
SUBSTITUTE HOUSE BILL 1487

State of Washington 62nd Legislature 2011 Regular Session

By House Labor & Workforce Development (originally sponsored by Representatives Springer and Condotta)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to claims management by retrospective rating plan
2 employers and groups; adding new sections to chapter 51.18 RCW;
3 creating a new section; and providing expiration dates.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.18 RCW
6 to read as follows:

7 (1) In addition to those general powers and rights deemed
8 appropriate by the department, retrospective rating plan employers and
9 groups who administer their plans with an approved claims administrator
10 shall have the authority to assist the department in the processing of
11 claims when approved by the department. However, the department
12 retains the final authority over decisions with respect to any
13 individual claim. The authority of retrospective rating plan employers
14 and groups includes, but is not limited to, the following:

15 (a) Authorization to schedule medical examinations and
16 consultations, using only qualified persons from the department's
17 approved examiner list. No more than two independent medical
18 examinations for each claim may be scheduled by the claims
19 administrator within any twenty-four month period. An independent

1 medical examination may be scheduled when the claim file includes
2 medical reports indicating that an examination may be necessary for any
3 of the following reasons: Establishing a diagnosis, outlining a
4 program of treatment, evaluating what, if any, conditions are related
5 to the claimed industrial injury or occupational disease, determining
6 whether an industrial injury or occupational disease has aggravated a
7 preexisting condition, establishing an impairment rating when the claim
8 file medical reports indicate that the worker's claim-related condition
9 is at maximum medical improvement, evaluating whether the industrial
10 injury or occupational disease has worsened, or evaluating the worker's
11 mental or physical restrictions as well as the worker's ability to
12 work. The results of any independent medical examination scheduled
13 under this subsection must be sent by the examiner or independent
14 medical examination panel directly to the department for the claimant's
15 claim file. The department shall enforce penalties under RCW 51.32.110
16 for refusals to submit to medical examinations scheduled by
17 retrospective rating plan employers or groups or obstruction of the
18 same.

19 (b) Authorization to schedule vocational assessments using only
20 qualified providers from a qualified provider list developed by the
21 department. Providers may be selected based on department quality or
22 performance indicators and based on industry experience. Any
23 vocational assessment resulting from a referral under this section must
24 be sent by the vocational rehabilitation counselor directly to the
25 department for the claimant's claim file.

26 (c) Authorization to close claims as provided by this subsection.
27 If a claim with date of injury or manifestation of occupational disease
28 on or after January 1, 2012: (i) Involves only medical treatment
29 and/or the payment of temporary disability compensation under RCW
30 51.32.090 for a period of thirty days or less; (ii) at the time medical
31 treatment is concluded, does not involve permanent disability; (iii) is
32 one with respect to which the department has not intervened under
33 subsection (2) of this section; and (iv) concerns an injured worker who
34 has returned to work with the retrospective rating plan employer or
35 employer within the group at the worker's previous job or at a job that
36 has at least ninety-five percent of at-injury wages and benefits, the
37 claim may be closed by the retrospective rating plan employer or group,
38 subject to reporting of claims to the department in a manner prescribed

1 by department rules adopted under chapter 34.05 RCW. No later than at
2 the time of closure for such claims, the retrospective rating plan
3 employer or group shall issue and send to the department and the worker
4 a written order and forward to the worker a notification developed by
5 the department describing in nontechnical language the worker's rights
6 under this title.

7 (2) If a dispute arises from the handling of any claim under this
8 section, the injured worker, or retrospective rating plan employer or
9 group, may request the department to intervene. When exercising any
10 authority under subsection (1) of this section, a retrospective rating
11 plan employer or group must inform a worker in writing that the worker
12 may request the department to intervene at any time.

13 (3) The department may require the retrospective rating plan
14 employer or group to notify the department prior to exercising any
15 authority authorized by this section. Rules adopted under this section
16 must minimize the department's need to respond and ensure that any
17 delay in response by the department does not impede the timely
18 administration of the claim. Charges incurred by the retrospective
19 rating plan employer or group for independent medical examinations or
20 vocational rehabilitation assessments shall be charged against the
21 claim.

22 (4) For the purposes of this section, "approved claims
23 administrator" means a person who meets department qualifications to
24 manage industrial insurance claims for retrospective rating plan
25 employers and groups. Any claims managers employed by the approved
26 claims administrator to manage retrospective rating plan claims must
27 complete training approved or provided by the department as established
28 in rule. The department may audit or review the claims management
29 process of a retrospective rating plan employer or group that has
30 received authority to assist the department with the processing of
31 claims. The director shall take corrective action, subject to appeal
32 to the board of industrial insurance appeals, against a retrospective
33 rating plan employer or group, if the director determines that a claims
34 manager under its direction is not following proper industrial
35 insurance claims procedures. Corrective actions taken by the director
36 may include:

37 (a) Probationary period of time for the claims manager;

1 (b) Additional mandatory training for claims management personnel;
2 and

3 (c) Monitoring of the activities of the employer or group to
4 determine progress towards compliance.

5 The director shall adopt rules defining the corrective actions
6 which may be taken in response to a given condition. If the director
7 determines that compliance has been attained, no further action shall
8 be taken. If compliance has not been attained, the director may take
9 additional corrective action including the removal of the additional
10 authority to assist the department in the processing of claims under
11 this section. The withdrawal of approval revokes the ability of the
12 approved claims administrator to exercise authority under this section,
13 but does not otherwise affect the administrator's status or the
14 retrospective rating plan employer or group's status in the
15 retrospective rating program.

16 (5) The department may adopt rules to implement this section.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.18 RCW
18 to read as follows:

19 Payment by an employer for direct primary care services as defined
20 in RCW 48.150.010 does not disqualify: (1) An employer from
21 participating in the retrospective rating plan; (2) a group sponsor
22 from promoting a retrospective rating plan; or (3) a plan administrator
23 from administering a retrospective rating plan. The department may
24 adopt rules requiring a direct practice to provide such information as
25 the department requires to establish refunds or assessments for
26 employers or groups under this chapter. Any billing rule requiring a
27 provider to bill for services does not apply to a direct practice. For
28 purposes of this section, "direct practice" shall have the meaning in
29 RCW 48.150.010.

30 NEW SECTION. **Sec. 3.** The joint legislative audit and review
31 committee shall conduct a study of the impact of section 2 of this act
32 on the state's workers' compensation system, including the impact on
33 the retrospective rating plan performance and refunds, the department's
34 processes, and worker outcomes and satisfaction. The joint legislative
35 audit and review committee shall submit the study to the appropriate
36 committees of the legislature by December 1, 2016.

1 This section expires December 31, 2016.

2 NEW SECTION. **Sec. 4.** Section 1 of this act expires July 1, 2016.

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