
HOUSE BILL 1910

State of Washington 54th Legislature 1995 Regular Session

By Representatives Goldsmith, Cairnes, Hargrove and Lisk

Read first time 02/14/95. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to determination of benefits for permanent partial
2 disability by industrial insurance self-insurers; and amending RCW
3 51.32.055, 51.14.120, and 51.14.130.

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

5 **Sec. 1.** RCW 51.32.055 and 1994 c 97 s 1 are each amended to read
6 as follows:

7 (1) One purpose of this title is to restore the injured worker as
8 nearly as possible to the condition of self-support as an able-bodied
9 worker. Benefits for permanent disability shall be determined under
10 the director's or self-insurer's supervision only after the injured
11 worker's condition becomes fixed.

12 (2) All determinations of permanent disabilities shall be made by
13 the department or the self-insurer. Either the worker(~~(or)~~) or the
14 employer(~~(or self-insurer)~~) may make a request or the inquiry may be
15 initiated by the director or self-insurer on his or her own motion.
16 Determinations shall be required in every instance where permanent
17 disability is likely to be present. All medical reports and other
18 pertinent information in the possession of or under the control of the

1 employer or self-insurer shall be forwarded to the director with the
2 request.

3 (3) A request for determination of permanent disability shall be
4 examined by the department or self-insurer, and ~~((an order shall issue~~
5 ~~in accordance with RCW 51.52.050))~~ the department shall issue an order
6 in accordance with RCW 51.52.050 or, in the case of a self-insured
7 employer, the self-insurer may: (a) Enter a written order,
8 communicated to the worker and the department self-insurance section in
9 accordance with subsection (7)(d) of this section, or (b) request the
10 department to issue an order in accordance with RCW 51.52.050.

11 (4) The department or self-insurer may require that the worker
12 present himself or herself for a special medical examination by a
13 physician or physicians selected by the department, and the department
14 or self-insurer may require that the worker present himself or herself
15 for a personal interview. The costs of the examination or interview,
16 including payment of any reasonable travel expenses, shall be paid by
17 the department or self-insurer, as the case may be.

18 (5) The director may establish a medical bureau within the
19 department to perform medical examinations under this section.
20 Physicians hired or retained for this purpose shall be grounded in
21 industrial medicine and in the assessment of industrial physical
22 impairment. Self-insurers shall bear a proportionate share of the cost
23 of the medical bureau in a manner to be determined by the department.

24 (6) Where a dispute arises from the handling of any claim before
25 the condition of the injured worker becomes fixed, the worker,
26 employer, or self-insurer may request the department to resolve the
27 dispute or the director may initiate an inquiry on his or her own
28 motion. In these cases, the department shall proceed as provided in
29 this section and an order shall issue in accordance with RCW 51.52.050.

30 (7)(a) If a claim (i) is accepted by a self-insurer after June 30,
31 1986, and before July 1, 1995, (ii) involves only medical treatment and
32 the payment of temporary disability compensation under RCW 51.32.090 or
33 only the payment of temporary disability compensation under RCW
34 51.32.090, (iii) at the time medical treatment is concluded does not
35 involve permanent disability, (iv) is one with respect to which the
36 department has not intervened under subsection (6) of this section, and
37 (v) the injured worker has returned to work with the self-insured
38 employer of record at the worker's previous job or at a job that has
39 comparable wages and benefits, the claim may be closed by the self-

1 insurer, subject to reporting of claims to the department in a manner
2 prescribed by department rules adopted under chapter 34.05 RCW.

3 (b) All determinations of permanent disability for claims accepted
4 by self-insurers after June 30, (~~(1986)~~) 1995, shall be made by the
5 (~~(self-insured section of the department)~~) self-insurer under
6 subsections (1) through (4) of this section.

7 (c) Upon closure of a claim under (a) of this subsection, the self-
8 insurer shall enter a written order, communicated to the worker and the
9 department self-insurance section, which contains the following
10 statement clearly set forth in bold face type: "This order constitutes
11 notification that your claim is being closed with medical benefits and
12 temporary disability compensation only as provided, and with the
13 condition you have returned to work with the self-insured employer. If
14 for any reason you disagree with the conditions or duration of your
15 return to work or the medical benefits or the temporary disability
16 compensation that has been provided, you may protest in writing to the
17 department of labor and industries, self-insurance section, within
18 sixty days of the date you received this order." If the department
19 receives such a protest, the self-insurer's closure order shall be held
20 in abeyance. The department shall review the claim closure action and
21 enter a determinative order as provided for in RCW 51.52.050.

