

**ATTORNEYS FEES UNDER §65.2-714
OF THE VIRGINIA CODE**

By:

Malcolm Parks

MALONEY, PARKS & CLARKE, P.C.

311 South Boulevard

Richmond, VA 23220

<http://www.maloneyparkslaw.com>

Andrew J. Reinhardt

REINHARDT|HARPER|DAVIS, PLC

1809 Staples Mill Road, Suite 300

Richmond, VA 23230

<http://www.vacomplaw.com>

Virginia Trial Lawyers Association
Advanced Workers' Compensation Retreat
November 7-8, 2013
Richmond, Virginia

Attorneys Fees under §65.2-714 of the Virginia Code

A. Commission Jurisdiction over Attorneys fees

The Virginia Workers' Compensation statute is designed to prevent lawsuits against employers and simultaneously provide specified benefits to workers' compensation claimants for lost wages, medical benefits, permanent partial compensation, death benefits and so forth. However, many of those benefits could not exist without a portion of the workers' compensation statute that seldom directly involves injured workers; §65.2-714 of the Virginia Code. This Section specifically provides that both health care providers who care for the claimant and the attorneys who make sure that the claimant's rights are taken care of are paid for their services.¹

Much like the rest of the workers' compensation statute, the Commission's concern with Section 714 is what is in the best interest of the claimant. Consequently, the Commission is not bound by fee agreements between claimant's and their attorneys. The Commission has repeatedly taken the position that it must instead look at the circumstances surrounding each case in determining reasonable attorney's fees. Green v.

¹ The Commission has exclusive jurisdiction over fees of health care providers under §65.2-714. While there is no official schedule of charges, those charges are to the prevailing rates in the "same community for similar treatment." §65.2-714, Virginia Code. If a dispute arises, any contest on the reasonableness of the charges can be referred to a peer review committee established pursuant to §65.2-1300 to 1310 of the Virginia Code. Our discussion here will be limited to attorney's fees under Section 714 and/or the topic of attorney's fees as a percentage of contested medical bills. However, the fees of doctors and lawyers are closely intertwined under Section 714.

Keil Plumbing & Heating, 00 WC UNP 1827568 (2000); Blackburn v. Newport News Shipbuilding, 67 Va. WC 251,252 (1988). If an attorney's fee is reduced in a settlement order by the Commission, the carrier's liability is not reduced. Instead, that amendment by the Commission only increases the portion of the proceeds that the claimant will receive. Smith v. Catron Companies, 68 Va. WC 245-247 (1989); See also Osborne v. Powell Mountain Coal Co., 06 WC UNP 2221645 (2006). In determining an appropriate fee, the Commission will consider the complexity of the issues involved, the time expended and the result obtained. Sabic v Koons of Tyson's Corner, 12 WC UNP VA01002421333 (2012); Sauder v. The Times Journal Company, 71 Va. WC 304, 306 (1992); See also, Dillon v. Holiday Inn Tyson's Corner, 64 Va. WC 113, 115 (1985). The Commission maintains jurisdiction over this issue in order to avoid claimants' being overcharged. Bee Hive Min. Co. v. Industrial Commission, 144 Va. 240, 242 (1926). The collection of attorney's fees in excess of an amount awarded by the Commission constitutes contempt and unethical conduct. Smith v. School Board, 64 Va. WC 283, 292 (1984).

B. Some Rules of Thumb on Fees

The Commission has officially recognized two general rules of thumb in regards to the award of attorney's fees. More specifically, the commission has stated that 15% of permanent partial disability awards, Down v. Jim Price Chevrolet, 77 Va. WC 91, 92

(1998), and 20% of lump sum settlements, King v. Boggs & Sloce Municipal Services, 77 Va. WC 160, 161 (1998) are reasonable fee percentages. Compare Marcus v. Foley, 64 Va. WC 224, 225 (1985). The Commission has also ruled that it has the right and authority to set appropriate fees for defense attorneys. However, the Commission normally chooses not to get involved in regards to defense attorney's fees. Hodge v. Great Coastal Express, 63 Va. WC 182, 187 (1984); See also Hudock v. Virginia State Bar, 233 Va. 390, 355 (1987). Normally, an employer has no standing to comment on or complain about the award of a claimant attorney's fees when paid from the claimant's award. Mongold v. Christ Masonry Products, 62 Va. WC 326, 328 (1983). Also, the Commission has held that it will not exercise jurisdiction over a dispute between two claimants' counsel as to the division of the fee. Moore v. Security Storage Company, 76 Va. WC 163, 165 (1997). See Also Mosby v. Washington Metro Area Transit Authority, VWC File No. 216-74-28 (June 16, 2004).

