14104776D

HOUSE BILL NO. 1083

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 6, 2014)
(Patron Prior to Substitute—Delegate Ware)

A BILL to amend and reenact §§ 65.2-605 and 65.2-714 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 65.2-605.1, relating to workers' compensation; costs of medical services.

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 and that the Code of Virginia is amended by adding a section numbered 65.2-605.1 as follows:

§ 65.2-605. Liability of employer for medical services ordered by Commission; malpractice; assistants-at-surgery; coding.

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. The pecuniary liability of the employer for treatment ordered by the Commission pursuant to subsection A that is rendered on or after July 1, 2014, by:

1. A nurse practitioner or physician assistant serving as an assistant-at-surgery shall be limited to no more than 20 percent of the reimbursement due under subsection A to the physician performing the surgery; and

2. An assistant surgeon in the same specialty as the primary surgeon shall be limited to no more than 50 percent of the reimbursement due under subsection A to the primary physician performing the surgery.

C. Multiple procedures completed on a single surgical site associated with medical, surgical, and hospital services ordered by the Commission pursuant to subsection A and rendered on or after July 1, 2014, shall be coded and billed with appropriate Current Procedural Terminology (CPT) modifiers and paid according to the National Correct Coding Initiative (NCCI) rules and the CPT as in effect at the time the health care was provided to the claimant. The CPT and NCCI, as in effect at the time such health care was provided to the claimant, shall serve as the basis for processing a health care provider's billing form or itemization for such items as global and comprehensive billing and the unbundling of health care services. Hospital in-patient health care services shall be coded and billed through the International Statistical Classification of Diseases and Related Health Problems (ICD) as in effect at the time the health care was provided to the claimant.

§ 65.2-605.1. Prompt payment; limitation on claims.

A. Payment for health care services that the employer does not contest, deny, or consider incomplete shall be made to the health care provider within 60 days after receipt of each separate itemization of the health care services provided.

B. If the itemization or a portion thereof is contested, denied, or considered incomplete, the employer or the employer's workers' compensation insurance carrier shall notify the health care provider within 45 days after receipt of the itemization that the itemization is contested, denied, or considered incomplete. The notification shall include the following information:

1. The reasons for contesting or denying the itemization, or the reasons the itemization is considered incomplete;

2. If the itemization is considered incomplete, all additional information required to make a decision; and

3. The remedies available to the health care provider if the health care provider disagrees.

Payment or denial shall be made within 60 days after receipt from the health care provider of the information requested by the employer or employer's workers' compensation carrier for an incomplete claim under this subsection.

C. Payment due for any properly documented health care services that are neither contested within the 45-day period nor paid within the 60-day period, as required by this section, shall be increased by interest at the judgment rate of interest as provided in § 6.2-302 retroactive to the date payment was due under this section.

D. An employer's liability to a health care provider under this section shall not affect its liability to an employee.

E. No employer or workers' compensation carrier may seek recovery of a payment made to a health care provider for health care services rendered after July 1, 2014, to a claimant, unless such recovery is sought less than one year from the date payment was made to the health care provider, except in cases of fraud. The Commission shall have jurisdiction over any disputes over recoveries.

F. No health care provider shall submit a claim to the Commission contesting the sufficiency of payment for health care services rendered to a claimant after July 1, 2014, unless: (i) such claim is filed within one year of the date the last payment is made to the health care provider pursuant to this section or (ii) if the employer denied or contested payment for any portion of the health care services, then as to that service or portion thereof, such claim is filed within one year of the date the medical award covering such date of service for a specific item or treatment in question becomes final.

G. Any health care provider located outside of the Commonwealth who provides health care services under the Act to a claimant shall be reimbursed as provided in this section, and the "same community," as used in subsection A of § 65.2-605, shall be deemed to be the principal place of business of the employer if located in the Commonwealth or, if no such location exists, then the location where the Commission hearing regarding the dispute is conducted.

§ 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 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*: (i) a claim has been filed with the Commission pursuant to § 65.2-601; (ii) payment has been made by to the health care provider pursuant to § 65.2-605.1; or (iii)* an award of compensation is made pursuant to § 65.2-704. For the purpose of this subsection, a health care provider "balance bills" whenever ~~(i)~~ *(a)* an employer or the employer's insurance carrier declines to pay all of the health care provider's charge or fee and ~~(ii)~~ *(b)* the health care provider seeks payment of the balance from the employee. *Nothing in this section shall prohibit a health care provider from using the practices permitted in § 65.2-601.1.*