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North Carolina Industrial Commission

Final Order Entered in Litigation over Commission's Medical Fee Schedule

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On September 18, 2018, Superior Court Judge Paul Ridgeway signed an order affirming the December 14, 2015 Declaratory Ruling of the North Carolina Industrial Commission, ending years-long litigation. At the root of the lawsuit was Session Law 2013-410, Section 33, which instructed the Industrial Commission to amend its medical fee schedule to tie reimbursement rates to Medicare values. The purpose of the reform was to bring medical costs in the workers' compensation system more in line with the national average.

As a result of these significant changes, medical costs in the workers' compensation system have been controlled and better balanced. In fact, since the valid Medicare-based medical fee schedule took effect on April 1, 2015, average workers' compensation insurance rates have decreased each year, dropping by 8.3 percent in 2016 and 12.5 percent in 2017. Recently, on August 29, 2018, the North Carolina Rate Bureau proposed a 17.2 percent decrease to the average workers' compensation insurance rate.

After review of the Declaratory Ruling at the trial court level, the Ruling was appealed to the Court of Appeals. On November 21, 2017, by unanimous decision, the Court of Appeals issued an Opinion reversing the August 9, 2016 Decision of Superior Court Judge Paul Ridgeway and remanding the case for entry of an order affirming the Industrial Commission's December 14, 2015 Declaratory Ruling. The Court of Appeals determined the ambulatory surgery center provisions of the workers' compensation medical fee schedule were promulgated in accordance with the Administrative Procedure Act and are valid retroactively and prospectively.

On April 5, 2018, the North Carolina Supreme Court entered an order denying Surgical Care Affiliates' Petition for Discretionary Review, cementing the decision of the Court of Appeals. After the Court of Appeals certified the issue to Wake County Superior Court, Judge Paul Ridgeway entered an order affirming the December 14, 2015 Declaratory Ruling, procedurally closing the case.

The September 18, 2018 order concludes the litigation over the Industrial Commission's medical fee schedule and its application to ambulatory surgery centers. This controversy has caused much confusion and disruption to the workers' compensation system. "The Commission is very pleased with the ultimate outcome," said Industrial Commission Chairman Charlton L. Allen. "As stewards of the North Carolina workers' compensation system, it was the Industrial Commission's duty to defend the validity of the medical fee schedule in order to preserve stability, certainty, and balance for the system."