If a final award is vacated on grounds of claimant fraud, claimant's counsel must return the fee to the employer, but may seek his fee directly from the claimant. Gendeloff v. J&D Marketing Corporation, 68 Va. WC 247 (1989). Attorneys fees and expense reimbursement cannot include overhead expenses or such items as postage and photocopying. Smith v. Haverty Furniture Company, VWC File No. 233-15-93 (July 9, 2009). For a time, the Commission held that when claimants receive a lump sum settlement that the portion representing Permanent Partial Impairment may only be subject to a 15% fee. Hilton v. Newport News Shipbuilding and Dry Dock Company, VWC File No. 222-46-43 (January 29, 2007). Also, previously the Commission found that in the portion of a settlement that represents a lien waiver that amount might only be subject to a 10% fee. Correia v. Stafford County School Board, VWC File No. 215-12-

05. The writers hereto have not found these two latter rules to be enforced by the Commission except in a few past or limited instances and do not believe they are the accepted current practice. In the experience of the authors, the Commission will generally award 20%-25% of the disputed medical bills (the amount inuring to the benefits of the provider or carrier) of 714B fees. In rare cases, with compelling reasons, the Commission may award more. If the lawyers effort was minimal, the Commission may award less than 20%.

C. Section 714 attorney's fees for collecting medical bills: General Guidelines

1. There must be a contest regarding the bills

While fees awarded to attorneys for processing a permanent partial award or lump sum settlement may be satisfactory, fees for attending a hearing are extremely inadequate at best (See Exhibit 1 hereto). As some justification for that, the Commission has indicated that claimant's attorneys often obtain additional funds under §65.2-714. Kerrigan v. The Weekend Furniture Store, 98 WC UNP 179363 (1998). Nonetheless, the difficulties in obtaining such fees are often significant.

Any attorney attempting to obtain Section 714 fees must be extremely familiar with the statute itself (see Exhibit 2 hereto). In particular, each sentence of §65.2-714(b) is fraught with problems. First, the claimant's attorney must be able to establish that the

medical bills were "contested." Pavlicek v. Jerabeck, Inc., 21 Va. App. 58, 58 (1995). There must be documentation to show the contest and/or abandonment of a defense. Randolph v Kamil Management Co., 04 WC UNP 1903023 (2004). The fact that there may have been a delay in investigating bills or providing a Memorandum of Agreement with no specific denial is not considered a contest. Gamble v. PA Cold Company Inc., 71 Va. WC 299, 301 (1992). There is no such thing as a "constructive denial." There must be an actual contested claim as to the bills in question. John Doe v Ukrops Supermarkets Inc., VWC File No. 227-02-55 (November 29, 2007); See also John Doe v. Culpeper Rehabilitation Center, VWC File No. 209-90-39 (November 6, 2007). A claim for medical care that was pre-approved may not be contested. Beard v City of Danville Public Works, 96 Va. App. UN 1261953 (1996). "Contested claim" seems to mean that somehow the carrier affirmatively contested the claim. Discovery of or by the carrier directed to collateral matters or for clarification does not seem to be enough to establish a contest. John Doe v Midatlantic Construction Virginia², VWC File No. 200-92-03 (March 22, 2004).³ Also, a Section 714 attorney fee may not be awarded if there is neither a hearing on the issue of compensability or an abandonment of defenses prior to a hearing. Thornton v. Virginia Concrete Company, 67 Va. WC 240, 242 (1988). Only medical expenses for services rendered through the date of hearing before the deputy are subject to 714B fees. Eads v. Chick-Fil-A, Inc., File No. VA00000091768 (November 8,

² Throughout this article there are a number of cases where the claimant is named John Doe. There is because the Commission was kind enough to share their research but since the opinions were not published we were asked to keep the claimant anonymous.

