

Petitions for Medical Treatment

MFS Symposium

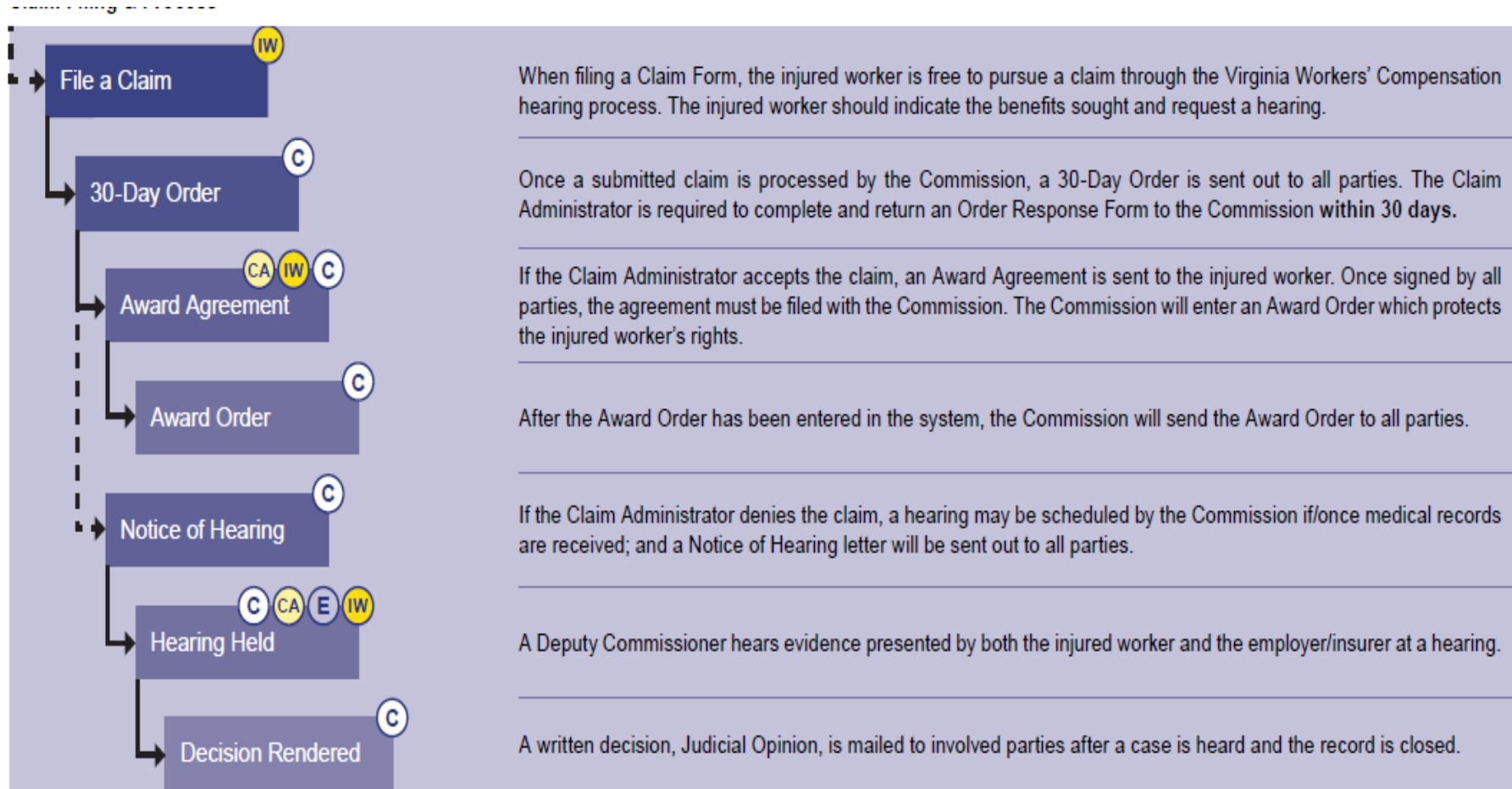
October 18, 2023

Chief Deputy Commissioner James J. Szablewicz

Chairman Rapaport's signature initiative

- ▶ Quick way for VWC to intervene on issues involving authorization for medical treatment
- ▶ Goal: Get carrier to say yes or no to request for authorization
- ▶ Based on Georgia Rule
- ▶ Will only apply to:
 - ▶ Compensable cases that have been awarded
 - ▶ Have an Authorized Treating Physician (ATP)
 - ▶ ATP recommends medical treatment (PT/surgery/RX) or refers the claimant to a specialist for an accepted body part

VWC Claims Processing - Original Claims



If you need additional information regarding the hearing process, please contact the Commission at 1-877-664-2566

www.workcomp.virginia.gov

VWC Claims Processing - Change in Condition claims: Interplay among several types of claims

- ▶ Virginia Code Section 65.2 - 708 Review of Awards upon Change in Condition
 - ▶ Sets parameters for when and how claims might be filed
 - ▶ Creates Statutes of Limitations
 - ▶ Creates period of imposition or estoppel for injured workers who return to light-duty or selective employment while physically unable to return to pre-injury work
 - ▶ Does not mandate time frame for response from employer and insurer

VWC Claims Processing - Change in Condition claims: Interplay among several types of claims

- ▶ Virginia Code Section 65.2 - 603 Duty to Furnish Medical Attention
 - ▶ Creates responsibility to provide lifetime reasonable, necessary, and causally related medical treatment for compensable injuries and diseases
 - ▶ Gives employer & insurer ability to authorize medical treatment provided a panel of physicians is given to the employee
 - ▶ Also addresses vocational rehabilitation
 - ▶ Does not mandate time frame for response to claim brought by claimant

VWC Claims Processing - Change in Condition claims: Interplay among several types of claims

- ▶ Rule 1.4 of the Rules of the Commission: Employer's Applications for Hearing
 - ▶ Creates technical requirements for acceptance of applications
 - ▶ Incorporates two-year statute of limitations from Va. Code Section 65.2 - 708 for change in condition claims
 - ▶ Commission reviews first for technical compliance with Rule
 - ▶ If applications pass technical review, are reviewed by Staff Attorney for probable cause determination based on evidence attached to application
 - ▶ Generally referred to hearing docket if pass probable cause review; occasionally routed to ADR, particularly if might be resolved by filing Termination of Wage Loss Award forms

