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HOUSE BILL NO. 2160

Offered January 9, 2013

Prefiled January 9, 2013

A BILL to amend and reenact §§ 65.2-605 and 65.2-714 of the Code of Virginia, relating to the Virginia Workers' Compensation Act; limitations period and balance billing.

Patron—Kilgore

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 65.2-605 and 65.2-714 of the Code of Virginia are amended and reenacted as follows:

§ 65.2-605. Liability of employer for medical services ordered by Commission; malpractice; limitations period.

A. The pecuniary liability of the employer for medical, surgical, and hospital service herein required when ordered by the Commission 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 and the employer shall not be liable in damages for malpractice by a physician or surgeon furnished by him pursuant to the provisions of § 65.2-603, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident and shall be compensated for as such.

B. No claim for payment of charges for services rendered under this title by a health care provider shall be brought more than one year from the later of (i) the date of service for which payment is sought or (ii) the date a medical award covering such service becomes final.

§ 65.2-714. Fees of attorneys and physicians and hospital charges.

A. Fees of attorneys and physicians and charges of hospitals for services, whether employed by employer, employee or insurance carrier under this title, shall be subject to the approval and award of the Commission. In addition to the provisions of Chapter 13 (§ 65.2-1300 et seq.), the Commission shall have exclusive jurisdiction over all disputes concerning such fees or charges and may order the repayment of the amount of any fee which has already been paid that it determines to be excessive; appeals from any Commission determinations thereon shall be taken as provided in § 65.2-706. The Commission shall also retain jurisdiction for employees to pursue payment of charges for medical services notwithstanding that bills or parts of bills for health care services may have been paid by a source other than an employer, workers' compensation carrier, guaranty fund or uninsured employer's fund. 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.

B. If a contested claim is held to be compensable under this title and, after a hearing on the claim on its merits or after abandonment of a defense by the employer or insurance carrier, benefits for medical services are awarded and inure to the benefit of a third party insurance carrier or health care provider, the Commission shall award to the employee's attorney a reasonable fee and other reasonable pro rata costs as are appropriate from the sum which benefits the third party insurance carrier or health care provider. Such fees shall be based on the amount paid by the employer or insurance carrier to the third party insurance carrier or health care provider for medical, surgical and hospital service rendered to the employee through the date on which the contested claim is heard before the Deputy Commissioner. For the purpose of this subsection, a "contested claim" is an initial contested claim for benefits and claims for medical, surgical and hospital services that are subsequently contested and litigated or after abandonment of a defense by the employer or insurance carrier.

C. Payment of any obligation pursuant to this section to any third party insurance carrier or health care provider shall discharge the obligation in full. The Commission shall not reduce the amount of medical bills owed to the Commonwealth or its agencies without the written consent of the Office of the Attorney General.

D. ~~No~~ During the pendency of any claim filed under this title by an employee for workers' compensation benefits, or after an award of compensation is made pursuant to § 65.2-704, no physician, hospital, or other health care provider as defined in § 8.01-581.1 shall balance bill an employee in connection with any medical treatment, services, appliances or supplies furnished to the employee in connection with an injury for which ~~an award of compensation is made pursuant to § 65.2-704~~ compensation is sought under such claim or that is covered by such award when any portion of the bill at issue, for the date of service at issue, has been paid by the employer, carrier, or third-party administrator under this title. For the purpose of this subsection, a health care provider "balance bills" whenever (i) an employer or the employer's insurance carrier declines to pay all of the health care

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59 provider's charge or fee and (ii) the health care provider seeks payment of the balance from the
60 employee.