

Department of Legislative Services  
Maryland General Assembly  
2019 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 795 (Delegate Valderrama)  
Economic Matters

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**Workers' Compensation - Provision of Medical Services and Treatment -  
Notification to Seek Treatment**

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This bill requires a covered employee who seeks medical treatment for an accidental personal injury, but has not yet filed a claim or has no issues pending before the Workers' Compensation Commission (WCC), to notify his or her employer, its insurer, or the Uninsured Employer's Fund (UEF) at least 30 business days (generally equating to 42 calendar days) before undergoing medical treatment. If the employee does not do so, the treatment must be presumed to be unrelated to the accidental personal injury (and, therefore, not eligible for a workers' compensation claim payment) unless the WCC determines the medical treatment was emergent.

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**Fiscal Summary**

**State Effect:** State expenditures (all funds) may decrease beginning in FY 2020 to the extent that the bill results in fewer workers' compensation medical claims being paid. Special fund expenditures for WCC likely increase beginning in FY 2020 due to additional hearings before WCC, as discussed below. Revenues are not affected.

**Chesapeake Employers' Insurance Company (Chesapeake) Effect:** Chesapeake expenditures may decrease beginning in FY 2020 to the extent that the bill results in fewer workers' compensation medical claims being paid. Revenues are not likely materially affected.

**Local Effect:** Local expenditures may decrease beginning in FY 2020 to the extent that the bill results in fewer workers' compensation medical claims being paid. Revenues are not affected.

**Small Business Effect:** Minimal.

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## Analysis

**Current Law:** If an employee covered under workers' compensation insurance has suffered an accidental personal injury, compensable hernia, or occupational disease, the employee is entitled to compensation benefits paid by the employer, its insurer, the Subsequent Injury Fund, or UEF, as appropriate. Workers' compensation benefits include wage replacement, medical treatment, death and funeral costs, and vocational rehabilitation expenses.

Specifically, an employer or its insurer has to pay for specified medical care and treatment for an injured employee who experiences a compensable injury or occupational disease. This includes (1) medical, surgical, or other attendance or treatment; (2) hospital and nursing services; (3) medicine; (4) crutches and other apparatus; and (5) artificial arms, feet, hands, and legs and other prosthetic appliances. This medical care and treatment must be provided for an appropriate time period, depending on the nature and type of personal injury, compensable hernia, or occupational disease.

If an injured employee who should be receiving workers' compensation benefits is not properly compensated by their employer or the employers' insurer (which may happen because the employer has not purchased workers' compensation insurance), then UEF directly pays the claimant's compensation benefits and medical expenses.

**State/Chesapeake/Local/Small Business Effect:** In cases where an accidental injury requires immediate or emergency medical care before an employee has the time to file any paperwork for the claim, under the bill, an employer would not be required to pay for the medical care unless WCC determines the medical treatment was emergent. WCC advises, and the Department of Legislative Services concurs, that this requirement likely necessitates additional hearings before WCC on a regular and ongoing basis. Therefore, special fund expenditures for WCC increase to hold additional hearings to make emergency medical treatment determinations.

The additional notification requirements established by the bill for injured employees may result in fewer workers' compensation claims for medical expenses being paid by employers and insurers across the State, including the State itself, Chesapeake, local governments, and small businesses. Specifically, the bill may discourage some employees from seeking timely medical treatment when injured at work due to the possibility that the treatment would not be covered. A prolonged waiting period before obtaining treatment could exacerbate injuries and increase costs for employers.

Overall, total employer and insurer expenditures are likely to decrease as fewer workers' compensation medical claims are paid under the bill; however, this effect is likely partially offset by higher individual claims costs in some cases. The magnitude of the decrease in

expenditures depends on numerous unknown factors (including how many injured employees will fail to meet the bill's notification requirements and how often WCC will make an exception because the medical treatment was emergent) and, therefore, cannot be reliably estimated at this time.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 349 (Senator Klausmeier) - Finance.

**Information Source(s):** Chesapeake Employers' Insurance Company; Subsequent Injury Fund; Workers' Compensation Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2019  
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Analysis by: Richard L. Duncan

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