Expedited Hearing

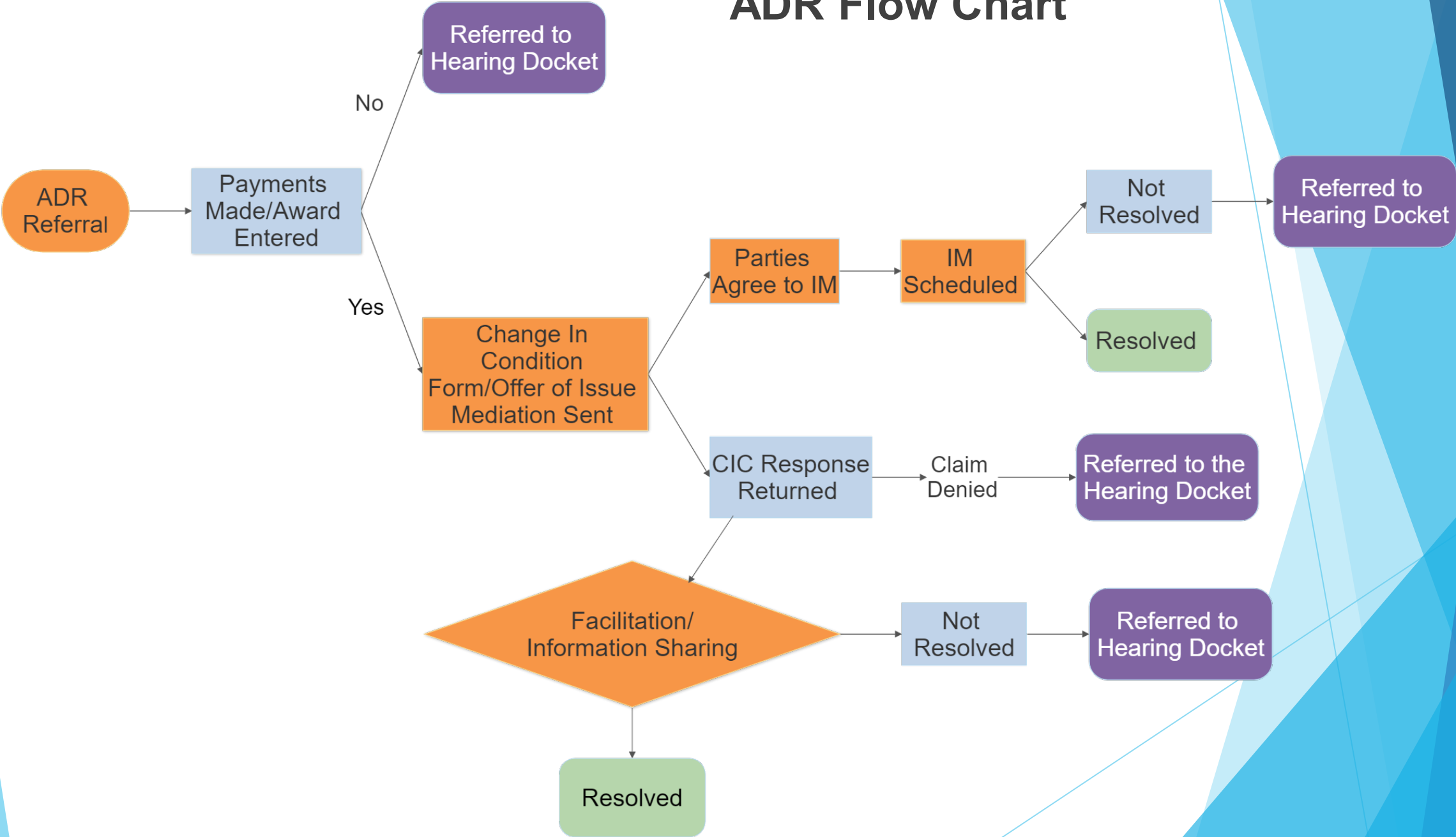
- ▶ Commission Rule 2.3
- ▶ In order to qualify for an expedited hearing for medical treatment, the claimant must demonstrate:
 - ▶ Severe economic hardship, e.g. the cost of the medical treatment in dispute and the claimant's ability to pay for it.
 - ▶ That treatment requested must be performed on an emergent basis or that failure to obtain treatment will threaten the claimant's life or result in immediate and severe deterioration of the claimant's physical or mental condition.

Expedited Hearing

▶ Process:

- ▶ If technically sufficient, Notice of Request for Expedited Hearing will be issued.
- ▶ Defendants have 14 days to respond as to whether they agree with the request.
- ▶ If no agreement or response after 14 days, an informal conference will be scheduled “as expeditiously as possible” to discuss the request.
- ▶ If the request is granted as a result of the informal conference, the matter will be scheduled for a hearing to be held in no less than 10 days nor more than 28 days.
- ▶ Decisions must be issued within 14 days after the record closes.