³ **Practice Pointer:** Discovery or a 20-day order denying the claim is probably the best way to establish that a claim is contested, short of the matter being litigated. A 20-day order that simply says "further investigation is being conducted" or something along those lines likely does not establish that a claim is contested. An interrogatory answer that states defenses on a central issue is clearly sufficient. The earlier that you can obtain a denial, the better; otherwise you may not have established that the claim is contested if and when the carrier throws in the towel.

2011); See also Fritts v. O.N. Mineral Chemstone, File No. 227-40-42 (November 19, 2009).

2. The bills must be paid and reasonable notice must be given

Prior to scheduling a hearing on the issue of attorney's fees under 714B, claimant's counsel must be certain that the provider has been paid or that the third party insurance carrier has been reimbursed. Danville Radiologists Inc. v. Perkins, 22 Va. App. 454, 459 (1996). The claimant's attorney must also seek a Section 714 fee within a reasonable time after entry of the final award or order providing for the medical benefits and give notice to the health care provider or third party carrier of his intention to seek an award for fees; John Doe v Giant Food Inc., VWC File No. 202-77-71 (November 30, 2010) (request for fees in 2010 for medical bills paid in 2006 is not reasonable notice and claim denied); Sines v. Better Homes Realty, Inc., 66 Va. WC 162, 165 (1987); Begley v. Shaw, 64 Va. WC 39, 41 (1985). However, the statute does not require that the health care provider or carrier agree to be represented by the employee's counsel in regard to obtaining payment or reimbursement of the medical bill. Doss v. ARA Group, Inc., 75 Va. WC 79, 82 (1996). As an aside, when the medical provider is a corporation it will not be permitted to submit a position statement contesting the award of 714B fees or file any pleadings as this would constitute the unauthorized practice law. John Doe v N.B. Handy Company, Inc., VWC File No. 156-95-99 (July 15, 2002).

D. Some Potential Pitfalls

1. What is a provider or 3rd party health insurance company for purposes of 714B

There are occasions where medical bills are processed and paid by a "servicing company" with no funds of its own at risk. This type of company may not be considered a third party insurance carrier under Section 714. When this happens, it may be that a 714 fee cannot be collected from that servicing company. This may be a problem with state employees. Eveland v. Commonwealth of Virginia, 74 Va. WC 189, 190 (1995). See also Harris v. Baxter Health Care Corporation, VWC File No. 159-40-55 (December 16, 2002) wherein it was held that an emergency medical service company providing Paramedics and EMTs is not a health care provider under 714. Neither is a supplier of folding walkers. Sullivan v. Verizon North Inc., VWC File No. 217-16-71 (September 26, 2005). But see John Doe v. Virginia Mirror Co. Inc., File No. VA00000177040 (June 5, 2013) (Teamster's Fund is a third party insurance carrier for purposes of 714B and the ERISA Plan language does conflict with or pre-exempt 714-B). And see Haggerty v Crestor, VWC File No. 156-82-48 (1993) (a self-funded plan is a third party insurance carrier for purposes of 714B). The fact that the health insurance company would have paid the bills if the compensability of the medical bill was denied is somewhat irrelevant in terms of entitlement to a Section 714 attorney's fee. The claimant's attorney is still entitled to seek those fees. Shelton v. PA Coal Company, 71 Va. WC 296, 299 (1992).

2. Counsel can only obtain fee on the amount that benefits the provider or carrier

Whenever, a health insurance company (or Medicare or Medicaid) has paid a part of the medical bill, the assessment of an attorney fee against the health care provider may be limited to that portion of the payment which is procured by the claimant counsel's or insurance carrier's efforts. Therefore, in appropriate cases, claimant's counsel will have to determine what portion of the Section 714 fee would be collected against the health care provider and/or third party insurance carrier. Boyd v University of Virginia, File No. VA00000518851 (March 7, 2013); John Doe v Genesis Health Services, VWC File No. 209-54-79 (February 17, 2004); Williams v. Philip Morris, Inc., 69 Va. WC 207, 208 (1990). In one case, claimant's counsel was admonished for not accurately stating the amount which actually inured to the benefit of the providers. Peters v Martha Jefferson Hospital, File No. 237-18-48 (July 20, 2012). It is worth noting that at least one State Supreme Court has ruled that Medicaid is not a third party insurance carrier. Pearson v. C.P. Buckner Steel Erection, 348 N.C. 239, 498 S.E. 2d 818 (1998).

