

2003 Annual Review

A year of growth



VIRGINIA BIRTH-RELATED
NEUROLOGICAL INJURY
COMPENSATION PROGRAM

A year of growth.

growth



Physical therapy is a regular and lifelong need for most claimants, generally due to cerebral palsy. However, primary insurance often only provides a limited number of therapy sessions. That's when the Birth-Injury Program steps in and allows the ongoing medically necessary therapies. Additionally, use of various types of physical therapy can be beneficial, as well as motivating. Along with more traditional approaches, other therapies, when appropriate, may include hippotherapy (horseback), water therapy and even specially adapted karate classes.

Message From The Board Chair

As 2003 closed, the Board of Directors was able to look back and see both extensive change, as well as important growth for the Birth-Injury Program. Much of the change emerged from legislation passed in Virginia's General Assembly that became effective on July 1, 2003. While some of this change was positive, the overall package burdened the Program by adding an additional \$40 million to the deficit.

Accounting for nearly 80 percent of the additional long-term costs was a provision mandating payment of legal fees even when a claimant is not admitted into the Program. According to two sets of actuaries, this provision created highly negative conditions leading to increased costs.

To assure that the Program has sufficient funds to meet the needs of all admitted claimants, the Board will seek to have the legal fee payments for non-admitted claimants provision reversed by the General Assembly or request sufficient funds to meet the mandate.* However, the 2003 legislation also brought some positives including placing the Program under the Freedom of Information Act and guaranteeing the services of the Virginia Office of the Attorney General.

New Board Members

The year also saw the departure of three valued board members. Dr. John Partridge, a stalwart of the Board, completed his term. His presence always added a strong measure of professionalism, clinical knowledge and quality decision-making. Also completing a term was Dr. Anderson Williams of Virginia Beach. We sincerely miss his dedicated service. A third departing board member was Dr. Leo Dunn. Dr. Dunn served as the non-participating physician's representative. Legislation eliminated that position as of July 1.

Of course each departure also means an arrival. We are now honored to have Dr. Willette LeHew representing participating physicians, McLain O'Ferrall providing his investment and business experience, and Ralph Shelman contributing his expertise in working with the disabled community.

Enhancing Communication

Continuing the organization's efforts to upgrade communication with all stakeholders, we restructured our website. Sporting individualized channels for physicians, claimants, hospitals and insurers, it now provides a wealth of general information for everyone. Stakeholders will find everything from copies of the enabling legislation to reimbursement forms posted on this site. Additionally, more than five-dozen links to resources specific to the needs of claimant families are provided under *Helpful Resources*.

Finances Are Key To The Future

As noted before, of prime concern to the Board of Directors is the financial need of the Program. The organization continues to be "actuarially unsound." Although the Program ended the year with more than \$120 million in reserves – enough to meet obligations for at least a decade – studies indicate additional revenues, or drastic cost cutting, will be needed for long-term financial survival. The Board has steadfastly noted its commitment to provide all legislated benefits to all claimants. However, because the Board has no authority to raise additional funds, we must solicit assistance from the General Assembly which has sole authority to raise additional funds or modify required benefits.

Finally, I would like to express my thanks to each Board member. On a monthly basis they voluntarily sacrifice their time to help others. On a regular basis they are asked to make decisions that often seem to require the wisdom of Solomon in balancing medical needs, legislative mandates and financial responsibility. However, they always come through and manage to find appropriate answers and solutions to fit each situation.

Sincerely,



Melina Dee Perdue, RN, MBA, CNA
Board Chair



Melina Dee Perdue

*Editor's Note: This review only addresses issues in 2003. However, the Virginia General Assembly during their 2004 session did repeal the provision to pay legal fees for non-admitted claimants.

the Program

The Program at a glance.



Birth-Injury Program claimants receive a housing benefit that often includes the construction of a handicapped accessible bedroom and bath. A wheelchair accessible shower and a whirlpool tub are usually a part of the provided room addition. Additionally, most children need in-home nursing care which is paid for by the Program as prescribed by each child's physician.

Benefits & Eligibility

In 2003, 11 petitions seeking entry into the Birth-Injury Program were filed with the Virginia Workers' Compensation Commission. By statute, the Workers' Compensation Commission has sole authority to admit claimants.

As of December 31, 2003, 87 claimants had been admitted since the Program's establishment in 1987.* The Birth-Injury Program is a no-fault, exclusive remedy.

Covered Services/Expenses For An Awarded Claim

- Medical
- Hospital
- Rehabilitation/Therapy
- Residential and custodial care
- Compensation for lost earnings, ages 18 to 65
- Special equipment or facilities
- Reasonable claim filing costs (including attorney's fees)
- Medically necessary travel

Expenses Not Covered

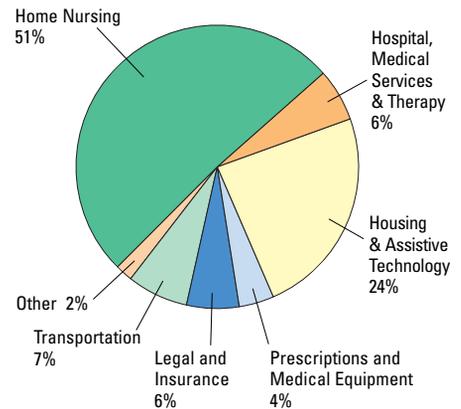
- Expenses covered by other government programs
- Expenses covered by prepaid health plans or HMOs
- Expenses covered by private insurance

