

June 4, 2013

Administrative Letter 2013-06

To: All Insurers and Other Interested Parties

Re: Senate Bill 984 (Section 38.2-236)

Effective July 1, 2013, Section 38.2-236 requires insurers to send notices to claimants when such insurers issue payments, in partial or full settlement of claims of \$5000 or more, *if* the insurers send such settlement checks to attorneys licensed in Virginia, or to other representatives of such claimants or judgment creditors. The primary purpose of this law is to ensure that claimants who are represented by attorneys or other representatives are aware of the amount of and the date that an insurer sends a payment of \$5000 or more to a claimant's attorney or other representative. Additionally, any court approved settlements, such as those involving wrongful death claims and claims by infants, of \$5000 or more sent to the attorney or representative trigger the notice requirement.

The law applies to both first and third party claims. The notice must be sent within five business days after the date payment is made or the offer of settlement is sent to the claimant's attorney or representative. Section 38.2-236 applies to *all* lines of insurance except those lines subject to Sections 38.2-4214 and 38.2-4319.

This statute applies to the following:

- *partial* settlements of claims where the payment is \$5000 or more, and
- full and final settlements of \$5000 or more.

The notice must be sent to the claimant (first or third party) or judgment creditor any time the insurer sends a payment to the claimant's attorney or representative. This would include those circumstances where the check is made payable to the claimant only or where the check is made payable to both the claimant and his attorney or representative.

In certain situations, an insurer sends a settlement offer and check to the claimant's attorney or representative with a request that the offer be presented to the claimant. Notice must be sent by the insurer to the claimant once the claimant agrees to accept the settlement offer, and it must be sent within five business days of the claimant's agreement to accept the offered settlement.

In the case when an insurer is paying the injured worker's portion of his workers' compensation claim (of \$5000 or more) directly to the worker, and the injured worker's attorney's portion of the settlement is sent directly to the attorney, the insurer is not required to send the notice under Section 38.2-236. However, if the injured person's settlement of a workers' compensation claim is \$5000 or more and payment is sent to the injured person's attorney, licensed in Virginia, then the notice required by the statute must be given by the insurer.

Questions concerning this administrative letter may be addressed to:

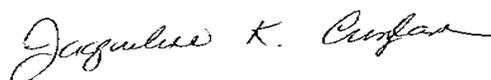
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Sincerely,



Jacqueline K. Cunningham
Commissioner of Insurance