3. Which bills can be included

It has occasionally been argued by workers' compensation insurance companies and health insurance companies that §65.2-714 only applies to an original contested claim as opposed to a contested bill after a claim has been found compensable. This argument is not valid. Avent v. Fleetwood Transportation, 98 WC UNP 1714816 (1998). See also, Murphy v. Woodside Association, 94 WC UNP 1467470 (1994). But, the medical services rendered must have been incurred prior to the time the contest was settled, Pearn v. Service Electrical Contractors, Inc., 00 WC UNP 1851231 (2000) or

before the date of the hearing before the Deputy Commissioner. Huntt v. Absolute Security Inc., VWC File No. 218-21-04 (March 12, 2008). See also VWC Rule 6 and the language of §65.2-714 (Exhibits 2 and 3 hereto).

4. Jurisdiction and standing issues

Over the years, workers' compensation insurance companies sometimes took the position that once the compensability of a case has been determined and so long as the medical bills have been paid by health insurance or if there are no collection efforts pending against the claimant, the claimant's counsel had no standing to bother the workers' compensation insurance company or Commission with a 714 application. The authors believed this position was without merit. In fact in the case of Brown v. Howmet Corporation, 76 Va. WC 342, 345 (1997) the Commission made it clear that claimant's attorneys have an interest in the payment of certain bills since an attorney's fee may be potentially awarded out of the medical bills. It would also seem that claimant's attorneys and the Commission have an interest in being certain that the workers' compensation insurance companies do not leave the wrong party to pay bills, however small, that the workers' compensation insurance companies should be paying.

However, several months before the 2012 Legislative Session, the Virginia Court of Appeals issued an opinion in the case of Budnick v. Murphy-Brown, LLC, Record No. 2025-10-2 (Va. Court of Appeals, May 10, 2011) in which it was held that so long as all of the medical bills for a provider were fully paid and no unpaid amounts were due and owing by the injured workers, that neither the injured worker or claimant's counsel would have standing to pursue a 714 claim. Also, the commission would not have jurisdiction

to entertain a claim against the workers' compensation insurance company or force that carrier to pay charges which it would normally be required to pay. That case involved payment of the medical bills by Medicaid, but would appear to have equal application to defeating claims on behalf of claimants or their counsel in regards to any bills or amounts whenever there was no balance owed on the bills in question.

Thankfully, in the 2012 session, Va. Code 65.2-714A was amended to overturn Budnick and clarify that even though the bills may be entirely paid, the commission retained jurisdiction and the claimant and counsel would have standing to pursue a 714 claim to make sure that the correct party paid the medical bills related to the otherwise compensable claim.

Acceptance of payment of a bill by a health care provider from a workers' compensation insurance company constitutes acceptance of the Commission's jurisdiction over the provider in reference to those monies. Doss v. The ARA Group, Inc., 75 Va. WC 79 (1996). By this logic, the same applies to out of state providers or health insurance carriers. John Doe v Line Power Manufacturing, VWC File No. 204-41-03 (August 14, 2002); Murphy v Woodside Association, Ltd Partnership, VWC File No. 146-74-70 (November 16, 1994); But see John Doe v. BSI Construction, VWC File No. 200-89-64 (May 30, 2006) (In on the record statement, claimant's counsel failed to address the issue of whether out of the state providers fell within Va. Code §8.01-581.1 and subjected itself to 714B and therefore, the 714B claim was denied).

