulations related to the fee schedule
- ▶ The regulatory advisory panel will make recommendations to the Commission prior to July 1, 2017, on issues related to the fee schedule
- ▶ The Commission will retain a consulting firm to assist with developing a methodology to provide statistically valid estimates of the reimbursement objectives for medical services within the applicable medical communities
- ▶ Once the fee schedule is set, it will be reviewed in the year after becoming effective, and every two years thereafter



Questions?

- ▶ Health care providers may check the claims status for their patients by calling the Commission toll-free at 1-877-664-2566.