Medical Providers’ Claims

Presented By:

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Chief Deputy Commissioner
Agenda

- Medical providers’ claims
  - Scope – issues related to reasonableness of medical charges
  - Impact and significance of medical charges in Virginia
  - Relevant statutes and rules
  - Case law interpreting the statutes
  - Practical issues in defending medical provider claims
Scope of presentation

- Includes issues related to claims by medical providers seeking additional payments

- Does not include issues related to:
  - Compensability of the work accident or of specific medical services
  - Medical necessity of the services
  - Causation
  - Authorization
Significance and impact of workers’ compensation medical costs in Virginia

- **Claim payments**
  - In the year 2011, claim payments totaled approximately 864 million dollars
  - Medical payments comprised approximately two-thirds of this total

- **Volume of claims**
  - In the year 2000, the Commission processed approximately 236 claims involving medical cost disputes
  - By 2009, the number of claims had increased to almost 1,300
  - By 2013, over 2,100 claims were filed

- **Trend**
  - More recent data indicates that both medical costs and the number of medical claims continues to increase
Relevant statutes and rules

- **Section 65.2-714, Code of Virginia**
  - Confers exclusive jurisdiction on the Commission to decide disputes related to medical cost issues

- **Section 65.2-605**
  - Sets forth the “prevailing community rate” standard and specific provisions for assistant surgeons, and nurse practitioners and physician assistants serving as an assistant-at-surgery

- **Section 65.2-605.1(G) and Commission Rule 14**
  - Define the term “community”
Relevant statutes and rules

- **Section 65.2-605 (C)**
  - Sets forth the requirements for coding and billing for multiple surgical procedures

- **Section 65.2-605.1**
  - Sets forth prompt payment requirements and establishes a statute of limitations for medical provider claims

- **Section 65.2-604 and Commission Rule 4.2**
  - Requires medical providers to furnish certain medical reports
§ 65.2-605. Liability of employer for medical services ordered by Commission; malpractice. The pecuniary liability of the employer for medical [services] 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 . . . .
“the same community”

“similar treatment”

“prevail”

“charges . . . when . . . paid for by the injured person”
Case law – prevailing community rate

- A medical bill is **prima facie** evidence
- Requirements for statistical data
- Restrictions on use of percentiles
- Miscoding issues
- Preferred provider organization (PPO) agreements
Practical considerations in defending medical provider claims

- Review compensability of the medical services
- Laches or statute of limitations
- PPO agreements
- Unreasonable charges
- Negotiated discount
- Attorney fees
- Cost of expert witnesses
- Alienation of medical provider
- Probability of success
Questions?

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