5. Burden of Proof Issues

The workers' compensation insurance companies have taken the position that they are not required to pay any amounts in the excess of amounts paid by health insurance. This argument was similar to the write off tactics of liability carriers. See Sun v. Advanced Technology Systems, 260 Va.180 (2000). In the case of Acuar v. Letourneau Technology Systems, Inc., 00 WC UNP 1823409 (2000), the Commission held that there was a presumption that the full amount of medical charges as originally billed by the claimant's health care providers is both reasonable and necessary. However, in the case of Melchor v. Trussway, Ltd., 00 WC UNP 1815646 (2000), the full Commission held that, as distinguished from Sun v. Advanced Technology Systems, if there is privity of contact between the workers' compensation carrier and a preferred provider organization (PPO) that the health care provider deals with, that health care provider may be required to accept contractually reduced fees from the workers' compensation carrier. It is worth noting that more often than not, at Section 714 hearings, workers' compensation insurance companies and health insurance companies do not bring in the applicable contracts or have evidence presented at hearings of appropriate related charges in the community. In that instance, the medical bills received by the claimants are presumed to be both reasonable and necessary. Sun v. Advanced Technology Systems. See also, Blevins v. Williamsburg Pottery Factory, 75 Va. WC 103, 104 (1996); Bogle Development Company v. Buie, 19 Va. App. 370 (1994).

E. Bullet Summary on 714B

A summary of bullet points regarding entitlement to attorneys fees against health care providers based on §65.2-714 (Exhibit 2), case law and Rule 6 (Exhibit 3 hereto) of the Commission can be summarized as follows:

A) Checklist of elements of proof for a 714 fee

- Contested claim (meaning initial contested claim for benefits, including medical benefits that are subsequently litigated or after abandonment of a defense by the employer/work comp insurer)
- Held to be compensable (must be award)
- Hearing of the claim on its merits or abandonment of a defense by employer of carrier
- Benefits for medical services are awarded
- And inure to the benefit of a third party medical insurer or health care provider
- Did payment to medical provider or health insurer occur after claimant's counsel noted representation?
- Medical benefits on which 714B fee is based must be rendered prior to the Deputy Commissioner's hearing (not decision) or prior to the abandonment of defense by the compensation insurer
- Were the payments made after the hearing or abandonment of defenses

- Was the entity to which benefits insured a "medical provider" or "third party insurance carriers?"
- Was the provider notified of the claim for 714 fees within a reasonable time, i.e. two years?

B) To file application with the Commission for award of a 714 fee, attorney must

- File a statement including
 - The name and address of each carrier or provider from whom the fee is requested
 - The amount of the medical charge recovered for each carrier or provider and
 - The amount of the fee requested, and
 - Certification that
 - ✓ The claim was contested or that the defense was abandoned
 - ✓ Prior to the filing of a request with the Commission, the attorney and carrier or provider made a reasonable good faith effort to resolve the matter
 - ✓ The insurance carrier or health care provider was given reasonable notice that a motion for an award of such fee would be made
 - ✓ A copy of the motion has been sent to each carrier and health care provider identified.
 - If the request is referred to the evidentiary hearing docket, counsel must provide notice of the hearing to each carrier or provider.

Then assuming success, the Commission SHALL award to the claimant's lawyer a reasonable fee and other pro rata costs as are appropriate from the sum that insured to the benefit of the third party insurer or health care provider. Fees shall be based on the amount paid (or additional amount if bills are already partially paid) by the workers' compensation carrier (or employer, or Fund) to the third party medical insurer or health care provider through the date of the hearing before the Deputy Commissioner.

F. Section 714 Fees: Forms

Assuming all the various landmines above discussed can be circumvented, the Section 714 practice can be financially rewarding and allow claimant's counsel to make up for the lack of fees at hearings with occasional percentages of contested medical bills. However, the question of proper handling of that may at times be left to only the more experienced lawyers and staff. Whomever does the work, the forms attached hereto may be of some help.

We normally try to obtain the original bills containing certain appropriate codes making processing of payment or reimbursement on the back end efficient (sample letters at Exhibit 4) and make sure claims are paid (see Exhibit 5) (sample Discovery at Exhibit 5)⁴. Also, in order to avoid undue delay in the fee processing, reaching agreement with providers on the percentage of fees/bill split at the earliest possible time may avoid

⁴ **Practice Pointer:** Requests for Admission almost always generates a quicker response by the carrier than simple interrogatories, based on the largely unsupported concern that the Request will be deemed admitted. In the Commission, a failure to respond is not deemed admitted automatically, but defense counsel tend to know that under the Rules of the Supreme Court in civil courts, RFAs are deemed admitted if not promptly answered. Moreover, RFAs strike fear into the defense, because the carrier is afraid of concessions, especially early in the claim, and they typically deny the RFA. This will suffice to establish the claim is contested. The Commission's referral of the case to the hearing docket is also some evidence of a "contest," but may not be dispositive in and of itself.