ADR Flow Chart



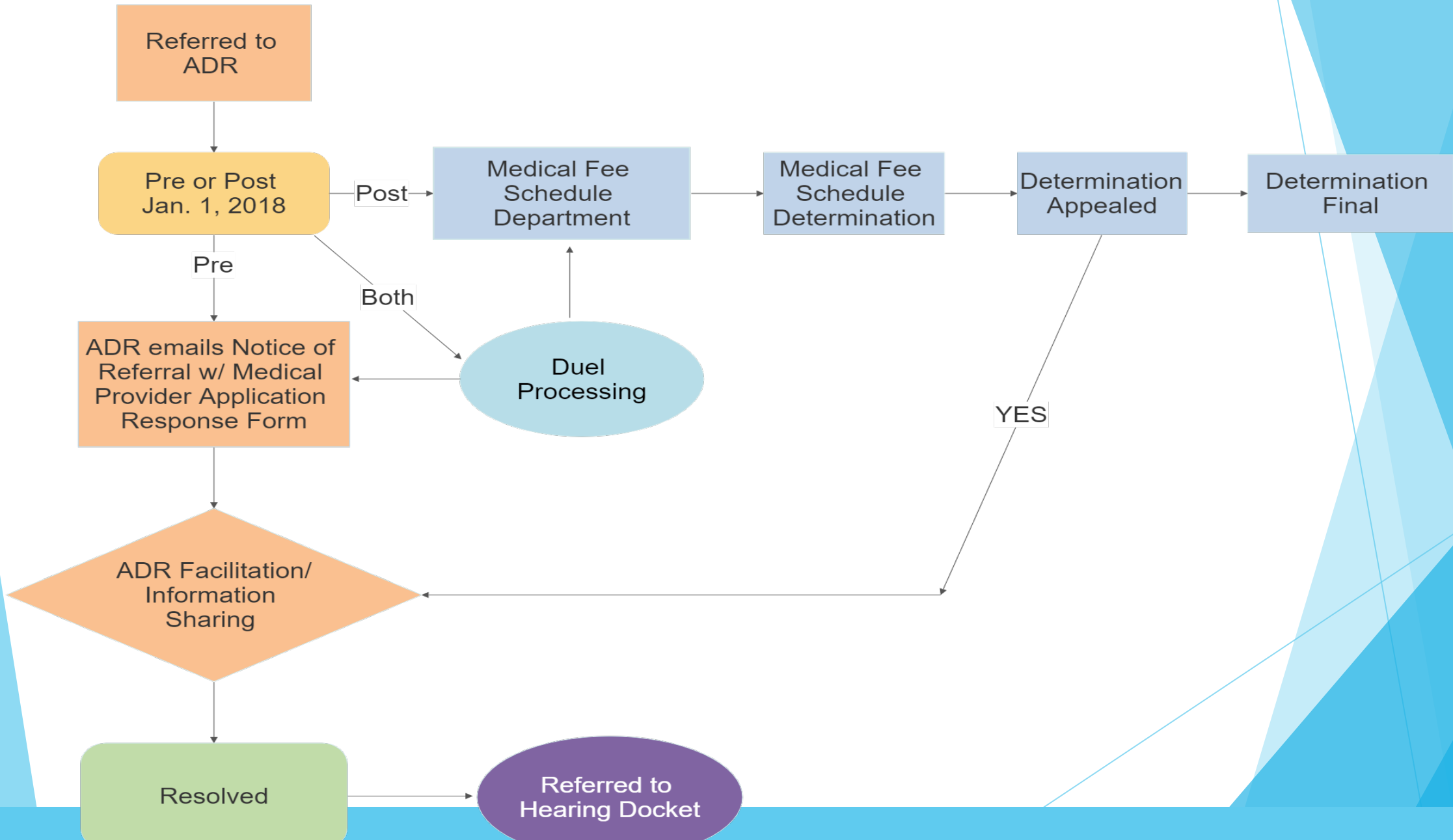
Related Claims Processing - Health Care Provider claims

- ▶ Va. Code Section 65.2-605.1 Prompt Payment
 - ▶ Pre- 2014 claims brought by Health Care providers have no statute of limitations
 - ▶ For claims involving dates of service from July 1, 2014 forward, limitation of one year applies generally
 - ▶ However, there is a complicated scheme of notice which must be given at different stages

