

FINAL BILL REPORT

ESSB 5515

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SYNOPSIS AS ENACTED

Brief Description: Changing provisions relating to industrial insurance claims.

SPONSORS: Senate Committee on Labor & Commerce (originally sponsored by Senators Prentice and Sutherland)

SENATE COMMITTEE ON LABOR & COMMERCE

HOUSE COMMITTEE ON COMMERCE & LABOR

BACKGROUND:

The rules regarding attorney's fees in cases involving appeals from the Board of Industrial Insurance Appeals to the courts have some inequitable features. A claimant could prevail at the board and also prevail in superior court and not be entitled to attorney's fees for the superior court appeal. However, if the worker loses at the board level and wins in superior court, the worker would be entitled to attorney's fees. These rules only apply to the superior court level. In the case of appeals to a higher level, each party apparently must bear his or her own costs.

A claimant is entitled to attorney's fees in court appeals only if time loss is the issue. A claimant might prevail on the issue of being entitled to medical benefits, and would not be entitled to attorney's fees.

Claimants and claimants' attorneys have reported difficulty in obtaining a full copy of the employee's claim file from self-insurers, and having to pay very high copying costs for the portions of the file that are provided.

There is no time limit within which self-insurers must request allowance or denial of a claim so long as they pay provisional benefits during the pendency of their decision.

SUMMARY:

The rules regarding attorney's fees in appeals from a decision of the Board of Industrial Insurance Appeals either to superior court or the Court of Appeals are made consistent with the principle that if the worker prevails, the worker is entitled to attorney's fees. An employer with 25 or fewer employees who successfully defends an appeal to superior court when the department does not appear is entitled to attorney's fees. The worker is also entitled to other litigation costs

if he or she prevails. If a worker loses at any of these levels, he or she is not entitled to attorney's fees or costs.

Self-insurers are required to provide a copy of the entire contents of a claim file upon request of an employee or employee's representative, without charge. If the request is for a portion of the file, then they only need provide that portion. If a self-insurer determines that disclosure of a portion of the file would be harmful to the claimant, they may withhold that material, if they obtain the department's approval. A self-insurer must notify the department of any protest or appeal of a claims administration decision within five working days of the time they receive the protest or appeal.

A self-insurer must request allowance or denial of a claim within 60 days from the date the claim is filed, or the department is required to promptly adjudicate the claim.

Failure to comply with these requirements can subject a self-insurer to a penalty which is paid to the employee.

VOTES ON FINAL PASSAGE:

Senate	29	19
House	98	0

EFFECTIVE: July 25, 1993