

1 1911-S AMH .... H4132.1

2 SHB 1911 - H AMD 009 NOT CONSIDERED 1-19-96

3 By Representative Lisk

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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 51.16 RCW  
8 to read as follows:

9 (1) The department shall offer a retrospective rating plan to  
10 qualified employers and groups of employers. The plan shall be  
11 available on a voluntary basis for the period of one coverage period  
12 and may be renewed at the end of the year. The retrospective rating  
13 plan shall be consistent with recognized insurance principles and shall  
14 be administered according to rules, schedules, and factors adopted by  
15 the department. Rules adopted under this section should encourage the  
16 broadest possible participation by employers and groups consistent with  
17 insurance principles. The director is authorized to establish and  
18 adopt all necessary rules governing the administration of this section.

19 (2) In addition to those general powers and rights deemed  
20 appropriate by the department, retrospective rating plan employers and  
21 groups who administer their plans with an authorized claims  
22 administrator shall have the authority to assist the department in the  
23 processing of claims with the date of injury on or after January 1,  
24 1997. The authority shall include implementation of administrative  
25 functions that are necessary to the timely management of a claim. The  
26 department shall adopt rules detailing such authority, which shall be  
27 comprehensive and include, but not be limited to, the following:

28 (a) Authorization to schedule medical examinations and  
29 consultations, provided that only qualified persons from the department  
30 list may be selected.

31 (b) Authorization to initiate any rehabilitation services and  
32 select vocational rehabilitation providers from the department's  
33 contracted provider list or use department providers. The time  
34 limitation on the expenditure of three thousand dollars in any fifty-  
35 two week period established in RCW 51.32.095 shall not apply to the  
36 provision of vocational rehabilitation approved by a retrospective  
37 rating plan employer or group, and the supervisor of industrial

1 insurance may at any time, in the supervisor's sole discretion,  
2 authorize the expenditure of a sum not to exceed six thousand dollars  
3 for the costs of vocational rehabilitation. If consistent with the  
4 discretion of the supervisor and department rules regarding vocational  
5 rehabilitation services, when both the employer or group and the worker  
6 sign an agreement for vocational rehabilitation services, the agreement  
7 is deemed approved. Vocational rehabilitation services may include job  
8 placement services, skill enhancement services, vocational  
9 rehabilitation plans, or other accepted services.

10 (3) Retrospective rating plan employers and groups who administer  
11 their plans with an authorized claims administrator shall have the  
12 authority to close claims as authorized in this subsection. If a claim  
13 with the date of injury on or after January 1, 1997, (a) involves only  
14 medical treatment and/or the payment of temporary disability  
15 compensation under RCW 51.32.090, (b) at the time medical treatment is  
16 concluded, does not involve permanent disability, (c) is one with  
17 respect to which the department has not intervened under subsection (4)  
18 of this section, and (d) the injured worker has returned to work with  
19 the retrospective rating plan employer or group at the worker's  
20 previous job or at a job that has comparable wages and benefits, the  
21 claim may be closed by the retrospective rating plan employer or group,  
22 subject to reporting of claims to the department in a manner prescribed  
23 by the department rules adopted under chapter 34.05 RCW. Upon closure  
24 of a claim under this subsection, the retrospective rating plan  
25 employer or group shall enter a written order, communicated to the  
26 worker, the attending physician, and the department, which contains the  
27 following statement clearly set forth in bold face type: "This order  
28 constitutes notification that your claim is being closed with medical  
29 benefits and temporary disability compensation only as provided, and  
30 with the condition you have returned to work. If for any reason you  
31 disagree with the conditions or duration of your return to work or the  
32 medical benefits or the temporary disability compensation that has been  
33 provided, you may protest in writing to the department of labor and  
34 industries within sixty days of the date you received this order." If  
35 the department receives such a protest, the closure order shall be held  
36 in abeyance. The department shall review the claim closure action and  
37 enter a determinative order as provided for in RCW 51.52.050. If  
38 within two years of claim closure the department determines that a  
39 violation of the conditions of claim closure have occurred, the

1 department may correct the benefits paid or payable. This subsection  
2 does not limit in any way the application of RCW 51.32.240.

3 (4) If a dispute arises from the handling of any claim under this  
4 section before the condition of the injured worker becomes fixed, the  
5 department shall intervene to resolve any dispute.

6 (5) Exercise of any authority authorized by this section may  
7 require prior notification to the department, but rules adopted under  
8 this section shall minimize the department's need to respond and ensure  
9 that a failure to respond or delay in response by the department does  
10 not impede the timely administration of the claim. A retrospective  
11 rating plan employer or group may exceed department medical fee or  
12 other fee schedules but shall be required to pay any difference.

13 (6) The department shall conduct a study of all retrospective  
14 rating plan employers or groups who exercise the authority authorized  
15 under subsections (2) and (3) of this section and report to the  
16 legislature by December 1, 1999. The study plan shall be approved by  
17 the workers' compensation advisory committee and shall include, but not  
18 be limited to, examination of injured worker vocational outcomes,  
19 worker complaints, litigation rates, and employer claims management  
20 problems with the department. The study shall also include a review of  
21 return-to-work and long-term wage replacement outcomes for workers of  
22 the employers in the study compared with workers of state fund  
23 employers in similar risk classifications.

24 (7) For purposes of this section, "authorized claims administrator"  
25 means a person who meets department qualifications as defined by rules  
26 adopted by the department. The department shall also establish by rule  
27 procedures for approval and disapproval of authorized claims  
28 administrators.

29 (8) If the outcome of the study under subsection (6) of this  
30 section demonstrates that retrospective rating plan employers or groups  
31 who exercise the authority authorized under subsections (2) and (3) of  
32 this section are not achieving better overall injured worker outcomes  
33 than their state fund counterparts, this section shall expire on July  
34 1, 2000."

1 **SHB 1911** - H AMD  
2 By Representative

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4 On page 1, line 2 of the title, after "plans;" strike the remainder  
5 of the title and insert "and adding a new section to chapter 51.16  
6 RCW."

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