WCLA 12-13-18

- Year End Review (Including Legislative Update on SB 904)
- December 13, 2018
- 12:00 noon to 1 pm
- James R. Thompson Center Auditorium, Chicago, IL
- 1 hour general MCLE credit

SB 904, PA100-1117

- 8.2(d) When a patient notifies a provider that the treatment, procedure, or service being sought is for a work-related illness or injury and furnishes the provider the name and address of the responsible employer, the provider shall bill the employer or its designee directly. The employer or its designee shall make payment for treatment in accordance with the provisions of this Section directly to the provider, except that, if a provider has designated a third-party billing entity to bill on its behalf, payment shall be made directly to the billing entity. Providers ~~and providers~~ shall submit bills and records in accordance with the provisions of this Section.

SB 904, PA100-1117
Explanation of Benefits

- 8.2(d)(1) All payments to providers for treatment provided pursuant to this Act shall be made within 30 days of receipt of the bills as long as the bill claim contains substantially all the required data elements necessary to adjudicate the bill ~~bills~~.
- 8.2(d)(2) (2) If the bill ~~claim~~ does not contain substantially all the required data elements necessary to adjudicate the bill, or the claim is denied for any other reason, in whole or in part, the employer or insurer shall provide written notification to the provider in the form of an explanation of benefits ~~,~~ explaining the basis for the denial and describing any additional necessary data elements~~, to the provider~~ within 30 days of receipt of the bill. The Commission, with assistance from the Medical Fee Advisory Board, shall adopt rules detailing the requirements for the explanation of benefits required under this subsection.

HB0200
Passed Both Houses (11-29-18)

- 8.2(d)(2) (2) If the claim does not contain substantially all the required data elements necessary to adjudicate the bill, or the claim is denied for any other reason, in whole or in part, the employer or insurer shall provide written notification to the provider and to the employee or his or her designee in the form of an explanation of benefits, explaining the basis for the denial and describing any additional necessary data elements, to the provider within 30 days of receipt of the bill.

Sec. 19(l) & Rule 9110.70

- 19(l) If the employee has made written demand for payment of benefits under Section 8(a) or Section 8(b), the employer shall have 14 days after receipt of the demand to set forth in writing the reason for the delay. In the case of demand for payment of medical benefits under Section 8(a), the time for the employer to respond shall not commence until the expiration of the allotted 30 days specified under Section 8.2(d). In case the employer or his or her insurance carrier shall without good and just cause fail, neglect, refuse, or unreasonably delay the payment of benefits under Section 8(a) or Section 8(b), the Arbitrator or the Commission shall allow to the employee additional compensation in the sum of $30 per day for each day that the benefits under Section 8(a) or Section 8(b) have been so withheld or refused, not to exceed $10,000. A delay in payment of 14 days or more shall create a rebuttable presumption of unreasonable delay.
- Section 9110.70 Explanation of Basis of Non-Payment, Termination or Suspension of Temporary Total Compensation or Denial of Liability or Further Responsibility for Medical Care….(d) When an employer denies liability for payment of the cost of all or a part of an employee's medical care, or initially accepts liability but subsequently declines further responsibility for providing or paying for all or a part of such care (for any reason including but not limited to the necessity or propriety of the care, or continuing care, or the unreasonableness of the cost of care), the employer shall promptly notify the employee with a written explanation of the basis for the denial of liability or further responsibility.

SB 904, PA100-1117
Conditions for Interest

- 8.2(d)(3) In the case (i) of nonpayment to a provider within 30 days of receipt of the bill which contained substantially all of the required data elements necessary to adjudicate the bill, (ii) of ~~or~~ nonpayment to a provider of a portion of such a bill, or (iii) where the provider has not been issued an explanation of benefits for a bill ~~up to the lesser of the actual charge or the payment level set by the Commission in the fee schedule established in this Section~~, the bill, or portion of the bill up to the lesser of the actual charge or the payment level set by the Commission in the fee schedule established in this Section, shall incur interest at a rate of 1% per month payable by the employer to the provider. Any required interest payments shall be made by the employer or its insurer to the provider not later than ~~within~~ 30 days after payment of the bill.

