
ENGROSSED SENATE BILL 5613

State of Washington

54th Legislature

1995 Regular Session

By Senators Pelz, Franklin, Hargrove, Snyder, Fraser, Bauer, McAuliffe, Smith, Prentice, Heavey and Rinehart

Read first time 01/30/95. Referred to Committee on Labor, Commerce & Trade.

1 AN ACT Relating to the authority of the department of labor and
2 industries to hold industrial insurance orders in abeyance; and
3 amending RCW 51.52.060.

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

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

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

1 the order or decision was communicated to the health services provider
2 upon whom the department order or decision was served, a notice of
3 appeal to the board.

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

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

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

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

38 (a) Modify, reverse, or change any order, decision, or award((,—or
39 may)) ; or

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

7 **(ii) Hold an order, decision, or award issued under RCW 51.32.160**
8 **in abeyance for a period not to exceed ninety days from the date of**
9 **receipt of an application under RCW 51.32.160. The department may**
10 **extend the ninety-day time period for an additional sixty days for good**
11 **cause. However, the department may not exercise the authority granted**
12 **in this subsection (4)(b)(ii) with respect to the claim of a worker**
13 **employed by a self-insurer unless the department has notified the self-**
14 **insurer of the receipt of the application under RCW 51.32.160 and has**
15 **forwarded a copy of the application, by certified mail, within ten**
16 **working days of the department's receipt of the application. In such**
17 **a case, the ninety-day period shall commence when the notice and**
18 **application are received by the self-insurer. For the purposes of this**
19 **subsection (4)(b)(ii), good cause includes delay that results from**
20 **conduct of the claimant that is subject to sanction under RCW**
21 **51.32.110.**

22 **The board shall ((thereupon)) deny the appeal upon the issuance of**
23 **an order under (b) (i) or (ii) of this subsection holding an earlier**
24 **order, decision, or award in abeyance, without prejudice to the**
25 **appellant's right to appeal from any subsequent determinative order**
26 **issued by the department.**

27 **This subsection (4)(b) does not apply to applications deemed**
28 **granted under RCW 51.32.160.**

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

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