Related Claims Processing - Medical Fee Schedule

- ▶ Virginia Code Section 65.2 - 605 - Liability of Employer for Medical Services
- ▶ Fee Schedule applies to claims involving dates of service rendered on January 1, 2018 and afterwards
- ▶ Medical Fee Schedule determines maximum amount a health care provider is entitled to receive
- ▶ Does not prohibit private contracts between carriers and health care community, and MFS specifically exempts those contracts
- ▶ Medical Fee Services Department renders administrative finding regarding maximum liability; if contested, they are referred to Alternative Dispute Resolution; if ADR is unsuccessful, referred to docket

Medical Provider Application/Medical Fee Schedule Dispute Flow Chart



30 Day Order v. Change in Condition Response

30 Day Order

Required by Statute:
Section 65.2 -
601.2

Response to
original claim
filed

Change in Condition Response

Claim filed
after award
entered

Response after
Notice of
Referral to ADR

CHANGE IN CONDITION CLAIM RESPONSE FORM

Virginia Workers' Compensation Commission
333 E. Franklin St.
Richmond, Virginia 23219
1-877-664-2566



www.workcomp.virginia.gov

JCN Number:

Date of accident:

Style of case:

Response of: Employer Insurer Other Claim for Benefits filed on (date):

1. The claim is accepted.

- a. Payment was made on (date):
- b. Agreement forms were forwarded to: _____ on (date):
- c. Counsel will be submitting a Stipulated Order.
- d. Other:

2. The claim is accepted in part and denied in part.

- a. The accepted portions of the claim are:
 - i.
 - 1. Payment was made on (date):
 - 2. Agreement forms were forwarded to: _____ on (date):
 - 3. Counsel will be submitting a Stipulated Order.
 - 4. Other:
 - ii.
 - 1. Payment was made on (date):
 - 2. Agreement forms were forwarded to _____ on (date):
 - 3. Counsel will be submitting a Stipulated Order.
 - 4. Other:
- b. The denied portions of the claim are:
 - i.
 - ii.

3. The claim is denied.

- a. Denial Reason:
- b. This party does does not consent to Issue Mediation.

Signature:

*By checking this box and typing my name above, I am electronically signing this form.

MEDICAL CARE PROVIDER APPLICATION RESPONSE FORM

Virginia Workers' Compensation Commission
333 E. Franklin St., Richmond, Virginia 23219
1-877-664-2566



Response of: Employer Insurer Other Medical Provider Application filed on (date):

1. The application is:

- a. Accepted and paid:
 - 1. In the full amount of \$ _____ on (date) _____
 - 2. With an additional payment of \$ _____ on (date) _____
- b. Accepted and payment will be made:
 - 1. In the full amount of \$ _____ on (date) _____
 - 2. With an additional payment of \$ _____ on (date) _____

2. The application is under review for:

- a. Repricing _____
- b. Negotiation _____
- c. Other _____

3. The application is denied:

- a. Reason for denial _____
- b. This party does does not consent to Issue Mediation.

Signature:

*By checking this box and typing my name above, I am electronically signing this form.

Why do we need this?

“The medical care patients receive is a major determinant of when - and if - they return to work, if they can remain at work and what they can do post-injury.”

Joseph Paduda, Perspectives, July 2016

Why do we need this?

- ▶ Time involved in waiting on resolution through Alternative Dispute Resolution, and/or waiting on judicial determination, is sometimes the cause of need for additional medical treatment
- ▶ ADR time frames are roughly 14 - 45 days; data has not been captured in past for medical treatment issues separate from other types of claims
- ▶ Overall processing times from claim filed to opinion issued are roughly 200 days; again, data has not been captured in past for medical treatment issues separate from other types of claims