HB3452 (passed both Houses 11-29-18) Trailer Bill to PA100-1117

- Be it enacted by the People of the State of Illinois,3 represented in the General Assembly:
- Section 5. If and only if Senate Bill 904 of the 100thGeneral Assembly becomes law in the form in which it passed both houses on May 31, 2018, then the Workers' Compensation Act is amended by changing Section 8.2 as follows
- 8.2(d)(3) …. Any required interest payments shall be made by the employer or its insurer to the provider <u>within</u> ~~not later~~ than 30 days after payment of the bill.

SB 904, PA100-1117
Cause of Action for Interest

- 8.2(d)(4) If the employer or its insurer fails to pay interest required pursuant to this subsection (d), the provider may bring an action in circuit court to enforce the provisions of this subsection (d) against the employer or its insurer responsible for insuring the employer's liability pursuant to item (3) of subsection (a) of Section 4. Interest under this subsection (d) is only payable to the provider. An employee is not responsible for the payment of interest under this Section. The right to interest under this subsection (d) shall not delay, diminish, restrict, or alter in any way the benefits to which the employee or his or her dependents are entitled under this Act.

HB3452 (passed both Houses 11-29-18) Trailer Bill to PA100-1117

- 8.2(d)(4) If the employer or its insurer fails to pay interest within 30 days after payment of the bill as required pursuant to paragraph (3) ~~this subsection (d)~~, the provider may bring an action in circuit court for the sole purpose of seeking payment of interest pursuant to paragraph (3) ~~enforce the provisions of this subsection (d)~~ against the employer or its insurer responsible for insuring the employer's liability pursuant to item (3) of subsection (a) of Section 4. The circuit court's jurisdiction shall be limited to enforcing payment of interest pursuant to paragraph (3). Interest under paragraph (3) ~~this subsection (d)~~ is only payable to the provider. An employee is not responsible for the payment of interest under this Section. The right to interest under paragraph (3) ~~this subsection (d)~~ shall not delay, diminish, restrict, or alter in any way the benefits to which the employee or his or her dependents are entitled under this Act.

SB 904, PA100-1117
Applicability & Effective Date

- The changes made to this subsection (d) by this amendatory Act of the 100th General Assembly apply to procedures, treatments, and services rendered on and after the effective date of this amendatory Act of the 100th General Assembly.
- Section 99. Effective date. This Act takes effect upon becoming law.
- Effective Date: 11/27/2018

Section 8.2(e-20)

- (e-20) Upon a final award or judgment by an Arbitrator or the Commission, or a settlement agreed to by the employer and the employee, a provider may resume any and all efforts to collect payment from the employee for the services rendered to the employee and ***the employee shall be responsible for payment of any outstanding bills for a procedure, treatment, or service rendered by a provider as well as the interest awarded under subsection (d) of this Section.*** In the case of a procedure, treatment, or service deemed compensable, the provider shall not require a payment rate, excluding the interest provisions under subsection (d), greater than the lesser of the actual charge or the payment level set by the Commission in the fee schedule established in this Section. Payment for services deemed not covered or not compensable under this Act is the responsibility of the employee unless a provider and employee have agreed otherwise in writing. Services not covered or not compensable under this Act are not subject to the fee schedule in this Section.

