

VIRGINIA:
IN THE WORKERS' COMPENSATION COMMISSION

Opinion by NEWMAN
Commissioner

Aug. 7, 2025

JUDY W. DYSON (Deceased) v. CHESTERFIELD COUNTY
PUBLIC SCHOOLS
INTEGRATIVE PAIN SPECIALISTS, Medical Provider
CHESTERFIELD COUNTY SCHOOL BOARD, Insurance Carrier
CHESTERFIELD COUNTY PUBLIC SCHOOLS, Claim Administrator
Jurisdiction Claim No. 1848504
Claim Administrator File No. 96-01657
Date of Injury: October 16, 1996

No appearance by or on
behalf of the Claimant.

Timothy Watson, Esquire
For the Defendant.

Philip Geib, Esquire
For the Medical Provider.

REVIEW on the record by Commissioner Marshall, Commissioner Newman, and
Commissioner Rapaport at Richmond, Virginia.

Integrative Pain Specialists (IPS) requests review of the Deputy Commissioner's
March 18, 2025 Opinion denying its claim for the unpaid balance of charges for medications
prescribed and dispensed to the claimant. The Deputy Commissioner ruled the claim was untimely
and so barred by expiration of the statute of limitations pursuant to Virginia Code § 65.2-605.1.
We VACATE and REMAND.¹

¹ Considering the issues involved and the complete record developed at the hearing and before the
Commission, we find oral argument is unnecessary and would not be beneficial in this case. Va. Workers' Comp. R.
3.4; *see Barnes v. Wise Fashions*, 16 Va. App. 108, 112 (1993).

I. Material Proceedings

The claimant sustained a compensable injury on October 16, 1996, for which she was treated by Dr. Benjamin Seeman, D.O., the owner of Integrative Pain Specialists (“IPS”). On November 29, 2022, IPS filed a claim alleging it had been underpaid for medications dispensed to the claimant from March 9, 2015 through December 7, 2020. The amount of the underpayment - \$34,104.510 - is undisputed. The defendant’s challenge to their obligation to pay is two-fold. They first contend that IPS lacks standing to file the claim. Secondly, they argue the claim was not filed within the limitations period dictated by Virginia Code § 65.2-605.1

The Deputy Commissioner found that the last payment for the medications at issue had been made more than one year prior to the filing of the November 29, 2022 claim. Consequently, he ruled the claim barred by expiration of the limitations period regardless of whether IPS had standing to file the claim. IPS seeks review. Because the timeliness of the claim requires a determination whether IPS was the correct medical provider, we vacate and remand.

II. Findings of Fact and Rulings of Law

Virginia Code § 65.2-605.1(F) reads, in relevant part:

No health care provider shall submit a claim to the Commission contesting the sufficiency of payment for health care services rendered to the 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

Our analysis of whether a particular claim was timely requires that we determine whether the claim was filed within one year of the date “the last payment (was) received by the health care provider.” Complicating this ostensibly straightforward computation are two unresolved factual

issues. First is the identity of the proper “health care provider.”² It is for this determination that we remand the case back to the Deputy Commissioner. The identity of the health care provider is critical because of the second disputed issue necessary to appraise whether the limitations period has expired – the date the last payment was received.

Dr. Seeman, a specialist in pain management and owner of IPS, began treating the claimant for her workers’ compensation injury in 2015. Relevant to the issue on review is the payment for medications Dr. Seeman prescribed to the claimant between March 9, 2015 and December 7, 2020. During this period IPS was under contract with StreamCare, LLC (“StreamCare”). On behalf of IPS, StreamCare purchased medications from third parties, which were then shipped directly to IPS. (Seeman Dep. 18, 20, 22, May 16, 2024) (Regas Dep. 18, Oct. 23, 2024.) After those medications were prescribed and dispensed by Dr. Seeman/IPS, StreamCare issued bills for those medications to the responsible insurance carriers who would pay StreamCare directly. StreamCare’s billings and collection activities were exclusively for medications, not for other treatment provided by Dr. Seeman/IPS. StreamCare could also file claims with the Commission seeking full payment for medications if insurers tendered only partial payment.