problems. Verifying which bills are contested and unpaid prior to negotiation is necessary. The bill must be paid or reimbursed before filing for a Section 714 fee. If agreement with providers or carriers is worked out, a consent order can be forwarded to the Commission but is not necessary to completion of the task (see letters of agreement and agreed order at Exhibit 7). Invoicing the providers and insurers may be helpful, even if an agreement is reached (see Exhibit 8). Finally, for Section 714 cases, filing for a hearing is always an option (see claim letters at Exhibit 9). Be sure to look at Rule 6 of the Rules of the Commission before filing for a hearing⁵. We also enclosed a written statement in support of 714B fees and an opinion awarding the same (Exhibit 10).

G. Conclusion

Section 714 fees for lawyers and doctors are critical to both our ability to represent or the doctors' ability to care for workers' compensation claimants. We must make every effort to prevent workers' compensation carriers or health insurance carriers from unfairly reducing either medical bills or Section 714 fees.

⁵ 714B hearings are generally separate proceedings after compensability of the case or bill is determined. Gable v. PA Coal Company, Inc., 71 Va. WC 299 (1992); See also Blackburn v. Adrian Clevinger, VWC File No. 143-34-32 (June 12, 1992).

INDEX OF EXHIBITS

1. Sample Addendum to Retainer for use of hearings
2. §65.2-714 of the Virginia Code
3. VWC Rule 6
4. Sample Letters to Providers
5. Letters to get bills paid
6. Sample Discovery to Providers
7. Agreement letters and Agreed Order
8. Invoice to Providers for Agreement on Order
9. Claim letters
10. Written Statement in Support of 714B fees and Opinion
awarding same

EXHIBIT 1

Sample Addendum to Retainer
for use of hearings

CTM

Reinhardt & Harper, PLC

ATTORNEYS AT LAW

Andrew J. Reinhardt *
Stephen T. Harper

1809 Staples Mill Road, Suite 300
Richmond, Virginia 23230

P: (804) 359-5500
F: (804) 355-9297

*Also admitted in Maryland and the District of Columbia

www.vainjurylaw.com

Direct Dial (804) 612-3208 (AJR)
Email: andv@vainjurylaw.com

Direct Dial (804) 612-3222 (MEC)
Email: mcarpenter@vainjurylaw.com

March 9, 2011

The Hon. Frederick M. Bruner, Deputy Commissioner
Virginia Workers' Compensation Commission
1000 DMV Drive
Richmond, VA 23220

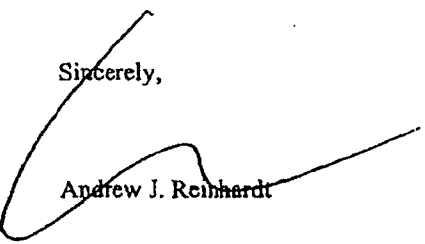
RE:

Dear Deputy Commissioner Bruner:

Please find enclosed an Addendum to Retainer which has been signed by our client. Once the record has closed and should you rule in the claimant's favor, we hereby request an award of attorney's fees and reimbursement of expenses as outlined in the enclosed Addendum to Retainer.

Thank you for your consideration.

Sincerely,


Andrew J. Reinhardt

AJR/mec
Enclosure

cc: (w/encl.)

VIRGINIA:

IN THE WORKERS' COMPENSATION COMMISSION

)	
)	
Claimant,)	
)	
)	VWC File No.:
)	
)	
Employer, et al.)	
)	

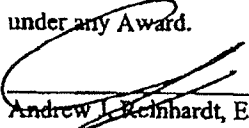
ADDENDUM TO RETAINER AGREEMENT

WHEREAS this case was disputed and the defendants may be ordered to be responsible for the compensability of my claim, payment of all authorized, related, reasonable and necessary medical treatment and payment of temporary total disability wage benefits from October 28, 2008 through the present and continuing; and

WHEREAS my attorney is entitled to obtain a fee that the Workers' Compensation Commission deems as appropriate therefrom; and

WHEREAS I am satisfied with the services of my attorney; and whereas, said attorney is entitled to a fee therefrom up to as much as 20% plus expenses.

