
HOUSE BILL 1732

State of Washington 59th Legislature 2005 Regular Session

By Representatives Conway, McCoy, Wood, Chase, Campbell and Santos

Read first time 02/03/2005. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to allowing additional industrial insurance
2 benefits when social security benefits are reduced; and amending RCW
3 51.32.220.

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

5 **Sec. 1.** RCW 51.32.220 and 2004 c 92 s 1 are each amended to read
6 as follows:

7 (1) For persons receiving compensation for temporary or permanent
8 total disability pursuant to the provisions of this chapter, such
9 compensation shall be reduced by an amount equal to the benefits
10 payable under the federal old-age, survivors, and disability insurance
11 act as now or hereafter amended not to exceed the amount of the
12 reduction established pursuant to 42 U.S.C. Sec. 424a. However, such
13 reduction shall not apply when the combined compensation provided
14 pursuant to this chapter and the federal old-age, survivors, and
15 disability insurance act is less than the total benefits to which the
16 federal reduction would apply, pursuant to 42 USC 424a. Where any
17 person described in this section refuses to authorize the release of
18 information concerning the amount of benefits payable under said
19 federal act the department's estimate of said amount shall be deemed to

1 be correct unless and until the actual amount is established and no
2 adjustment shall be made for any period of time covered by any such
3 refusal.

4 (2) Any reduction under subsection (1) of this section shall be
5 effective the month following the month in which the department or
6 self-insurer is notified by the federal social security administration
7 that the person is receiving disability benefits under the federal old-
8 age, survivors, and disability insurance act: PROVIDED, That in the
9 event of an overpayment of benefits the department or self-insurer may
10 not recover more than the overpayments for the six months immediately
11 preceding the date the department or self-insurer notifies the worker
12 that an overpayment has occurred: PROVIDED FURTHER, That upon
13 determining that there has been an overpayment, the department or self-
14 insurer shall immediately notify the person who received the
15 overpayment that he or she shall be required to make repayment pursuant
16 to this section and RCW 51.32.230.

17 (3) Recovery of any overpayment must be taken from future temporary
18 or permanent total disability benefits or permanent partial disability
19 benefits provided by this title. In the case of temporary or permanent
20 total disability benefits, the recovery shall not exceed twenty-five
21 percent of the monthly amount due from the department or self-insurer
22 or one-sixth of the total overpayment, whichever is the lesser.

23 (4) No reduction may be made unless the worker receives notice of
24 the reduction prior to the month in which the reduction is made.

25 (5) In no event shall the reduction reduce total benefits to less
26 than the greater amount the worker may be entitled to under this title
27 or the federal old-age, survivors, and disability insurance act.

28 (6) The director, pursuant to rules adopted in accordance with the
29 procedures provided in the administrative procedure act, chapter 34.05
30 RCW, may exercise his or her discretion to waive, in whole or in part,
31 the amount of any overpayment where the recovery would be against
32 equity and good conscience.

33 (7) Subsection (1) of this section applies to:

34 (a) Workers under the age of sixty-two whose effective entitlement
35 to total disability compensation begins before January 2, 1983;

36 (b) Workers under the age of sixty-five whose effective entitlement
37 to total disability compensation begins after January 1, 1983; and

1 (c) Workers who will become sixty-five years of age on or after
2 June 10, 2004.

3 (8) In cases where a reduction in the federal social security
4 disability benefit entitlement is made retroactively for periods of
5 temporary total or temporary partial disability for which the
6 department also reduced benefit amounts in accordance with this
7 section, changes in the department's calculations, when appropriate,
8 shall be made and additional benefits shall be paid to the worker.
9 Such additional benefits require a request from the worker and
10 documentation of an overpayment assessment by the social security
11 administration and are paid without interest and without regard to
12 whether the worker's claim with the department is closed. This action
13 shall not affect the status or the date of the claim's closure. This
14 requirement applies to all requests for such adjustments which are
15 received, or for which final and binding determinations in response to
16 requests have not been made, by the effective date of this act.

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