What happens in GA

- ▶ ATP recommends treatment
- ▶ Claimant gets prescription and office note to adjuster
 - ▶ Have at least 5 business days to say yes or no to request for authorization
- ▶ Petition for Medical Treatment filed by claimant or attorney
- ▶ Telephone Call (30 minutes) with Judge scheduled within 5 business days
 - ▶ 85-90% resolved prior to TC by adjuster saying yes or no
 - ▶ If no, up to claimant to appeal to a full evidentiary hearing or not
 - ▶ Of those in which call occurs, another 85-90% resolve on the phone
 - ▶ If judge makes a decision, memorialized in a short order, authorizing treatment or not
 - ▶ Either party may request full evidentiary hearing if disagree with order (routed to normal docketing path)

Our PMT Pilot Project

January 1, 2022

- ▶ Claims Services Dept. screens for eligible claims
 - ▶ Initially would only take cases with lawyers on both sides and single issue of medical treatment on awarded claims; expanded to include pro se claimants in October 2022
 - ▶ Sends Notice of Inclusion seeking response from defendants
 - ▶ If no reply after 7 days, refers to Chief Deputy Commissioner's office
- ▶ CDC's office schedules an informal telephone conference with the CDC within 7 days
- ▶ If resolved in the informal conference, CDC issues an Agreed Order requiring the defendants to provide the agreed upon treatment
- ▶ If not resolved in the informal conference, case is returned to CSD for referral to the docket or sent to ADR for mediation if requested by the parties.
- ▶ PMT Form launched Sept. 26, 2023



Jurisdiction Claim Number (JCN)

Date of Injury

****You must have an Award previously entered to qualify**

Injured Worker Information					
Name			Name of Employer		
Address			Address		
City	S t a t e	Zip Code	City	S t a t e	Zip Code
Primary Phone			Employer's Phone		

Are you a WebFile user? Yes No

PETITION FOR MEDICAL TREATMENT RECOMMENDED BY AUTHORIZED MEDICAL PROVIDER

Authorized Medical Provider _____ has recommended the following treatment or testing: (Name of Authorized Medical Provider)

(Describe the treatment or testing requested)

Supporting documentation regarding the treatment/testing is attached.

The undersigned affirms that an authorized medical provider has recommended treatment or testing as detailed in the attached documentation, and the undersigned further affirms that as of the date of this petition, no authorization has been provided.

Authorized Medical Provider's Address	City
Signature	State
I hereby file this application as a Petition for Medical Treatment. I understand this application cannot be processed without supporting medical documentation.	County
Authorized Medical Provider's Email Address	Authorized Medical Provider's Telephone Number
SIGNATURE (Required) PRINT	DATE

Attorney's Email Address

Online:
workcomp.virginia.gov

Mail: 333 E. Franklin St., Richmond, Virginia 23219

In an effort to expedite the processing of medical treatment claims, the Commission is engaging in a pilot program which began January 1, 2022. To be eligible for the Pilot Program, the petition for medical treatment must involve issues of medical treatment where the authorized treating physician has ordered treatment for a condition or body part already awarded by the Commission. Because of the short time frame for responses, only WebFile users are eligible.

To file a Petition for Medical Treatment using this form, please follow these instructions.



Instructions

1. Confirm that the treatment is covered under an Award Order of the Commission.
2. Fill out the form completely.
3. Attach medical records supporting the petition.
4. Upload the Petition for Medical Treatment form and the medical records through WebFile.
5. The Petition for Medical Treatment will be screened by Commission staff. If it is eligible for the Pilot Program, a notice will be sent to the defendants to respond.
6. If a response is not received within the allotted time, the Chief Deputy Commissioner may schedule a telephone conference between the parties.
7. Petitions for Medical Treatment which are accepted will be memorialized by the Commission.
8. Petitions for Medical Treatment which are denied will be referred to either the On the Record or evidentiary hearing dockets.

Ombudsman Department

Have questions and no lawyer? Call the Ombuds at 833-448-1681, or email ombuds@workcomp.virginia.gov. We cannot give legal advice, but all conversations will be kept confidential.