22 (d) If a claim (i) is accepted by a self-insurer after June 30,
23 1995, (ii)(A) involves only medical treatment and the payment of
24 temporary disability compensation under RCW 51.32.090 and a
25 determination of permanent disability has been made according to
26 subsections (1) through (4) of this section, or (B) involves only
27 medical treatment and a determination of permanent disability has been
28 made according to subsections (1) through (4) of this section, (iii) is
29 one with respect to which the department has not intervened under
30 subsection (6) of this section, and (iv) concerns an injured worker who
31 has returned to work with the self-insured employer of record at the
32 worker's previous job or at a job that has comparable wages and
33 benefits, the claim may be closed by the self-insurer, subject to
34 reporting of claims to the department in a manner prescribed by
35 department rules adopted under chapter 34.05 RCW. Upon closure of a
36 claim under this subsection, the self-insurer shall enter a written
37 order, communicated to the worker and the department self-insurance
38 section, which contains the following statement clearly set forth in
39 bold-face type: "This order constitutes notification that your claim

1 is being closed with medical benefits and/or temporary disability
2 compensation as provided and with award for permanent partial
3 disability set forth below, and with the condition that you have
4 returned to work with the self-insured employer. If for any reason you
5 disagree with the conditions or duration of your return to work or the
6 medical benefits, temporary disability compensation provided, or
7 permanent partial disability that has been awarded, you may protest in
8 writing to the Department of Labor and Industries, Self-Insurance
9 Section, within sixty days of the date you received this order." If
10 the department receives such a protest, the self-insurer's closure
11 order shall be held in abeyance. The department shall review the claim
12 closure action and enter a determinative order as provided for in RCW
13 51.52.050.

14 (e) If within two years of claim closure the department determines
15 that the self-insurer has made payment of benefits because of clerical
16 error, mistake of identity, or innocent misrepresentation or the
17 department discovers a violation of the conditions of claim closure,
18 the department may require the self-insurer to correct the benefits
19 paid or payable. This paragraph does not limit in any way the
20 application of RCW 51.32.240.

21 (8) If a claim (a) is accepted by a self-insurer after June 30,
22 1990, (b) involves only medical treatment, (c) does not involve payment
23 of temporary disability compensation under RCW 51.32.090, and (d) at
24 the time medical treatment is concluded does not involve permanent
25 disability, the claim may be closed by the self-insurer, subject to
26 reporting of claims to the department in a manner prescribed by
27 department rules adopted under chapter 34.05 RCW. Upon closure of a
28 claim, the self-insurer shall enter a written order, communicated to
29 the worker, which contains the following statement clearly set forth in
30 bold-face type: "This order constitutes notification that your claim
31 is being closed with medical benefits only, as provided. If for any
32 reason you disagree with this closure, you may protest in writing to
33 the Department of Labor and Industries, Olympia, within 60 days of the
34 date you received this order. The department will then review your
35 claim and enter a further determinative order." If the department
36 receives such a protest, it shall review the claim and enter a further
37 determinative order as provided for in RCW 51.52.050.

1 **Sec. 2.** RCW 51.14.120 and 1993 c 122 s 2 are each amended to read
2 as follows:

3 (1) The self-insurer shall provide, when authorized under RCW
4 51.28.070, a copy of the employee's claim file at no cost within
5 fifteen days of receipt of a request by the employee or the employee's
6 representative. If the self-insured employer determines that release
7 of the claim file to an unrepresented worker in whole or in part, may
8 not be in the worker's best interests, the employer must submit a
9 request for denial with an explanation along with a copy of that
10 portion of the claim file not previously provided within twenty days
11 after the request from the worker. In the case of second or subsequent
12 requests, a reasonable charge for copying may be made. The self-
13 insurer shall provide the entire contents of the claim file unless the
14 request is for only a particular portion of the file. Any new material
15 added to the claim file after the initial request shall be provided
16 under the same terms and conditions as the initial request.

17 (2) The self-insurer shall transmit notice to the department of any
18 protest or appeal by an employee relating to the administration of an
19 industrial injury or occupational disease claim under this chapter
20 within five working days of receipt. The date that the protest or
21 appeal is received by the self-insurer shall be deemed to be the date
22 the protest is received by the department for the purpose of RCW
23 51.52.050.

24 ~~((3) The self-insurer shall submit a medical report with the
25 request for closure of a claim under this chapter.))~~

26 **Sec. 3.** RCW 51.14.130 and 1993 c 122 s 3 are each amended to read
27 as follows:

28 (1) The self-insurer shall ((request allowance or denial of)) issue
29 an order allowing or denying a claim within sixty days from the date
30 that ((the)) notice of a claim is ((filed)) received by the self-
31 insurer, if sufficient information is received to make such
32 determination. If a determination can be made, the self-insurer shall
33 notify the injured worker, in writing, that he or she may make a
34 written protest and request reconsideration of the order to the
35 department within sixty days of the date the order is received. If the
36 department receives such a protest, it shall review the claim and enter
37 a further determinative order as provided for in RCW 51.52.050. If a
38 determination cannot be made due to lack of information, the self-

1 insurer shall notify the worker and the department self-insurance
2 section, in writing, that additional information is necessary to make
3 a proper determination. In these instances, an interlocutory order may
4 be requested, subject to the provisions of WAC 296-15-160. If the
5 self-insurer fails to ((aet)) notify the worker within sixty days, the
6 department ((shall promptly)) may review the claim and intervene and
7 adjudicate the claim if appropriate.

8 (2) Upon the application of the worker made within seven years from
9 the date the first closing order becomes final, the self-insurer may
10 reopen or deny the claim in accordance with RCW 51.32.160. The self-
11 insurer shall notify the department and the worker of the reopening or
12 denial of a claim in writing.

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