The defendant contends these facts demonstrate that StreamCare, not IPS, is the healthcare provider to whom payment was due for the medications prescribed by Dr. Seeman and dispensed at IPS. Consequently, IPS lacks standing to prosecute a claim seeking payment for the medications at issue. The parties agree that the last payment made for the medications at issue was received by

² While the defendants characterize their argument as whether IPS had “standing” to seek full payment for the drugs at issue, a more precise description of the issue is whether IPS is the proper “health care provider” under Virginia Code § 65.2-605.1(F) that is able to prosecute the claim.

StreamCare on January 11, 2021. Consequently, the defendant contends the November 29, 2022 claim was untimely and barred by the statute of limitations.

The Deputy Commissioner ruled that the period of limitations expired regardless of whether IPS or StreamCare was the proper healthcare provider,. As to this finding, we disagree. For the reasons that follow, if IPS is the responsible healthcare provider, then the claim was timely.

If StreamCare is deemed to be the health care provider, then it had until January 11, 2022 – one year after its last receipt of payment - to file a claim. However, the date of last payment differs if IPS is determined to be the health care provider. The claimant continued to receive treatment at IPS through September 28, 2021. IPS was last paid for treatment rendered to the claimant on June 16, 2022, well within the one-year filing date of November 29, 2022. (Seeman Dep. 51, May 16, 2024), (Med. Provider’s Pos. S. 15).

Though the June 16, 2022 payment was not for the medications that are the subject of the pending dispute, it would nonetheless qualify as the last payment for the purposes of the limitations period. We addressed this issue in *Dietz v. Red Lobster Mgmt. LLC*, JCN VA00000994346 (Feb. 5, 2018). In *Dietz*, initially heard by Deputy Commissioner Lee, a medical provider sought full payment for treatment it provided a claimant between October 28, 2014 and March 3, 2016. The provider had last received payment for the claimant’s treatment on November 1, 2016, and the application was filed less than a month later, on November 18, 2016. The defendant nonetheless argued that portions of the claim were barred by the statute of limitations since it covered multiple dates of service, and for some, the last partial payment had been issued more than a year before the claim was filed. The defendant argued that the Virginia Code § 65.2-605.1(F) limitations period began running when the provider had last received payment for each individual bill, and if partial

payment was received more than a year before full payment was sought, that portion of the claim was barred. Conversely, the medical provider argued that a claim was timely if filed within one year of the date the last payment was received for any of the medical services it provided for the same work-related injury.

Deputy Commissioner Lee found the claim was timely, holding “a claim regarding the sufficiency of payment must be filed within one year after the last payment is received by the medical provider for treatment of any injuries arising from the same work-related accident.” (Op. 7, Aug. 31, 2017). The full Commission agreed, holding that Code § 65.2-605.1(F) established “a time limitation for an aggrieved health care provider to file a claim with the Commission to contest the sufficiency of payment for services rendered” to a claimant. (Op. 8, Feb. 5, 2018). The plain language of the statute gave medical providers a year from “the date the last payment is received by the health care provider” to file a claim. *Id.* at 7 (quoting Va. Code § 65.2-605.1(F)(i)). Adopting the interpretation of the statute advanced by the defendant would “mean that a single medical provider’s right to file a claim for services rendered would be subject to as many different limitations periods as there were separate payments received from the employer,” and “had the legislature intended to impose such an administrative nightmare on those tasked with providing medical treatment to claimants, it would have said so.” *Id.* at 8.³

Dietz illustrates why, if IPS was the health care provider as contemplated in Code § 605.1(F), the claim was timely filed. It further highlights why it must be determined who the

³ *Dietz* was not appealed to the Court of Appeals of Virginia. Although our ruling in *Dietz* was discussed by the Court in *Roanoke Ambulatory Surgery Ctr. v. Bimbo Bakeris USA, Inc.*, 69 Va. App. 675 (2019), the disputed issue was if payments made to the provider were voluntary and whether Subsection (F)(i) or (F)(ii) applied. In the present matter, the parties agree payments were made voluntarily and that Code § 65.2-605.1(F)(i) applies.

responsible health care provider was before a decision regarding timeliness may be rendered. We remand to the Deputy Commissioner to adjudicate this issue.

III. Conclusion

The Deputy Commissioner's March 18, 2025 Opinion is VACATED and the matter is REMANDED to make a determination whether IPS qualified as the healthcare provider for the disputed bills.

This case is ORDERED removed from the review docket.

APPEAL

Because a final decision has not been rendered in this matter, there is no right of appeal to the Court of Appeals of Virginia at this time.