
SUBSTITUTE HOUSE BILL 1243

State of Washington

53rd Legislature

1994 Regular Session

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

Read first time 02/04/94.

1 AN ACT Relating to reconsideration of department of labor and
2 industries' industrial insurance orders; and amending RCW 51.52.050 and
3 51.52.060.

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

5 **Sec. 1.** RCW 51.52.050 and 1987 c 151 s 1 are each amended to read
6 as follows:

7 (1) Whenever the department has made any order, decision, or award,
8 it shall promptly serve the worker, beneficiary, employer, or other
9 person affected thereby, with a copy thereof by mail, which shall be
10 addressed to such person at his or her last known address as shown by
11 the records of the department. The copy, in case the same is a final
12 order, decision, or award, shall bear on the same side of the same page
13 on which is found the amount of the award, a statement, set in black
14 faced type of at least ten point body or size, that such final order,
15 decision, or award shall become final within sixty days from the date
16 the order is communicated to the parties unless a written request for
17 reconsideration is filed with the department of labor and industries,
18 Olympia, or an appeal is filed with the board of industrial insurance
19 appeals, Olympia(~~(: PROVIDED, That)~~). However, a department order or

1 decision making demand, whether with or without penalty, for repayment
2 of sums paid to a provider of medical, dental, vocational, or other
3 health services rendered to an industrially injured worker, shall state
4 that such order or decision shall become final within twenty days from
5 the date the order or decision is communicated to the parties unless a
6 written request for reconsideration is filed with the department of
7 labor and industries, Olympia, or an appeal is filed with the board of
8 industrial insurance appeals, Olympia.

9 (2) Whenever the department has taken any action or made any
10 decision relating to any phase of the administration of this title, the
11 worker, beneficiary, employer, or other person aggrieved thereby may
12 request reconsideration of the department, or may appeal to the board.
13 If an employer requests reconsideration of a department order in favor
14 of an injured worker, the employer must submit all information relevant
15 to the request within thirty days of requesting reconsideration and the
16 department may consider only the information that is timely submitted.
17 For good cause shown, the department may extend the time period for an
18 additional thirty days. Temporary total disability compensation or
19 medical aid benefits granted to a worker by an order under
20 reconsideration shall continue while the reconsideration is pending,
21 subject to the requirements of RCW 51.32.240(3).

22 (3) In an appeal before the board, the appellant shall have the
23 burden of proceeding with the evidence to establish a prima facie case
24 for the relief sought in such appeal(~~(: PROVIDED, That)~~). However, in
25 an appeal from an order of the department that alleges fraud, the
26 department or self-insured employer shall initially introduce all
27 evidence in its case in chief. (~~(Any such)~~) A person aggrieved by the
28 decision and order of the board may thereafter appeal to the superior
29 court, as prescribed in this chapter.

30 **Sec. 2.** RCW 51.52.060 and 1986 c 200 s 11 are each amended to read
31 as follows:

32 ((~~Any~~))(1)(a) A worker, beneficiary, employer, or other person
33 aggrieved by an order, decision, or award of the department must,
34 before he or she appeals to the courts, file with the board and the
35 director, by mail or personally, within sixty days from the day on
36 which (~~(such)~~) a copy of (~~(such)~~) the order, decision, or award was
37 communicated to such person, a notice of appeal to the board(~~(: PROVIDED, That)~~).
38 However, a health services provider or other person

1 aggrieved by a department order or decision making demand, whether with
2 or without penalty, for repayment of sums paid to a provider of
3 medical, dental, vocational, or other health services rendered to an
4 industrially injured worker must, before he or she appeals to the
5 courts, file with the board and the director, by mail or personally,
6 within twenty days from the day on which ((such)) a copy of ((such))
7 the order or decision was communicated to the health services provider
8 upon whom the department order or decision was served, a notice of
9 appeal to the board.

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

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

27 (3) If within the time limited for filing a notice of appeal to the
28 board from an order, decision, or award of the department, the
29 department ((shall)) directs the submission of further evidence or the
30 investigation of any further fact, the time for filing ((such)) the
31 notice of appeal shall not commence to run until ((such)) the person
32 ((shall have)) has been advised in writing of the final decision of the
33 department in the matter((:—PROVIDED, FURTHER, That)). In the event
34 the department ((shall)) directs the submission of further evidence or
35 the investigation of any further fact, as ((above)) provided in this
36 section, the department shall render a final order, decision, or award
37 within ninety days from the date ((such)) further submission of
38 evidence or investigation of further fact is ordered which time period
39 may be extended by the department for good cause stated in writing to

1 all interested parties for an additional ninety days(~~PROVIDED,~~
2 ~~FURTHER, That~~)).

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

5 (a) Modify, reverse, or change any order, decision, or award(~~or~~
6 ~~may~~); or

7 (b)(i) Except as provided in (b)(ii) of this subsection, hold ((~~any~~
8 ~~such~~) an order, decision, or award in abeyance for a period of ninety
9 days which time period may be extended by the department for good cause
10 stated in writing to all interested parties for an additional ninety
11 days pending further investigation in light of the allegations of the
12 notice of appeal(~~and~~); or

13 (ii) Hold an order, decision, or award issued under RCW 51.32.160
14 in abeyance for a period not to exceed ninety days from the date of
15 receipt of an application under RCW 51.32.160. The department may
16 extend the ninety-day time period for an additional sixty days for good
17 cause.

18 The board shall ((~~thereupon~~)) deny the appeal upon the issuance of
19 an order under (b) (i) or (ii) of this subsection holding an earlier
20 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 This subsection (4)(b) does not apply to applications deemed
24 granted under RCW 51.32.160.

25 (5) A provision of this section shall not be deemed to change,
26 alter, or modify the practice or procedure of the department for the
27 payment of awards pending appeal.

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