

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 1092
Economic Matters

(Delegate Barkley, *et al.*)

Workers' Compensation Commission - Regulation of Fees and Charges

This bill authorizes the Workers' Compensation Commission (WCC) to regulate payment of fees and other charges for (1) the examination of a covered employee and (2) the preparation of a report by a medical expert. The bill also specifies that fees charged for a medical service or treatment or the examination and preparation of a report by a medical expert may not vary based on the party responsible for the payment of the fee or charge.

Fiscal Summary

State Effect: The bill authorizes, but does not require, WCC to regulate specified fees paid by employers (including the State) in workers' compensation cases. To the extent that WCC regulates fees, the number of hearings and disputes regarding such fees may increase minimally. Any impact on State finances as a result of newly regulated fees is expected to be minimal. Revenues are not affected.

Chesapeake Employers' Insurance Company (Chesapeake) Effect: The bill authorizes, but does not require, WCC to regulate specified fees paid by employers in workers' compensation cases. Any impact on Chesapeake finances as a result of newly regulated fees is expected to be minimal. Revenues are not affected.

Local Effect: The bill authorizes, but does not require, WCC to regulate specified fees paid by employers (including local governments) in workers' compensation cases. Any impact on local government finances as a result of newly regulated fees is expected to be minimal. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Current Law/Background: WCC may regulate fees and other charges for medical services or treatment. An injured worker is entitled to receive medical services from the doctor of his or her choosing; however, each fee or other charge for medical services or treatment is limited to the amount that prevails in the same community for similar treatment of an injured individual with a standard of living that is comparable to that of the covered employee. Additionally, an injured worker may be requested to have an evaluation of a permanent impairment, not only by his or her doctor, but also the employer or the employer's insurer. In this case, the requested evaluation is paid for by the employer or the employer's insurer and these costs are not regulated by WCC.

WCC is required to, at least biennially, review its guide of medical and surgical fees (for completeness and reasonableness) and revise the guide as appropriate. The guide includes fees paid by the claimants for medical evaluations but does not encompass those paid by employers.

Calculations for the reimbursement of medical fees are established in regulation. In addition, a physician is required, by regulation, to meet specified requirements when preparing an evaluation of permanent impairment; WCC may not approve payment of a physician's fee for an evaluation that does not comply with these requirements.

State/Chesapeake/Local/Small Business Expenditures: Any fiscal impact on employers and insurers in Maryland (including the State, Chesapeake, local governments, and small businesses) depends on if and how WCC chooses to utilize its authority to regulate the fees specified by the bill.

Additional Comments: Although the bill is only expected to have a minimal direct fiscal impact on employers and insurers in the State, Chesapeake advises that the bill may indirectly result in increased costs to employers and insurers. Due to the provision which specifies that fees may not vary based on the party responsible for payment of the fee or charge (and depending on how WCC chooses to regulate these fees), employers and insurers may have difficulty obtaining independent medical examinations of injured workers. Examinations performed and reports prepared by a claimant's treating physician are generally less expensive because the treating physician has had many visits with the claimant and does not need additional time to review and understand his or her medical history. Conversely, an independent medical examiner hired by an employer or its insurer may not be familiar with the patient and, therefore, needs additional time to review a patient's medical records or prepare reports.

Additional Information

Prior Introductions: HB 664 of 2013, a bill with similar provisions, received a hearing in the House Economic Matters Committee and was subsequently withdrawn. Its cross file, SB 717 of 2013, received a hearing in the Senate Finance Committee, but no further action was taken.

Cross File: SB 118 (Senator Feldman, *et al.*) - Finance.

Information Source(s): Anne Arundel, Dorchester, and Montgomery counties; Chesapeake Employers' Insurance Company; National Council on Compensation Insurance; Workers' Compensation Commission; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2015
min/ljm

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510