SB904, PA 100-1117
Electronic Medical Billing

- Sec. 8.2a. Electronic claims. (a) The Director of Insurance shall adopt rules to do all of the following: (1) Ensure that all health care providers and facilities submit medical bills for payment on standardized forms. (2) Require acceptance by employers and insurers of electronic claims for payment of medical services. (3) Ensure confidentiality of medical information submitted on electronic claims for payment of medical services. (4) Ensure that health care providers have an opportunity to comply with requests for records by employers and insurers for the authorization of the payment of workers' compensation claims. (5) Ensure that health care providers are responsible for supplying only those medical records pertaining to the provider's own claims that are minimally necessary under the federal Health Insurance Portability and Accountability Act of 1996. (6) Provide that any electronically submitted bill determined to be complete but not paid or objected to within 30 days shall be subject o interest pursuant to item (3) of subsection (d) of Section 8.2. (7) Provide that the Department of Insurance shall impose an administrative fine if it determines that an employer or insurer has failed to comply with the electronic claims acceptance and response process. The amount o the administrative fine shall be no greater than $1,000 per each violation, but shall not exceed $10,000 for identical violations during a calendar year.
- (c) The rules requiring employers and insurers to accept electronic claims for payment of medical services shall be proposed on or before January 1, 2012, and shall require all employers and insurers to accept electronic claims for payment of medical services on or before June 30, 2012. The Director of Insurance shall adopt rules by January 1, 2019 to implement the changes to this Section made by this amendatory Act of the 100th General Assembly. The Commission, with assistance from the Department and the Medical Fee Advisory Board, shall publish on its Internet website a companion guide to assist with compliance with electronic claims rules. The Medical Fee Advisory Board shall periodically review the companion guide.

SB 1737, PA100-1118

- Effective immediately
  - Pre-filing of rates (file & use vs. use & file)
  - Premium increase notice
    - >5% above recommended rate (2019: -8.5%)
    - Amount & reason
  - Passed both Houses 5-31-18
    - House 85-28-0
    - Senate 42-5-0
  - Governor Amendatory Vetoes 8-26-18
  - Amendatory Veto takes out all references to WC insurance
  - Both houses override and bill becomes law 11-29-18

John Johnson v. City of Chicago
13 WC 009875; 17 IWCC 0035

- IWCC affirms Arbitrator award of credit for “overpaid TTD or maintenance”
- The Respondent seeks a credit for all maintenance paid as it perceives the Petitioner's efforts with regard to vocational rehabilitation to be less than diligent. The petitioner failed to participate in a diligent and good faith job search. Therefore, his claim for maintenance benefits after August 3, 2015 must be denied.
- When there is a lack of good-faith" cooperation with vocational rehabilitation efforts, the termination of benefits is justified. Hayden, 214 Ill.App.3d 749 (1991). It is the petitioner’s obligation to make “good-faith efforts to cooperate in the rehabilitation effort.” ADM, 138 Ill.2d 107 (1990).
- The Arbitrator finds that the Respondent's termination of maintenance benefits as of August 3, 2015 was long overdue. It is difficult to state the specific moment in time when the Petitioner was noncompliant with vocational rehabilitation
- No maintenance is awarded and Respondent is allowed a credit for all maintenance paid from September 30, 2013 until August 3, 2015
- Circuit Court confirms 12-14-17
- Argued in Appellate Court 12-11-18

Cher Smith v. Manhattan Park District 11WC019917; 17IWCC0462

- IWCC REVERSES (3-0) Arbitrator's award of benefits for slip & fall on snow in parking lot
- The mere fact that duties take the employee to the place of injury and that, but for the employment, the employee would not have been there is not sufficient to give rise to the right to compensation.
- The evidence establishes that the parking lot was open to and used by members of the general public. While the parking lot was also used by employees of the Park District, there is no evidence establishing that the Park District instructed their employees to park in that lot. Rather, employees were free to park anywhere in the lot, park in the street, or park in the Park District's other parking lot. Thus, the employees and members of the general public were exposed to the same risk. ***(Not in the course of?)***
- IWCC finds that the ***accumulation of snow in the parking lot represented a natural accumulation*** as there was no evidence that Respondent created or contributed to a hazard. As the lot was open to the general public, Smith's fall resulted from a hazard to which she and the general public were equally exposed. Thus, IWCC finds that Smith's injury ***did not arise out of her employment***.
- Circuit Court Confirmed 4-8-18
- Argued in Appellate Court 12-12-18