

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 296

An Act to amend and reenact § 65.2-709 of the Code of Virginia, relating to workers' compensation; cost of living supplements for total incapacity and dependents of deceased.

[H 2841]

Approved March 12, 1997

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-709 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-709. Cost of living supplements for total incapacity and dependents of deceased.

A. In the event that the combined disability benefit entitlement of a claimant or his dependents under this title and the Federal Old-Age Survivors and Disability Insurance Act is less than eighty percent of the average monthly earnings of the claimant before disability or death, cost of living supplements shall be payable, in addition to the other benefits payable under this title, in accordance with the provisions of this section to those recipients of awards resulting from occupational disease, accident, or death occurring on or after July 1, 1975, under § 65.2-500, subsection C of § 65.2-503, subdivision A 4 of § 65.2-504, §§ 65.2-512, and 65.2-513. *For purposes of determining the monthly amount of combined disability entitlement received by a claimant, the claimant may deduct any monthly amounts paid for Medicare.*

B. The Commission may require the claimant to present evidence of filing for Federal Old-Age Survivors and Disability Insurance benefits in order to establish eligibility under this section and also may require the claimant to furnish the employer with the decision on his claim for such federal benefits.

C. The amounts of supplementary payments provided for herein shall be determined by using a compounding method of computation annually. The percentage of change shall be determined by reference to the increase, if any, in the United States Average Consumer Price Index for all items, as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average, from one calendar year to another.

D. Amounts of supplementary payments shall be based on the percentage increase, if any, in the Average Consumer Price Index for all items adjusted annually. Any change in the cost of living supplement determined as of any determination date shall become effective as of October 1 next following such determination date and as the case may be, shall be added to or subtracted from any cost of living supplements previously payable; however, compensation paid the claimant under this section shall at no time exceed the then current maximum weekly amount payable under § 65.2-500.