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## Labor & Workforce Development Committee

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### HB 1487

**Brief Description:** Providing additional claims management authority for retrospective rating plan employers and groups.

**Sponsors:** Representatives Springer and Condotta.

#### Brief Summary of Bill

- Gives retrospective rating (retro) employers and groups who administer their plans with an approved claims administrator authority to schedule medical examinations and vocational assessments and close certain claims.

**Hearing Date:** 2/8/11

**Staff:** Joan Elgee (786-7106).

#### Background:

Under the state's industrial insurance laws, employers must either insure through the State Fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure. For State Fund employers, participation in retrospective rating plan (retro) is available for employers or group of employers that meet specified requirements. Participation in retro allows an employer or a group of employers to assume a portion of industrial insurance risk and receive premium refunds or be assessed additional premiums based on claim losses. Retro is designed to reward employers that are able to keep claim costs below a preselected level as a result of improvements in workplace safety and injured worker outcomes.

Injured workers must submit to a medical examination (IME) when requested by the Department or self-insured employer. An IME may be used to establish a diagnosis, outline a treatment program, evaluate the workers' restrictions, and for other matters relating to a worker's claim. The Department maintains a list of examiners qualified to conduct examinations.

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A worker who unreasonably refuses to submit to an IME, persists in practices which tend to imperil the worker's recovery, or commits other specified acts may have his or her benefits suspended.

Vocational rehabilitation services are available to an injured worker when these services are necessary and likely to enable the injured worker to become employable at gainful employment. After an assessment and determination of eligibility for services, a vocational rehabilitation plan is developed.

Self-insured employers process and manage claims of their injured workers. A self-insurer may schedule IMEs and assessments for vocational rehabilitation. A self-insurer may also issue an order closing certain types of claims.

### **Summary of Bill:**

Retro employers and groups who administer their plans with an approved claims administrator may assist the Department in the processing of claims. The Department retains the final authority for claims decisions. The authority of retro employers and groups includes the authority to:

Schedule of medical examinations and consultations. Retro employers and groups may schedule an IME when the claim file includes medical reports indicating that an exam may be necessary to establish a diagnosis, outline a treatment program, evaluate what conditions are related to the industrial injury or disease, determine whether an injury or disease has aggravated a preexisting condition, establish an impairment rating, evaluate whether the injury or disease has worsened, or evaluate the worker's mental or physical restrictions as well as the worker's ability to work. Examiners and consultants must be on the Department's approved list. No more than two IMEs on a claim may be scheduled within any 24-month period. Results must be sent to the Department.

The Department must strictly enforce penalties on a worker for refusals to submit to or obstruction of an IME, and for other prohibited actions.

Schedule vocational assessments. Providers must be on the Department's qualified provider list. Providers may be selected based on Department quality or performance indicators and based on industry experience. Assessments must be sent to the Department.

Close certain claims. Claims closure authority is limited to claims that:

- Involve only medical treatment and/or the payment of time-loss for 30 days or less;
- Do not involve permanent disability; and
- Concern a worker who has returned to work with the employer or group at the worker's previous job or a job with at least 95 percent of the worker's wages and benefits at the time of injury.

The retro employer or group must send the worker a notice developed by the Department describing the worker's rights.

If a dispute arises from the retro group or employer's exercise of authority, the worker, employer, or group may request the Department to intervene. The Department may require the retro employer or group to notify the Department before exercising any authority. The Department is given rule-making authority. Rules must minimize the Department's need to respond, and ensure that any delay in response by the Department does not impede the timely administration of the claim. Charges incurred by the retro employer or group for IMEs or vocational rehabilitation assessments are charged against the claim.

To qualify as an "approved claims administrator," a person must meet Department qualifications to manage claims. Claims managers employed by an approved claims administrator must complete training approved or provided by the Department and are subject to Department audit or review of their claims management process. If the Director of the Department determines that a claims manager is not following proper industrial insurance claims procedures, the Director must take corrective action against a retro employer or group. Corrective actions may include:

- a probationary period of time for the claims manager,
- additional mandatory training, and
- monitoring of the activity of the retro employer or group to determine progress towards compliance.

If compliance is attained, no further action may be taken. If compliance is not attained, the director may take additional corrective action, including the removal of the authority to assist with claims processing. The withdrawal of approval does not otherwise affect the administrator's status or the retro employer or group's status in the retro program.

**Appropriation:** None.

**Fiscal Note:** Requested on February 3, 2011.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.