NOW THEREFORE, from whatsoever back compensation may be awarded to me from October 28, 2008 through the date of entry of the Deputy Commissioner's Opinion, I authorize payment of 20% of the amount awarded to me by the Commission plus fees and expenses in the amount of \$2,768.95 to my attorney with the balance awarded to me, plus any ongoing benefits and weekly checks as may be due under any Award.


Andrew L. Reinhardt, Esquire
REINHARDT AND HARPER
1809 Staples Mill Rd., Suite 300
Richmond, VA 23230



Richmond, VA 23868
2/28/11
Date

1:10 PM
 02/25/11
 Accrual Basis

Reinhardt & Harper, P.L.C.
Case Expense Report
 All Expenses

Type	Date	Num	Source Name	Memo	Amount	Balance
	2010	141	R0812-		933.85	933.85
	2010	1002	Treasur		12.00	945.85
Check	7/6/2010	1044	Healthport		17.00	962.85
Check	7/13/2010	1062	Lawrenceville ...		18.00	980.85
Check	7/13/2010	1071	MCV Physicia...		375.00	1,355.85
Check	7/16/2010	1080	Healthport		14.00	1,369.85
Check	7/28/2010	1122	MCV Physicia...		375.00	1,744.85
Check	9/17/2010	1395	Halasz Report...		535.20	2,280.05
Check	1/6/2011	1856	Thompson Mc...		401.90	2,681.95
Check	2/9/2011	2014	Treasurer of ...		72.00	2,753.95
Check	2/15/2011	2036	Lawrenceville ...		15.00	2,768.95
Total R08124 Kidd, Allen					2,768.95	2,768.95
TOTAL					2,768.95	2,768.95

EXHIBIT 2

§65.2-714 of the Virginia Code

§ 65.2-714. Fees of attorneys and physicians and hospital charges.

A. Fees of attorneys and physicians and charges of hospitals for services, whether employed by employer, employee or insurance carrier under this title, shall be subject to the approval and award of the Commission. In addition to the provisions of Chapter 13 (§ 65.2-1300 et seq.), the Commission shall have exclusive jurisdiction over all disputes concerning such fees or charges and may order the repayment of the amount of any fee which has already been paid that it determines to be excessive; appeals from any Commission determinations thereon shall be taken as provided in § 65.2-706. The Commission shall also retain jurisdiction for employees to pursue payment of charges for medical services notwithstanding that bills or parts of bills for health care services may have been paid by a source other than an employer, workers' compensation carrier, guaranty fund or uninsured employer's fund. No physician shall be entitled to collect fees from an employer or insurance carrier until he has made the reports required by the Commission in connection with the case.

B. If a contested claim is held to be compensable under this title and, after a hearing on the claim on its merits or after abandonment of a defense by the employer or insurance carrier, benefits for medical services are awarded and inure to the benefit of a third party insurance carrier or health care provider, the Commission shall award to the employee's attorney a reasonable fee and other reasonable pro rata costs as are appropriate from the sum which benefits the third party insurance carrier or health care provider. Such fees shall be based on the amount paid by the employer or insurance carrier to the third party insurance carrier or health care provider for medical, surgical and hospital service rendered to the employee through the date on which the contested claim is heard before the Deputy Commissioner. For the purpose of this subsection, a "contested claim" is an initial contested claim for benefits and claims for medical, surgical and hospital services that are subsequently contested and litigated or after abandonment of a defense by the employer or insurance carrier.

C. Payment of any obligation pursuant to this section to any third party insurance carrier or health care provider shall discharge the obligation in full. The Commission shall not reduce the amount of medical bills owed to the Commonwealth or its agencies without the written consent of the Office of the Attorney General.

D. No physician, hospital, or other health care provider as defined in § 8.01-581.1 shall balance bill an employee in connection with any medical treatment, services, appliances or supplies furnished to the employee in connection with an injury for which an award of compensation is made pursuant to § 65.2-704. For the purpose of this subsection, a health care provider "balance bills" whenever (i) an employer or the employer's insurance carrier declines to pay all of the health care provider's charge or fee and (ii) the health care provider seeks payment of the balance from the employee.

EXHIBIT 3

VWC Rule 6

Rule 6. Award of Attorney's Fees Under § 65.2-714 of the Code of Virginia.

