

HOUSE BILL ANALYSIS

HB 1894

Brief Description: Correcting industrial insurance benefit errors.

Sponsors: Representative Conway

Hearing: February 24, 1999

Brief Summary of Bill

- Allows an injured worker to make a claim for underpaid industrial insurance benefits within one year of the underpayment.

BACKGROUND:

The industrial insurance law permits the Department of Labor and Industries to recover benefits that are overpaid to injured workers because of clerical error, mistaken identity, innocent misrepresentation, or similar circumstances. The department must make a claim for repayment within one year of making the overpayment or the claim is deemed waived. The director is also authorized to waive any part of a claim if recovery would be against equity and good conscience.

This statute does not address benefits that are underpaid. If the department issues an order that underpays benefits, the worker must ask the department to reconsider the order or must file an appeal with the Board of Industrial Insurance Appeals within 60 days. If a request for reconsideration or an appeal is not filed within the time period, the order is final and binding.

In Marley v. Department of Labor and Industries, 125 Wn.2d 533 (1994), the Washington Supreme Court held that the doctrine of claim preclusion applies to final orders of the department. The court stated that failure to appeal an order, even an order containing a clear error of law, precludes reargument of the same claim. Under the court's decision, final department orders may not be declared void unless the department lacked either personal or subject matter jurisdiction over the claim.

SUMMARY OF BILL:

If industrial insurance benefits are withheld because of clerical error, mistaken identity, innocent misrepresentation, or other similar circumstances, the recipient is entitled to the benefits underpaid. The claim for these benefits must be made within one year of the underpayment or it is deemed waived.

RULES AUTHORITY: The bill does not contain provisions addressing the rule making powers of an agency.

FISCAL NOTE: Requested February 18, 1999.

EFFECTIVE DATE: Ninety days after adjournment of session in which bill is passed.