

Department of Planning and Budget

2014 Fiscal Impact Statement

1. Bill Number: HB946

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Hugo, T.D.

3. Committee: Commerce and Labor

4. Title: Workers' compensation; fee schedule for medical care services; limitations; prompt payment.

5. Summary: Limits the pecuniary liability of an employer pursuant to the Virginia Workers' Compensation Act for medical, surgical, and hospital services provided on or after October 1, 2015, to the maximum amount that may be paid pursuant to fee schedules established by the Workers' Compensation Commission, unless a contract provides otherwise. The Commission is directed to promulgate regulations establishing medical care fee schedules governing all medical care services rendered pursuant to the Act, which shall become effective on October 1, 2015. Medical care fee schedule regulations shall (i) initially be based on Medicare, (ii) utilize Medicare coding and reimbursement rules, (iii) be comprehensive in scope, and (iv) 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. Certain initial fee schedule regulations shall apply uniform conversion factors of up to 150 percent of Medicare base reimbursement rates in determining reimbursement levels. The Commission is directed to annually review and revise the fee schedules, and have an independent, peer-reviewed study conducted every two years. The measure prohibits bringing a claim for payment of charges for services rendered under the Act by a health care provider more than one year from the later of the date of service for which payment is sought or the date a medical award covering such service becomes final. Finally, the bill requires an insurer or self-insured employer, effective October 1, 2015, to either pay a medical bill or deny payment of the bill within 60 days of receiving a bill and supporting documentation.

6. Budget Amendment Necessary: Yes. See Item 8.

7. Fiscal Impact Estimates: Fiscal impact estimates are preliminary. See Item 8.

8. Fiscal Implications: The fiscal impact of this bill is indeterminate. The bill requires the Workers' Compensation Commission to establish medical care fee schedules governing all medical care services rendered. The Workers' Compensation Commission reports that the cost of creating and maintaining such a fee schedule is uncertain, but is expected to require a budget amendment. Additionally, any potential changes in medical treatment costs for claims

paid from the Workers' Compensation Commission's Uninsured Employer's Fund or the State Employee Workers' Compensation Services program cannot be estimated at this time, as the rates have not been established. However, according to the Department of Human Resource Management (DHRM), which administers the workers' compensation program for state employees, a fee schedule may facilitate lower costs for medical services in the long run, as the bill establishes certain restrictions for the rates initially established as well as future adjustments for inflation. The creation of a fee schedule could also result in cost avoidance for both the Workers' Compensation Commission as well as the State Employee Workers' Compensation Services program if litigation or claims filed for medical treatment issues decrease as a result of clearly established fee schedules. Currently, medical services are paid based on the present prevailing community rate, a system which calculates varying rates based on payments made for the same services to other providers within the same community. DHRM reports that there are not enough data points to support a recommended payment based on this methodology within some areas of the state due to a low concentration of medical providers or the rarity of a procedure; however, this is often not recognized until a payment is appealed because the bill adjudication process is largely system-generated.

According to the Department of Human Resource Management, although workers' compensation medical payments are generally higher than those from other insurers or Medicare, there is often more paperwork required from physicians for these claims and the program has noticed an exodus of physicians willing to accept workers' compensation patients in recent years.

Workers' Compensation Commission

An estimate of the cost for the Workers' Compensation Commission to create a medical care fee schedule or conduct an independent, peer-reviewed study every two years pursuant to this bill is indeterminate. The Commission reports that a budget amendment will be necessary to develop, maintain, and review such a schedule and the related expenses may also require an additional source of funding or an increase in its current fees to provide revenue to support these activities. The Commission may also experience future cost avoidance from the provisions of the bill, as it expects that a fee schedule may reduce the number of claims filed with the Commission by physicians for medical treatment issues.

The Workers' Compensation Commission reports that an example of the cost to maintain a workers' compensation fee schedule from the Kentucky Department of Workers' Claims requires five positions to perform maintenance and updates of the fee schedule as well as \$75,000 in contract costs incurred every two to three years for an outside vendor to publish a revised fee schedule. Additionally, Kentucky's published fee schedule is sold to providers for \$100 per book, including a hard copy and disk with an electronic version of all state fee schedules and guidelines. No information is available from other states or industry organizations regarding the initial costs to create and implement a fee schedule at this time.

The Commission also pays for qualified workers' compensation claims from its Uninsured Employer's Fund. Depending on the fee schedule developed, any changes in medical treatment costs from existing rates would affect the claim amounts paid from the Fund.

Department of Human Resource Management

According to the Department of Human Resource Management, the State Employee Workers' Compensation Services program experiences considerable litigation and work associated with contested medical payments that may be reduced with the creation of a clear fee schedule. However, it is uncertain the degree to which the administrative process of adjudicating workers' compensation medical bills or litigation may be affected by this bill. Contested payments may be expected to decrease from the establishment of clear payment guidelines in the long run; however, the establishment of a new payment methodology could also initially result in additional disputes over the correct application of the methodology. Litigation for contested payments for the State Employee Workers' Compensation Services program is assigned to outside counsel at the direction of the Office of the Attorney General.

According to DHRM's bill adjudication vendor, any updates necessary to implement changes in the state's workers' compensation regulations are inclusive of the services it currently is contracted to provide. Therefore, the agency is not expected to incur any additional costs to implement the regulatory changes within this bill.

- 9. Specific Agency or Political Subdivisions Affected:** Virginia Workers' Compensation Commission; Department of Human Resource Management.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.

Date: 2/4/2014

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