Mail: 333 E. Franklin St., Richmond, Virginia 23219

Online:
workcomp.virginia
.gov

**Notice of Inclusion in Pilot Program for Authorization of Medical Treatment**

October 25, 2021

STONEY BURKE v. WRANGLER, INC
TRAVELERS INDEMNITY CO OF AMERICA, Insurance Carrier
TRAVELERS INDEMNITY CO OF AMER, Claim Administrator
Jurisdiction Claim No. VA00001234567
Claim Administrator File No. 1234567
Date of Injury: June 6, 2017

Notice to All Parties:

Please be advised that the claimant's claim for authorization of medical treatment filed [REDACTED] has been selected for inclusion in a pilot program with the Virginia Workers' Compensation Commission. The purpose of the program is to explore options in expediting responses to claims for authorization of medical treatment. For the convenience of the parties a copy of the claim is enclosed.

Defense Counsel: Your clients are requested to respond to the claim by completing this form within 7 days of the date of this notice. If no response is filed within 7 days, a telephone conference will be scheduled with the Chief Deputy Commissioner or another Deputy Commissioner at his direction.

AUTHORIZATION	
The medical treatment/testing authorized by the employer/insurer is: _____ <small>(Description of medical treatment/testing authorized)</small>	
The treatment or testing in the Claim for Medical Treatment filed on _____ is hereby authorized by the undersigned. Upon filing the authorization with the Commission and service upon all parties, and the authorized medical provider, the scheduled Telephonic Conference is canceled. The undersigned represents full authority to bind the employer/insurer, and certifies that all parties, and the authorized medical provider, have been served with this authorization. Authorized provided by:	
Name	Signature
Date	Company/Firm Name
E-mail Address	Phone Number

DENIAL IN LIEU OF TELEPHONIC CONFERENCE	
The medical treatment/testing is denied by the employer/insurer. Reason for denial:	
Name	Title
Signature	Date
Company/Firm Name	Phone Number
E-mail Address	

For immediate processing, please use our WebFile portal to manage records and take care of key transactions - webfile.workcomp.virginia.gov. Responses may be faxed to 804-823-6956.

Virginia Workers' Compensation Commission

Rev. 1/22

Outreach

- ▶ Communication to Attorney List serve & carriers
- ▶ Web File notice
- ▶ Notice on Website
- ▶ Collaborate with Virginia Workers' Compensation Inn of Court

Results to date

- We are quickly getting cases either accepted or denied
- If denied, they are being referred, usually to On The Record docket, within 14 days
- Commission is not mandating acceptance or denial, but requiring speedy response to the petition
- Number of petitions filed and moving through the pilot is increasing dramatically



