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**SUBSTITUTE HOUSE BILL 2434**

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**State of Washington**

**52nd Legislature**

**1992 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Franklin, Heavey, Prentice, R. King, Jones and G. Cole)

Read first time 02/07/92.

1 AN ACT Relating to compensation during industrial insurance  
2 appeals; and amending RCW 51.52.060.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.52.060 and 1986 c 200 s 11 are each amended to read  
5 as follows:

6 ~~((Any))~~ (1)(a) A worker, beneficiary, employer, or other person  
7 aggrieved by an order, decision, or award of the department must,  
8 before he or she appeals to the courts, file with the board and the  
9 director, by mail or personally, within sixty days from the day on  
10 which ~~((such))~~ a copy of ~~((such))~~ the order, decision, or award was  
11 communicated to such person, a notice of appeal to the board(~~(÷~~  
12 ~~PROVIDED, That))~~). However, a health services provider or other person  
13 aggrieved by a department order or decision making demand, whether with  
14 or without penalty, for repayment of sums paid to a provider of

1 medical, dental, vocational, or other health services rendered to an  
2 industrially injured worker must, before he or she appeals to the  
3 courts, file with the board and the director, by mail or personally,  
4 within twenty days from the day on which ((such)) a copy of ((such))  
5 the order or decision was communicated to the health services provider  
6 upon whom the department order or decision was served, a notice of  
7 appeal to the board.

8 (b) Failure to file a notice of appeal with both the board and the  
9 department shall not be grounds for denying the appeal if the notice of  
10 appeal is filed with either the board or the department.

11 (2) Within ten days of the date on which an appeal has been granted  
12 by the board, the board shall notify the other interested parties  
13 ~~((thereto))~~ to the appeal of the receipt ~~((thereof))~~ of the appeal and  
14 shall forward a copy of ~~((said))~~ the notice of appeal to ~~((such))~~ the  
15 other interested parties. Within twenty days of the receipt of such  
16 notice of the board, the worker or the employer may file with the board  
17 a cross-appeal from the order of the department from which the original  
18 appeal was taken(~~(:— PROVIDED, That nothing contained in this section~~  
19 ~~shall be deemed to change, alter or modify the practice or procedure of~~  
20 ~~the department for the payment of awards pending appeal:— AND PROVIDED,~~  
21 ~~That failure to file notice of appeal with both the board and the~~  
22 ~~department shall not be ground for denying the appeal if the notice of~~  
23 ~~appeal is filed with either the board or the department:— AND PROVIDED,~~  
24 ~~That,~~)).

25 (3) If within the time limited for filing a notice of appeal to the  
26 board from an order, decision, or award of the department, the  
27 department ~~((shall))~~ directs the submission of further evidence or the  
28 investigation of any further fact, the time for filing such notice of  
29 appeal shall not commence to run until ~~((such))~~ the person ~~((shall~~  
30 ~~have))~~ has been advised in writing of the final decision of the

1 ~~department in the matter~~((:—PROVIDED, FURTHER, That)). In the event  
2 the department ((shall)) directs the submission of further evidence or  
3 the investigation of any further fact, as ((above)) provided in this  
4 section, the department shall render a final order, decision, or award  
5 within ninety days from the date ((such)) further submission of  
6 evidence or investigation of further fact is ordered which time period  
7 may be extended by the department for good cause stated in writing to  
8 all interested parties for an additional ninety days((:—PROVIDED,  
9 FURTHER, That)).

10 (4) The department, either within the time limited for appeal, or  
11 within thirty days after receiving a notice of appeal, may:

12 (a) Modify, reverse or change any order, decision, or award((,))i  
13 or ((may))

14 (b) Hold ((any such)) the order, decision, or award in abeyance for  
15 a period of ninety days which time period may be extended by the  
16 department for good cause stated in writing to all interested parties  
17 for an additional ninety days pending further investigation in light of  
18 the allegations of the notice of appeal((, and)). The board shall  
19 ((thereupon)) deny the appeal upon the issuance of an order holding the  
20 earlier order, decision, or award in abeyance, without prejudice to the  
21 appellant's right to appeal from any subsequent determinative order  
22 issued by the department.

23 (5) No provision of this section shall be deemed to change, alter,  
24 or modify the practice or procedure of the department for the payment  
25 of awards pending appeal. However, if an employer appeals to the board  
26 a department order granting temporary total disability compensation to  
27 a worker, the worker shall be entitled to the compensation while the  
28 appeal is pending before the board, subject to the requirements of RCW  
29 51.32.240(3).