

DELAWARE SUPREME COURT CONCLUDES THAT MEDICAL BILLS OF A NON-CERTIFIED PROVIDER ARE NOT COMPENSABLE BECAUSE PREAUTHORIZATION WAS NECESSARY

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In *Wyatt v. ResCare Home Care* (decided November 20, 2013)—a case argued by Linda Wilson of our Wilmington, Delaware, office—the Delaware Supreme Court rejects the Superior Court's decision in *Vanvliet v. D&B Transp.*, 2012 WL 5964392 (Del. Super. Ct. Nov. 28, 2012) and holds that the medical bills of a non-certified provider are not compensable because preauthorization was necessary.

When the Health Care Payment System was enacted in Delaware, it was generally interpreted to mean that medical bills of a non-certified provider were not compensable unless the provider obtained preauthorization, the charge was for the first visit with the provider or the charges fell under the emergency exception of 19 Del. C. § 2322B(8)(c). Then, *Vanvliet* happened.

The claimant in *Vanvliet* had surgery by a non-certified provider, who had not obtained preauthorization. The employer disputed compensability of the surgical bills because the claimant failed to obtain the statutorily required preauthorization for treatment with a non-certified provider. The Superior Court held the statute was ambiguous and failure to obtain preauthorization for

treatment with a non-certified provider does not bar compensability.

In *Wyatt*, the Delaware Supreme Court rejected the Superior Court's interpretation in *Vanvliet*, concluding, except for the first visit, medical bills of a non-certified provider are not compensable under the new law unless preauthorized. The Court also rejected "urgent care" as an equivalent to "emergency care" so as to trigger an exception to the preauthorization requirement.

Contact Linda Wilson if you would like a copy of the *Wyatt* decision. ■



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