6.1 Agreement Between Parties as to a Fee. — An attorney's fee shall be awarded from sums recovered for the benefit of a third-party insurance carrier or a health care provider pursuant to § 65.2-714 of the Code of Virginia, if agreement is reached and an order, endorsed by counsel and the carrier or provider, identifying the amount of medical charges recovered and the agreed fee, is submitted to the Commission.

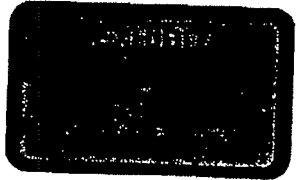
6.2 Parties Fail to Agree on a Fee. — A. An Attorney's fee shall be awarded from sums recovered for the benefit of a third-party insurance carrier or a health care provider pursuant to § 65.2-714 of the Code of Virginia, if the parties cannot agree, upon filing of a statement including the name and address of each carrier or provider from whom the fee is requested, the amount of the medical charge recovered for each carrier or provider and the amount of the fee requested, and certification that:

1. The claim was contested or that the defense was abandoned;
2. Prior to the filing of a request with the Commission the attorney and carrier or provider made a reasonable good faith effort to resolve the matter;
3. The insurance carrier or health care provider was given reasonable notice that a motion for an award of such fee would be made;
4. A copy of the motion has been sent to each carrier and health care provider identified.

B. If the request is referred to the evidentiary hearing docket, counsel must provide notice of the hearing to each carrier or provider. The notice must state the amount of the medical charge recovered for the carrier or provider, the amount of the attorney's fee requested and the time and place of the hearing.

EXHIBIT 4

Sample letters to Providers



LAW OFFICES
KERNS, KASTENBAUM & REINHARDT
ATTORNEYS AT LAW
1809 STAPLES MILL ROAD, SUITE 300
RICHMOND, VIRGINIA 23230
TELEPHONE (804) 355-7900
TELECOPIER (804) 355-9297

ROBERT G. KASTENBAUM
ANDREW J. REINHARDT*
STEPHEN T. HARPER

W. GRIFFITH PURCELL
(1912-1983)
TREVILIAN A. KERNS, JR.
(Retired)

* ALSO ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

[insert date]

Provider
Patient Accounts

Re: Patient:
Social Security No.:
Date of Birth:
Date of Accident:

Dear

Our office represents the above referenced claimant in regards to injuries that he received while at work on [accident date]. Kindly forward to our office an itemized statement of charges from [accident date] to the present relating to said patient. Also, please include a completed copy of a UB92 or HCFA form showing the appropriate CPT/HCPCS codes. An authorization form is enclosed for the release of this information.

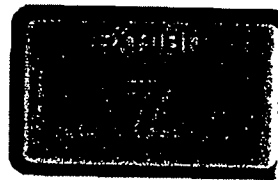
If you have any questions, please contact our office. Thank you for your attention to this matter.

Very truly yours,

Andrew J. Reinhardt

AJR/clm
Enclosure

RECEIVED AND ENDED FEB 1983



LAW OFFICES
KERNS, KASTENBAUM & REINHARDT
ATTORNEYS AT LAW
1809 STAPLES MILL ROAD, SUITE 300
RICHMOND, VIRGINIA 23230
TELEPHONE (804) 355-7900
TELECOPIER (804) 355-9297

ROBERT G. KASTENBAUM
ANDREW J. REINHARDT *
STEPHEN T. HARPER

T.W. GRIFFITH PURCELL
(1912-1983)
TREVILIAN A. KERNS, JR.
(Retired)

* ALSO ADMITTED IN MARYLAND AND
THE DISTRICT OF COLUMBIA

[insert date]

[insert workers compensation carrier]
[address]

RE: Claimant:
Insured:
Date of Accident:
Claim Number:

Dear _____:

I would appreciate your providing me with an itemized statement of all payments made on the above case in relation to medical bills paid by your company, whether to providers or reimbursement to other carriers.

Kindly reflect in the itemization: the amount, date of payment, and payee. I need this information in order to pursue my fee requests under Virginia Code Section 65.2-714.

If you have any questions, please contact my office. Thank you for your attention to this matter.

Very Truly Yours,

Andrew J. Reinhardt

AJR/clm

EXHIBIT 5

Letters to get bills paid