CSD Process

351
Petitions Filed

Authorized	85
Denied	88
No Response/CDC	172
In Process	6

Pro Se Filed Petitions* 7

*Data capture began September 2022

Petitions Ineligible 9

Average Response Time CSD Notices: 6.0 DAYS

JUD Process

172
Petitions
Referred to CDC

Resolved	91
Assigned to ADR	2
Referred to Docket	74
On Hold	5
In Process	0

Teleconferences Scheduled 146
Held 96

Average Days in Judicial to Outcome: 9.6 DAYS



57
Petitions
Filed

58.9%
CSD Processed

36.4%
Authorized
Treatment

33.3%
Denied
Treatment

30.3%
In Process

6.0
Average Days
Completed

41.1%
JUD Referred

50.0%
Resolved
Issues

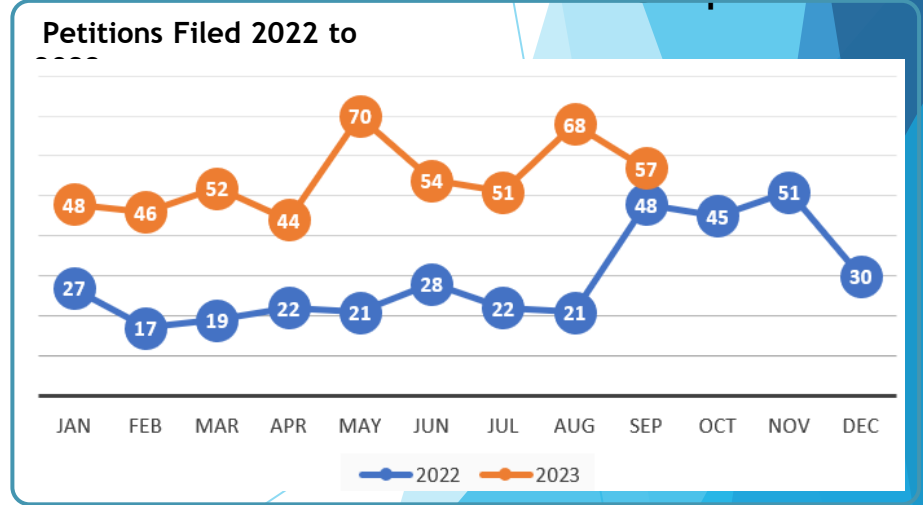
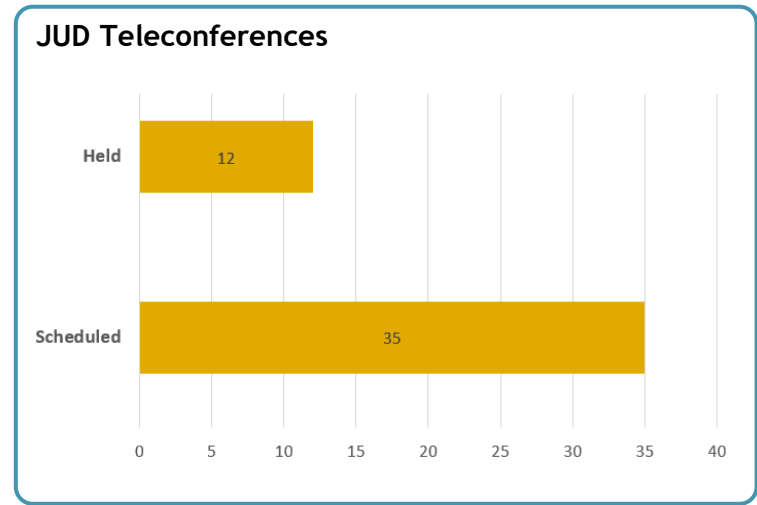
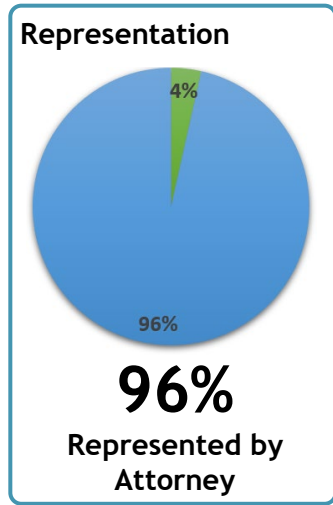
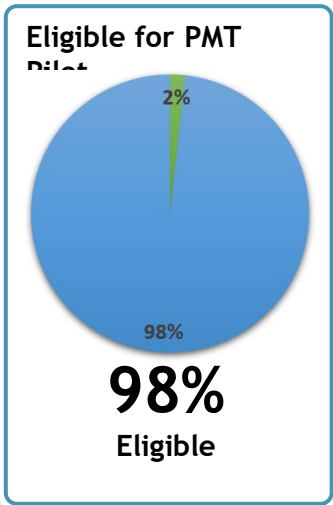
33.3%
Refer to
Docket

2.8%
Refer to ADR

2.8%
Hold Status

11.1%
In Process

3.8
Average Days
Completed



What the future holds

- ▶ Expand to include multiple issues
- ▶ Develop Commission Rule formalizing the program

Questions???