March 3, 2020

House Economic Matters Committee

Testimony of Chesapeake Employers' on HB 767 – Oppose

HB 767 proposes to amend the attorney fee structure for workers' compensation claimants' attorneys. The bill would give the Workers' Compensation Commission the discretion to award a fee of up to $2,000 per hearing to an attorney representing a claimant when there is no compensation payable to the claimant. The bill further gives the WCC discretion to decide who is responsible for the up to $2,000 payment. The claimant, the employer/insurer, a self-insured employer or the Uninsured Employers' Fund (UEF) could all be ordered to pay the additional attorneys' fees.

Under current law, the attorneys' fee structure is governed by regulation found in COMAR. The claimants' attorneys are paid contingent fees at the indemnity stages of claims. Depending on the circumstances of the claim, indemnity could be paid in a lump sum for a serious disability or fatality case or, by contrast, other claims may award temporary total disability or permanent partial disability, thereby paying the attorneys' fees over time. However, all fees paid to claimants' attorneys are paid on a contingent basis and are paid for the attorneys' services over the life of the claim, meaning anytime the claim is open and active.

In Chesapeake's experience, the cases contemplated here do not occur with much frequency. Thus, the most likely group to benefit from this bill would be the claimants' attorneys. The attorneys' fees contemplated under this proposed bill would be the only attorneys' fees payable in workers' compensation claims that are not contingent on the outcome of a hearing and are not governed by COMAR. This is a significant deviation from the long-standing workers' compensation fee structure.

For the foregoing reasons, Chesapeake Employers' opposes HB 767.

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