
SENATE BILL 5339

State of Washington

55th Legislature

1997 Regular Session

By Senators Schow, Rasmussen, Horn, Anderson, Newhouse and Haugen

Read first time 01/23/97. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to expanding claims management authority for
2 industrial insurance retrospective rating programs; and adding a new
3 section to chapter 51.16 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.16 RCW
6 to read as follows:

7 (1) The department shall offer a retrospective rating plan to
8 qualified employers and qualified groups of employers. The plan must
9 be available on a voluntary basis for one coverage period and may be
10 renewed at the end of the coverage period. The retrospective rating
11 plan must be consistent with recognized insurance principles and must
12 be administered according to rules, schedules, and factors adopted by
13 the department.

14 (2) In addition to those general powers and rights deemed
15 appropriate by the department, retrospective rating plan employers and
16 groups who administer their plans with an authorized claims
17 administrator are authorized to assist the department in the processing
18 of claims that have a date of injury on or after January 1, 1998. The
19 department shall adopt rules detailing the authority of retrospective

1 rating plan employers and groups, which authority must be comprehensive
2 and include, but not be limited to, the following:

3 (a) Authorization to schedule medical examinations and
4 consultations, as long as scheduling is only with providers from the
5 department's provider list. A retrospective rating plan employer or
6 group may authorize fees that exceed the department's medical fee or
7 other fee schedules but the employer or group must be required to pay
8 the difference;

9 (b) Authorization to initiate vocational and other rehabilitation
10 services and select providers from the department's contracted provider
11 list or use department providers. Vocational and other rehabilitation
12 services may include job placement services, skill enhancement
13 services, vocational rehabilitation plans, or other accepted services.

14 (3)(a) Retrospective rating plan employers and groups who
15 administer their plans with authorized claims administrators may close
16 claims as authorized in this subsection. A claim having a date of
17 injury on or after January 1, 1998, may be closed by the retrospective
18 rating plan employer or group, subject to reporting of claims to the
19 department in a manner prescribed by department rules, if the claim (i)
20 involves medical treatment or the payment of temporary disability
21 compensation under RCW 51.32.090, or both, (ii) at the time medical
22 treatment is concluded, does not involve permanent disability, (iii) is
23 one with respect to which the department has not intervened under
24 subsection (4) of this section, and (iv) involves an injured worker who
25 has returned to work with the retrospective rating plan employer or
26 group at the worker's previous job or at a job that has comparable
27 wages and benefits.

28 (b) Upon closure of a claim under this subsection, the
29 retrospective rating plan employer or group must enter a written order,
30 communicated to the worker, the attending physician, and the
31 department, which contains one of the following statements, as
32 applicable, clearly set forth in bold face type: (i) For claims
33 involving only medical treatment: "This order constitutes notification
34 that your claim is being closed with medical benefits only as provided.
35 If for any reason you disagree with the closure of your claim, you may
36 protest in writing to the Department of Labor and Industries, Division
37 of Insurance Services, Olympia, Washington 98504, within sixty days of
38 the date you received this order."; or (ii) for claims involving the
39 payment of temporary disability compensation: "This order constitutes

1 notification that your claim is being closed with medical benefits and
2 temporary disability compensation only as provided, and with the
3 condition that you have returned to work at your previous job or at a
4 job that has comparable wages and benefits. If for any reason you
5 disagree with the closure of your claim, you may protest in writing to
6 the Department of Labor of Industries, Division of Insurance Services,
7 Olympia, Washington 98504, within sixty days of the date you received
8 this order." If the department receives a protest, the closure must be
9 held in abeyance. The department shall review the claim closure action
10 and enter a determination order as provided for in RCW 51.52.050.

11 (4) If a dispute arises from the handling of a claim under this
12 section before the condition of the injured worker becomes fixed, the
13 worker or employer may request the department to resolve the dispute or
14 the director, or his or her designee, may initiate an inquiry on his or
15 her own motion.

16 (5)(a) If the department determines that a retrospective rating
17 employer or group may have violated the authority granted in this
18 section, the department shall notify the retrospective rating employer
19 or group in writing outlining the violation and the corrective action
20 required. The notice must specify a reasonable period of time for
21 corrective action. The employer or group is subject to penalties under
22 this subsection only if (i) the employer or group fails to take the
23 required corrective action within the specified period, or (ii) the
24 employer or group is determined to have committed a second violation of
25 a similar nature, in which case penalties may be imposed for the second
26 and subsequent similar violations.

27 (b) If the department finds a pattern of improper claims closure or
28 other violations of the authority granted in subsection (2) or (3) of
29 this section, the director, or his or her designee, may suspend the
30 retrospective rating employer or group's authority to assist the
31 department in the processing of claims under this section for a period
32 of up to two years. The department shall issue an order and notice
33 under RCW 51.52.050 which states the grounds for the suspension. As
34 provided in chapter 51.52 RCW, the order becomes final within sixty
35 days from the date the order is communicated to the employer or group
36 unless a written request for reconsideration is filed with the
37 department or an appeal is filed with the board of industrial insurance
38 appeals.

1 (c) Except as otherwise provided in this section, this subsection
2 does not limit the department's authority to impose penalties under
3 chapter 51.48 RCW.

4 (6)(a) The director shall adopt under chapter 34.05 RCW all
5 necessary rules governing the administration of this section. The
6 rules should encourage broad participation in retrospective rating
7 plans by employers and groups of employers consistent with insurance
8 principles. The retrospective rating plan employer's or group's
9 exercise of authority under this section may require prior notification
10 to the department, but the rules must minimize the department's need to
11 respond and must ensure that a failure to respond or a delay in
12 response by the department does not impede the timely administration of
13 the claim.

14 (b) The department shall adopt rules establishing qualifications
15 for authorized claims administrators. The rules must require an
16 authorized claims administrator to demonstrate, in a manner
17 satisfactory to the department, a thorough knowledge of the industrial
18 insurance laws, including the department rules applying to
19 retrospective rating plans, and an expertise in processing claims as
20 authorized under this section. The rules must also establish
21 procedures for approval and disapproval of authorized claims
22 administrators.

23 (7) For purposes of this section:

24 (a) "Authorized claims administrator" means a person who is
25 approved by the department as meeting the qualifications established by
26 rule under subsection (6)(b) of this section.

27 (b) "Coverage period" means a one-year period beginning the first
28 day of any calendar quarter.

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