Eligibility/Key Points Of The Virginia Law

- Child delivered by a participating doctor or hospital
- Child who suffered a birth-related neurological injury, as defined by Virginia law
- Injury must have resulted from oxygen deprivation or mechanical injury during labor, delivery, immediate post delivery
- Child must be permanently motorically disabled and developmentally disabled or cognitively disabled
- Child must need assistance with all daily living activities

*number includes deceased claimants

BENEFITS PAID TO CLAIMANTS (by categories)



*In 2003,
the Program
spent over
\$5.4 million
for covered
services.*

Participation & Finances

A completely voluntary program for physicians and hospitals, about 70 percent of all births in Virginia are currently covered. In 2003, 409 post residency physicians participated and another 178 physicians in residency programs were enrolled. A total of 31 hospitals participated.

According to a 2003 study*, non-rural based (urban and suburban) physicians were a majority of the participating physicians. The study also showed the average number of annual births per participating physician, whether rural or non-rural, was similar with 121 for rural physicians and 116 for non-rural physicians.

Where Are Participating Physicians Located?

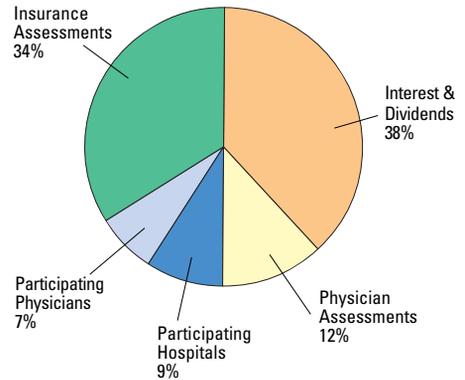
According to the same study, participating physicians are based in at least 70 Virginia counties and municipalities. However, they also serve patients from many more areas, reaching virtually all Virginia localities.

Key Facts

- Established in 1987 by the Virginia General Assembly
- Alleviated malpractice insurance crisis and possible obstetric services shortage
- By law, all obstetricians, whether participating or non-participating, must inform patients whether they participate or not
- According to a recent study, the Birth-Injury Program continues to help control rising medical malpractice insurance rates

* *Pricing for Physician Participation, completed in 2003 and submitted to the Virginia General Assembly*

INCOME



Financials For the Year Ended December 31, 2003:

REVENUES

| | |
|---------------------------------------|-------------------|
| Participating Hospitals | 2,357,975 |
| Participating Physicians | 1,860,843 |
| Physician Assessments | 3,148,690 |
| Insurance Assessments | 8,993,616 |
| Interest income | 3,260,441 |
| Unrealized gain (loss) on investments | 7,567,254 |
| Gain (loss) on sale investments | (1,722,987) |
| Dividend income | 791,610 |
| Trust home | 46,953 |
| Other | 77,961 |
| Total revenue | 26,382,356 |

EXPENSES

| | |
|------------------------------------------------|-------------------|
| Increase in estimated claims reserve | 14,600,000 |
| Claims cost | 5,459,218 |
| Investment & Fiduciary fees | 251,067 |
| Salaries and benefits | 344,567 |
| Professional fees | 123,374 |
| Advertising and brochures | 27,308 |
| Rent | 53,173 |
| Other | 35,497 |
| Postage and mailing | 46,970 |
| Administrative (phone, computer services, etc) | 61,008 |
| Total expenses | 21,002,182 |

A copy of the Program's 2003 independent financial audit is available at www.vabirthinjury.com.

participation

For both physicians and hospitals, participation is a valuable benefit for their patients.



Along with physicians, Virginia's hospitals continue to find participation in the Birth-Injury Program an important benefit for their patients, as well as a valuable part of their overall risk management efforts.



**VIRGINIA BIRTH-RELATED
NEUROLOGICAL INJURY
COMPENSATION PROGRAM**

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A lifetime of help

Board Members

Melina Dee Perdue, RN, MBA, CNA
Board Chair
Hospital Representative
Vice-President, Carilion Health System
Roanoke, Virginia

Cynthia E. Berry, Esq.
Vice Chair
Citizen Representative
Great Falls, Virginia

Richard A. Cathey
Insurance Industry Representative
Nationwide Insurance
Midlothian, Virginia

McLain T. O'Ferrall
Citizen Representative
Richmond, Virginia

Ralph W. Shelman
Citizen Representative
Hampton, Virginia

Willette L. LeHew, MD
Participating Physicians' Representative
Norfolk, Virginia

James A. Ritchie
Citizen Representative
Roanoke, Virginia

Terms ending in 2003:

Leo J. Dunn, MD
Non-Participating Physicians Representative
Manakin, Virginia

John R. Partridge, MD
Participating Physician Representative
Richmond, Virginia

Anderson J. Williams, MD
Citizen Representative
Virginia Beach, Virginia

In accordance with applicable statutes, all Birth-Injury Program board members are appointed by the Governor of Virginia.