

2 ESB 5613 - H AMD
3 By Representative

4 ADOPTED AS AMENDED 4/13/95

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

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

9 ~~((Any))~~ (1)(a) A worker, beneficiary, employer, or other person
10 aggrieved by an order, decision, or award of the department must,
11 before he or she appeals to the courts, file with the board and the
12 director, by mail or personally, within sixty days from the day on
13 which ~~((such))~~ a copy of ~~((such))~~ the order, decision, or award was
14 communicated to such person, a notice of appeal to the board(~~(:~~
15 ~~PROVIDED, That)~~). However, a health services provider or other person
16 aggrieved by a department order or decision making demand, whether with
17 or without penalty, for repayment of sums paid to a provider of
18 medical, dental, vocational, or other health services rendered to an
19 industrially injured worker must, before he or she appeals to the
20 courts, file with the board and the director, by mail or personally,
21 within twenty days from the day on which ~~((such))~~ a copy of ~~((such))~~
22 the order or decision was communicated to the health services provider
23 upon whom the department order or decision was served, a notice of
24 appeal to the board.

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

28 (2) Within ten days of the date on which an appeal has been granted
29 by the board, the board shall notify the other interested parties
30 ~~((thereto))~~ to the appeal of the receipt ~~((thereof))~~ of the appeal and
31 shall forward a copy of ~~((said))~~ the notice of appeal to ~~((such))~~ the
32 other interested parties. Within twenty days of the receipt of such
33 notice of the board, the worker or the employer may file with the board
34 a cross-appeal from the order of the department from which the original
35 appeal was taken(~~(:~~ ~~PROVIDED, That nothing contained in this section~~
36 ~~shall be deemed to change, alter or modify the practice or procedure of~~

1 the department for the payment of awards pending appeal: ~~AND PROVIDED,~~
2 That failure to file notice of appeal with both the board and the
3 department shall not be ground for denying the appeal if the notice of
4 appeal is filed with either the board or the department: ~~AND PROVIDED,~~
5 That,)).

6 (3) If within the time limited for filing a notice of appeal to the
7 board from an order, decision, or award of the department, the
8 department ((shall)) directs the submission of further evidence or the
9 investigation of any further fact, the time for filing ((such)) the
10 notice of appeal shall not commence to run until ((such)) the person
11 ((shall have)) has been advised in writing of the final decision of the
12 department in the matter((:—PROVIDED, FURTHER, That)). In the event
13 the department ((shall)) directs the submission of further evidence or
14 the investigation of any further fact, as ((above)) provided in this
15 section, the department shall render a final order, decision, or award
16 within ninety days from the date ((such)) further submission of
17 evidence or investigation of further fact is ordered which time period
18 may be extended by the department for good cause stated in writing to
19 all interested parties for an additional ninety days((:—PROVIDED,
20 FURTHER, That)).

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

23 (a) Modify, reverse, or change any order, decision, or award((, or
24 may)); or

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

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

36 For purposes of this subsection, good cause includes delay that
37 results from conduct of the claimant that is subject to sanction under
38 RCW 51.32.110.

1 The board shall ((thereupon)) deny the appeal upon the issuance of
2 an order under (b) (i) or (ii) of this subsection holding an earlier
3 order, decision, or award in abeyance, without prejudice to the
4 appellant's right to appeal from any subsequent determinative order
5 issued by the department.

6 This subsection (4)(b) does not apply to applications deemed
7 granted under RCW 51.32.160.

8 (5) An employer shall have the right to appeal an application
9 deemed granted under RCW 51.32.160 on the same basis as any other
10 application adjudicated pursuant to that section.

11 (6) A provision of this section shall not be deemed to change,
12 alter, or modify the practice or procedure of the department for the
13 payment of awards pending appeal.

14 **Sec. 2.** RCW 51.32.160 and 1988 c 161 s 11 are each amended to read
15 as follows:

16 (1)(a) If aggravation, diminution, or termination of disability
17 takes place, the director may, upon the application of the beneficiary,
18 made within seven years from the date the first closing order becomes
19 final, or at any time upon his or her own motion, readjust the rate of
20 compensation in accordance with the rules in this section provided for
21 the same, or in a proper case terminate the payment: PROVIDED, That
22 the director may, upon application of the worker made at any time,
23 provide proper and necessary medical and surgical services as
24 authorized under RCW 51.36.010. The department shall promptly mail a
25 copy of the application to the employer at the employer's last known
26 address as shown by the records of the department.

27 (b) "Closing order" as used in this section means an order based on
28 factors which include medical recommendation, advice, or examination.

29 (c) Applications for benefits where the claim has been closed
30 without medical recommendation, advice, or examination are not subject
31 to the seven year limitation of this section. The preceding sentence
32 shall not apply to any closing order issued prior to July 1, 1981.
33 First closing orders issued between July 1, 1981, and July 1, 1985,
34 shall, for the purposes of this section only, be deemed issued on July
35 1, 1985. The time limitation of this section shall be ten years in
36 claims involving loss of vision or function of the eyes.

37 (d) If an order denying an application to reopen filed on or after
38 July 1, 1988, is not issued within ninety days of receipt of such

1 application by the self-insured employer or the department, such
2 application shall be deemed granted. However, for good cause, the
3 department may extend the time for making the final determination on
4 the application for an additional sixty days.

5 (2) If a worker receiving a pension for total disability returns to
6 gainful employment for wages, the director may suspend or terminate the
7 rate of compensation established for the disability without producing
8 medical evidence that shows that a diminution of the disability has
9 occurred.

10 (3) No act done or ordered to be done by the director, or the
11 department prior to the signing and filing in the matter of a written
12 order for such readjustment shall be grounds for such readjustment.

13 Correct the title.

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