

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION *State Corporation Commission*  
*Document Control Center*

**DOMINION SURGICAL ASSOCIATES, LLC,**  
**Petitioner**

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v.

**CASE NO. INS-2024-00090**

**ANTHEM HEALTH PLANS OF VIRGINIA, INC.,**  
**Respondent**

**HEARING EXAMINER'S RULING**

**November 21, 2024**

On September 6, 2024, Dominion Surgical Associates, LLC (“DSA”) filed with the State Corporation Commission (“Commission”), in public version only, a Petition for Appeal (“Petition”) of a balance billing arbitration decision in Commission Bureau of Insurance (“Bureau”) Case No. 1331. DSA filed the Petition pursuant to Rule 100 B of the Commission’s Rules of Practice and Procedure, 5 VAC 5-20-10 *et seq.* (“Rules of Practice”), § 38.2-3445.02 of the Code of Virginia (“Code”), and Rule 14 VAC 5-405-40 H of the Commission’s Rules Governing Balance Billing for Out-of-Network Health Care Services, 14 VAC 5-405-10 *et seq.* DSA alleged that in handling an arbitration between DSA and Anthem Health Plans of Virginia, Inc. (“Anthem”), Mr. Roberto Garcia (“Arbitrator”) “conducted the proceeding contrary to the provisions of [Code § 38.2-3445.02] and [C]ommission [regulations], in such a way as to materially prejudice the rights of [DSA].”<sup>1</sup>

On September 30, 2024, the Commission issued a Scheduling Order wherein, among other things, it set deadlines for Anthem to file its answer to the Petition, and for DSA to file a reply to Anthem’s response. The Scheduling Order also assigned this case to a Hearing Examiner to conduct all further proceedings in this docket on behalf of the Commission and file a final report containing the Hearing Examiner’s findings and recommendations. Further, the Scheduling Order provided for the Bureau’s participation in this docket if and as directed by the Hearing Examiner.

On October 21, 2024, Anthem filed its answer in a public version and included two wholly confidential attachments, labeled “Exhibit A” and “Exhibit B.” Anthem did not simultaneously file a motion for protective order, as required by 5 VAC 5-20-170 of the Rules of Practice.

On November 1, 2024, DSA filed its reply to Anthem’s answer in public version only.

I find that Anthem should refile, within ten (10) business days of the date of this Ruling, Exhibits A and B to the October 21, 2024 answer, making public all information that is not “trade secrets, privileged, or confidential commercial or financial information” pursuant to 5 VAC 5-20-170 of the Rules of Practice. At a minimum, all facts publicly presented in the Petition, in Anthem’s answer document, and in DSA’s reply should be public information. Additionally, I refer Anthem to the Hearing Examiner’s Reports and Commission Final Orders in

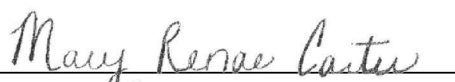
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<sup>1</sup> Petition at 2; Code § 38.2-3445.02 J.

Case Nos. INS-2022-00132 and INS-2022-00134 for guidance as to what the Commission has considered public information related to insurance arbitration appeals in the past.<sup>2</sup>

To the extent Anthem believes information in Exhibits A and B still require confidential treatment, Anthem should refile Exhibits A and B in both public and confidential versions with a motion for protective order as required by 5 VAC 5-20-170. The confidential versions of these exhibits, if any, “shall clearly indicate the specific information requested to be treated as confidential by use of highlighting, underscoring, bracketing or other appropriate marking” in accordance with 5 VAC 5-20-170.

Accordingly, **IT IS SO DIRECTED.**

  
M. Renae Carter  
Senior Hearing Examiner

The Clerk of the Commission is requested to send a copy of this Ruling to all persons on the official Service List. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, VA 23219.

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<sup>2</sup> To the extent Anthem claims the Arbitrator’s determinations are confidential, Anthem should provide, with its refiling of Answer Exhibit A, detailed discussion with legal citations as to why the determinations are, in Anthem’s view, confidential.