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HOUSE BILL NO. 946

Offered January 8, 2014

Prefiled January 8, 2014

A BILL to amend and reenact § 65.2-605 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; fee schedule for medical care services; payment of bills for medical services.

Patron—Hugo

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-605 of the Code of Virginia is 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; medical care fees; limitations period.

A. The pecuniary liability of the employer for medical, surgical, and hospital service herein required when ordered by the Commission shall, *absent a contract providing otherwise,* 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 *maximum amount that may be paid pursuant to the fee schedules established under subsection B. 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 Commission shall promulgate regulations establishing medical care fee schedules governing all medical care services rendered pursuant to this title. The medical care fee schedule regulations shall (i) initially be based on Medicare and utilize Medicare coding and reimbursement rules, (ii) be comprehensive in scope, and (iii) address fees of physicians and surgeons, hospitals, ambulatory surgical centers, ancillary services provided by other health care facilities and providers, and pharmacy and pharmaceutical services. The regulations implementing such medical care fee schedules shall become effective on October 1, 2015. The initial physician fee schedule shall be benchmarked on the Medicare fee schedule reimbursement rates for Virginia in effect on December 1, 2013, and shall apply a uniform conversion factor of up to 150 percent of Medicare base reimbursement rates in determining reimbursement levels. The initial fee schedule regulation applicable to inpatient and outpatient hospital services shall be benchmarked on Medicare's Inpatient Prospective Payment System (IPPS), Outpatient Prospective Payment System (OPPS), and Ambulatory Surgical Center payment system, respectively, and shall provide a uniform conversion factor of up to 150 percent of Medicare base reimbursement rates in determining inpatient, outpatient, and ambulatory surgical center reimbursement levels. The initial fee schedule regulation applicable to ancillary services provided by other health care facilities and providers shall provide a uniform conversion factor of up to 150 percent of Medicare base reimbursement rates in determining reimbursement levels. Reimbursement for durable medical equipment shall be limited to that reimbursed under Medicare. No fee schedule developed under this section shall authorize separate reimbursement for implantable hardware or utilize multiple conversion factors. In determining the appropriate uniform conversion percentage to be utilized pursuant to this section for physicians and surgeons, hospitals, ambulatory surgical centers, and ancillary services provided by other health care facilities and providers, or in determining the reimbursement level to be assigned for pharmacy and pharmaceutical services or for any medical care service not specifically addressed under Medicare, the Commission shall consider the maximum amounts payable for such pharmacy or medical care services that are contained in the fee schedules utilized by states that border on the Commonwealth, issues relating to access to care or medications, the need to control costs, and information contained in reports on Virginia's workers' compensation system and medical costs within such system that have been published since 2009. Pharmacy fee schedule reimbursement rates shall be based on the National Drug Code number assigned to a product by its original manufacturer.

C. The Commission shall annually review and revise the fee schedules as necessary in order to address inflation or any other issues that arise, including but not limited to issues relating to access to care or medications or the need to further control costs. If the Commission revises the fee schedules to address changes in inflation, the fees specified in the fee schedules shall in no case be increased more than three percent per year. In reviewing the fee schedule regulations, the Commission shall also consider the maximum amounts payable for such pharmacy or medical care services that are contained

in the fee schedules utilized by states that border on the Commonwealth, issues relating to access to care or medications, the need to control costs, and information contained in reports on Virginia's workers' compensation system and medical costs within such system that have been published since 2009.

D. The Commission shall have a peer-reviewed study conducted every two years by a reputable independent, not-for-profit research organization to determine how Virginia's workers' compensation system and workers' compensation medical costs compare with (i) those of other states' systems and (ii) previous workers' compensation medical benchmarks studies conducted in Virginia. Such studies shall also review the status of access to medical services under Virginia's workers' compensation system. The Commission is authorized to retain workers' compensation experts to assist in the development, review, and revision of the medical care fee schedule regulations required pursuant to this section and shall pay for such services and the aforementioned studies through revenues generated pursuant to the administrative tax assessed pursuant to Chapter 10 (§ 65.2-1000 et seq.) and deposited in the fund established pursuant to § 65.2-1007.

E. 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.

§ 65.2-605.1. Payment of medical expenses.

A. Within 60 days of receipt by the insurer or self-insured employer of (i) a medical bill that includes, at a minimum, the identity of the employee, the date of injury, the dates the medical services were provided, and the relevant ICD-9 and CPT codes required to identify the diagnosis of the injury and the nature of the services provided and (ii) supporting medical documentation demonstrating the bill for medical service involves reasonable and necessary treatment causally related to the employee's work-related injuries that are subject to § 65.2-603, the insurer or self-insured employer shall either pay the medical bill in accordance with § 65.2-605 or deny payment of the bill.

B. If the Commission finds that the self-insured employer or insurer unreasonably denied payment for medical services described in subsection A of § 65.2-603, the Commission shall order payment for such services and shall award interest to the employee, if the employee has previously paid such bill, on the amount that the self-insured employer or insurer should have paid for such medical attention at the judgment rate provided in § 6.2-302 from either (i) 60 days after the date of the bill and supporting medical documentation for such medical attention was received by the insurer or self-insured employer until the date paid or (ii) the date such bill was paid by the employee, whichever period is shorter.

2. That the provisions of this act amending subsection A of § 65.2-605 of the Code of Virginia and the provisions of § 65.2-605.1 as created by this act shall become effective on October 1, 2015.