

COURT OF APPEALS OF VIRGINIA

Present: Judges Alston, Chafin and Senior Judge Haley

OSTEOPATHIC PHYSICIANS OF
CHARLOTTESVILLE, LTD., T/A
OSTEOPATHIC PAIN MANAGEMENT

v. Record No. 0039-16-3

FLUVANNA CORRECTIONAL CENTER AND
COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION*
PER CURIAM
MAY 24, 2016

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Bradford M. Young; HammondTownsend, PLC, on briefs), for
appellant.

(Katharina Kreye Alcorn; Midkiff, Muncie & Ross, P.C., on brief),
for appellees.

Osteopathic Physicians of Charlottesville, Ltd., t/a Osteopathic Pain Management (“OPM”), appeals a decision of the Workers’ Compensation Commission. The Commission found that the prevailing community rate for medical services rendered by OPM showed that Fluvanna Correctional Center and Commonwealth of Virginia (“employer”) owed OPM \$3,977.60, not \$42,949.02 as claimed. OPM argues (1) the Commission erred by not requiring employer to carry the burden of proving that the data upon which its expert relied was both admissible and adequate for the formation of opinions regarding the prevailing community rate; (2) the Commission erred in finding that there was an adequate foundation for the admission of the data upon which employer’s expert relied in giving his opinions; (3) the Commission erred in finding that the substance of the data upon which employer’s expert witness relied was adequate

* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

for the formation of opinions regarding the prevailing community rate notwithstanding (i) the data's express limitation to charges arising only in the context of private healthcare insurance and (ii) credible evidence that some of the allegedly gross charges in the data had been reduced by a claims clearinghouse; and (4) the Commission erred both in admitting and giving weight to the testimony of employer's expert witness.

We have reviewed the record and the Commission's opinion and find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the Commission in its final opinion. See Monroe v. Fluvanna Corr. Ctr., VWC File No. 2399579 (Dec. 16, 2015). We dispense with oral argument and summarily affirm because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process. See Code § 17.1-403; Rule 5A:27.

Affirmed.