



Medical Providers' Claims

Presented By:

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Agenda

- **Medical providers' claims**
 - Scope – issues related to reasonableness of medical charges
 - Impact and significance of medical charges in Virginia
 - Relevant statutes and rules
 - Case law interpreting the statutes
 - Practical issues in defending medical provider claims



Scope of presentation

- **Includes issues related to claims by medical providers seeking additional payments**
- **Does not include issues related to:**
 - Compensability of the work accident or of specific medical services
 - Medical necessity of the services
 - Causation
 - Authorization



Significance and impact of workers' compensation medical costs in Virginia

■ Claim payments

- In the year 2011, claim payments totaled approximately 864 million dollars
- Medical payments comprised approximately two-thirds of this total

■ Volume of claims

- In the year 2000, the Commission processed approximately 236 claims involving medical cost disputes
- By 2009, the number of claims had increased to almost 1,300
- By 2013, over 2,100 claims were filed

■ Trend

- More recent data indicates that both medical costs and the number of medical claims continues to increase



Relevant statutes and rules

- **Section 65.2-714, Code of Virginia**
 - Confers exclusive jurisdiction on the Commission to decide disputes related to medical cost issues
- **Section 65.2-605**
 - Sets forth the “prevailing community rate” standard and specific provisions for assistant surgeons, and nurse practitioners and physician assistants serving as an assistant-at-surgery
- **Section 65.2-605.1(G) and Commission Rule 14**
 - Define the term “community”

Relevant statutes and rules

- **Section 65.2-605 (C)**
 - Sets forth the requirements for coding and billing for multiple surgical procedures
- **Section 65.2-605.1**
 - Sets forth prompt payment requirements and establishes a statute of limitations for medical provider claims
- **Section 65.2-604 and Commission Rule 4.2**
 - Requires medical providers to furnish certain medical reports



Code of Virginia Section 65.2-605

§ 65.2-605. Liability of employer for medical services ordered by Commission; malpractice. The pecuniary liability of the employer for medical [services] shall be limited to such charges as prevail in the same community for similar treatment when such treatment is paid for by the injured person



Terms used in §65.2-605

- **“the same community”**
- **“similar treatment”**
- **“prevail”**
- **“charges . . . when . . . paid for by the injured person”**



Case law – prevailing community rate

- A medical bill is prima facie evidence
- Requirements for statistical data
- Restrictions on use of percentiles
- Miscoding issues
- Preferred provider organization (PPO) agreements



Practical considerations in defending medical provider claims

- **Review compensability of the medical services**
- **Laches or statute of limitations**
- **PPO agreements**
- **Unreasonable charges**
- **Negotiated discount**
- **Attorney fees**
- **Cost of expert witnesses**
- **Alienation of medical provider**
- **Probability of success**

Questions?

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