

Issue: Qualification – Compensation (Worker’s Comp); Ruling Date: August 5, 2011; Ruling No. 2012-3052; Agency: Department of Corrections; Outcome: Not Qualified.



COMMONWEALTH of VIRGINIA
Department of Employment Dispute Resolution

QUALIFICATION RULING OF DIRECTOR

In the matter of the Department of Corrections
Ruling No. 2012-3052
August 5, 2011

The grievant has requested qualification of his February 14, 2011 grievance with the Department of Corrections (the agency) seeking the payment of medical bills. For the reasons set forth below, the grievance does not qualify for hearing.

FACTS

On December 28, 2010, the grievant was performing his job outdoors on a cold day. Due to concern for the grievant's condition, medical treatment was sought and the grievant was taken to the hospital. The grievant's workers' compensation claim submitted in relation to this incident was denied by the agency's third-party administrator.

DISCUSSION

Although state employees with access to the grievance procedure may generally grieve anything related to their employment, only certain grievances qualify for a hearing.¹ The actions raised in this grievance do not appear to fall into any of the types of cases that can qualify for hearing under the grievance procedure.² Indeed, this case is best described as an attempt to challenge a denial of a workers' compensation claim. While a grievant might be arguably entitled to pursue such a grievance through the management steps, it is not the type of case that can be qualified for a grievance hearing.³ Rather, questions about the compensation due for a workers' compensation claim are determinations for the Virginia Workers' Compensation Commission (VWCC), not the grievance procedure.⁴ Therefore, this grievance does not qualify for a hearing.

¹ See *Grievance Procedure Manual* § 4.1 (a) and (b).

² *Id.*

³ See Va. Code § 2.2-3004 (C); *Grievance Procedure Manual* § 4.1(c).

⁴ See, e.g., Va. Code §§ 65.2-700, 65.2-702. The VWCC can be contacted at 1-877-664-2566. More information is available on the VWCC website: <http://www.vwc.state.va.us>.

APPEAL RIGHTS AND OTHER INFORMATION

For information regarding the actions the grievant may take as a result of this ruling, please refer to the enclosed sheet. If the grievant wishes to appeal the qualification determination to the circuit court, the grievant should notify the human resources office, in writing, within five workdays of receipt of this ruling and file a notice of appeal with the circuit court pursuant to Va. Code § 2.2-3004(E). If the court should qualify this grievance, within five workdays of receipt of the court's decision, the agency will request the appointment of a hearing officer unless the grievant wishes to conclude the grievance and notifies the agency of that desire.

Claudia T. Farr
Director