

FINAL BILL REPORT

ESHB 1292

FULL VETO

Brief Description: Expanding claims management authority for industrial insurance rating programs.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Lisk, Quall, Linville, Thompson, Mulliken, Sheldon, Grant, D. Schmidt, Skinner, Robertson, Boldt, Honeyford and Clements).

House Committee on Commerce & Labor
Senate Committee on Commerce & Labor

Background: The Department of Labor and Industries determines the premium rates that employers pay for industrial insurance with the state fund. The rates must be the lowest rates necessary to maintain actuarial solvency in accordance with recognized insurance principles. The rating system must also be consistent with recognized principles of workers' compensation insurance and be designed to stimulate and encourage accident prevention. The department may readjust rates in accordance with the rating system.

The department is authorized to insure the workers' compensation obligations of employers as a group, and consider the group as a single employing entity for purposes of dividends or premium discounts, if certain statutory criteria are met.

The department has adopted rules providing for retrospective adjustment of an employer's premium under a retrospective rating plan. The plan is also available to groups of employers qualified under the statute. The plan is available on a voluntary basis for a one-year period, beginning in January, April, July, or October, and may be renewed at the end of that year. The plan must be consistent with recognized insurance principles and be administered under rules adopted by the department.

Summary: The Department of Labor and Industries is required to offer an industrial insurance retrospective rating plan. Employers or groups of employers participating in retrospective rating plans are granted expanded authority to assist the department in processing claims.

Establishment of retrospective rating plans. The Department of Labor and Industries is directed to offer a voluntary retrospective rating plan to qualified employers and groups of employers. The plan must be available for one year, renewable at the end

of the year. The plan must be consistent with recognized insurance principles and be administered under department rules.

Claims processing authority. In addition to the general authority deemed appropriate by the department, retrospective rating plan employers or groups of employers using authorized claims administrators may assist in the processing of claims that have a date of injury on or after January 1, 1998. The department's rules specifying the employer's or group's authority must include:

- authorization to schedule medical examinations, using only the attending physician or providers who have been qualified as approved providers by the department. An employer or group may authorize medical examination fees that exceed the department's provider fee schedules, but the employer or group must pay the difference. For independent medical examinations, the employer or group must select examiners from a rotating list of no more than five names for each provider specialty unless the list is not provided within three working days of a written request for the list or the employer is scheduling pursuant to special circumstances, as permitted in department rules; and
- authorization to initiate vocational or other rehabilitation services and select providers from the department's contracted provider list or use department providers. Services may include job placement services, skill enhancement services, vocational rehabilitation plans, or other accepted services.

Authority to close claims. Retrospective rating plan employers and groups of employers using authorized claims administrators may close industrial insurance claims having a date of injury on or after January 1, 1998, if:

- the claim involves medical treatment or the payment for 120 days or less of time loss benefits, or both;
- the claim does not involve permanent disability;
- the department has not intervened in the claim because of a dispute; and
- the injured worker has returned to work with the retrospective rating plan employer or group at the worker's previous job or at a job with comparable wages and benefits. Comparable wages and benefits— means that the worker's new wages and benefits do not exceed a 5 percent loss compared to the job at the time of injury.

Closures must be reported to the department as prescribed by department rules. At the time of closure, the retrospective rating plan employer or group must notify the

worker, attending physician, and the department. The notice must inform the worker of his or her rights to protest the closure to the department.

Dispute resolution. If a dispute arises from the handling of a claim by the retrospective rating plan employer or group before the worker's condition becomes fixed, the worker or employer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion.

Employer penalties for violations. If an employer or group violates the claims processing or claims closure authority, the department must notify the employer or group in writing and outline the corrective action to be taken. The employer or group is subject to penalties for: (1) failing to take the required corrective action within the period specified by the department; or (2) committing a second violation of the similar nature. Penalties may also be imposed if the violation resulted in or could have resulted in a loss of worker rights or benefits. The employer or group is also subject to suspension of authority to assist in claims processing for up to two years if the department finds a pattern of improper claims closure or other violations of claims processing authority.

Rules adoption. The department must adopt all necessary rules governing administration of the retrospective rating plan program. The rules may require notification of the department before the employer or group exercises the authority granted under the program. However, the rules must minimize the need for the department to respond and any failure or delay in the department's response must not impede timely administration of the claim.

The rules must establish qualifications, and approval and disapproval procedures, for authorized claims administrators. An authorized claims administrator must demonstrate a knowledge of industrial insurance laws and an expertise in processing claims.

Votes on Final Passage:

House 62 33
House 65 30 (House reconsidered)
House 61 34 (House reconsidered)
Senate 25 24