
SUBSTITUTE HOUSE BILL 1523

State of Washington

62nd Legislature

2011 Regular Session

By House State Government & Tribal Affairs (originally sponsored by Representatives Carlyle and Hunter; by request of Health Care Authority and Department of Social and Health Services)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to electronic transactions by state purchased
2 social and health care programs; amending RCW 51.04.030, 7.68.030, and
3 51.52.050; adding a new section to chapter 41.05 RCW; and adding a new
4 section to chapter 43.20A RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 41.05 RCW
7 to read as follows:

8 (1) Except as otherwise provided in this section, each contractor,
9 provider, or vendor must submit and receive transactions with the
10 authority electronically in the manner and format prescribed in this
11 section and by the authority. For purpose of this section,
12 "transactions" include, but are not limited to, authorization, billing,
13 or receipt of payment for state purchased health care services, as
14 defined in RCW 41.05.011, that are administered by the authority.

15 (2) Contracts between the authority and health carriers, as defined
16 in RCW 48.43.005, or third-party administrators for the provision or
17 administration of health care services shall include a provision
18 requiring the carrier or third-party administrator to condition payment
19 for health care services upon their network health care providers

1 billing and receiving payment for services electronically. This
2 requirement must be implemented no later than July 2012, or the
3 effective date of contracts executed under any upcoming contract
4 procurement.

5 (3)(a) The authority may, for good cause, temporarily or
6 permanently waive the requirements of this section. Circumstances that
7 the authority may consider as justification for good cause include:

8 (i) A health care provider or vendor who delivers timely access to
9 care or services for which there is a critical need in the geographic
10 area served by the provider or vendor;

11 (ii) A health care provider or vendor with service interruptions or
12 inadequate internet service in their community and who has low claim
13 volume; or

14 (iii) Initial transactions for a newly contracted health care
15 provider or vendor.

16 (b) The authority's determinations regarding "good cause" are not
17 subject to review under the administrative procedure act, chapter 34.05
18 RCW.

19 (4) Transactions that are not submitted electronically in the
20 manner and format prescribed by the authority may be returned without
21 processing.

22 (5) The authority must adopt any rules it deems necessary to
23 implement the provisions of this section, including the criteria for
24 good cause waivers and an administrative processing fee for any charge
25 that is not submitted electronically in the manner and format specified
26 by the authority.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.20A RCW
28 to read as follows:

29 (1) Except as otherwise provided in this section, each contractor,
30 provider, or vendor must submit and receive transactions with the
31 department electronically in the manner and format prescribed in this
32 section and by the department. For purpose of this section,
33 "transactions" include, but are not limited to, authorization, billing,
34 or receipt of payment for state purchased health care services, as
35 defined in RCW 41.05.011.

36 (2) The department shall implement the requirements under this
37 section in phases as follows:

1 (a) For transactions processed through the state's medicaid
2 management information system, the department shall require: (i)
3 Institutional and professional claims to be submitted and paid
4 electronically by January 2012; (ii) dental claims to be submitted and
5 paid electronically by July 2012; and (iii) service authorizations to
6 be submitted electronically by January 2013; and

7 (b) Contracts between the authority and health carriers, as defined
8 in RCW 48.43.005, or third-party administrators for the provision or
9 administration of health care services shall include a provision
10 requiring the carrier or third-party administrator to condition payment
11 for health care services upon their network health care providers
12 billing and receiving payment for services electronically. This
13 requirement must be implemented no later than July 2012, or the
14 effective date of contracts executed under any upcoming contract
15 procurement.

16 (3)(a) The department may, for good cause, temporarily or
17 permanently waive the requirements of this section. Circumstances that
18 the department may consider as justification for good cause include:

19 (i) A health care provider or vendor who delivers timely access to
20 care or services for which there is a critical need in the geographic
21 area served by the provider or vendor;

22 (ii) A health care provider or vendor with service interruptions or
23 inadequate internet service in their community and who has low claim
24 volume; or

25 (iii) Initial transactions for a newly contracted health care
26 provider or vendor.

27 (b) The department's determinations regarding "good cause" are not
28 subject to review under the administrative procedure act, chapter 34.05
29 RCW.

30 (4) Transactions that are not submitted electronically in the
31 manner and format prescribed by the department may be returned without
32 processing.

33 (5) The department must adopt any rules it deems necessary to
34 implement the provisions of this section, including the criteria for
35 good cause waivers and an administrative processing fee for any charge
36 that is not submitted electronically in the manner and format specified
37 by the department.

1 **Sec. 3.** RCW 51.04.030 and 2004 c 65 s 1 are each amended to read
2 as follows:

3 (1) The director shall supervise the providing of prompt and
4 efficient care and treatment, including care provided by physician
5 assistants governed by the provisions of chapters 18.57A and 18.71A
6 RCW, acting under a supervising physician, including chiropractic care,
7 and including care provided by licensed advanced registered nurse
8 practitioners, to workers injured during the course of their employment
9 at the least cost consistent with promptness and efficiency, without
10 discrimination or favoritism, and with as great uniformity as the
11 various and diverse surrounding circumstances and locations of
12 industries will permit and to that end shall, from time to time,
13 establish and adopt and supervise the administration of printed forms,
14 rules, regulations, and practices for the furnishing of such care and
15 treatment: PROVIDED, That the medical coverage decisions of the
16 department do not constitute a "rule" as used in RCW 34.05.010(16), nor
17 are such decisions subject to the rule-making provisions of chapter
18 34.05 RCW except that criteria for establishing medical coverage
19 decisions shall be adopted by rule after consultation with the workers'
20 compensation advisory committee established in RCW 51.04.110: PROVIDED
21 FURTHER, That the department may recommend to an injured worker
22 particular health care services and providers where specialized
23 treatment is indicated or where cost effective payment levels or rates
24 are obtained by the department: AND PROVIDED FURTHER, That the
25 department may enter into contracts for goods and services including,
26 but not limited to, durable medical equipment so long as statewide
27 access to quality service is maintained for injured workers.

28 (2) The director shall, in consultation with interested persons,
29 establish and, in his or her discretion, periodically change as may be
30 necessary, and make available a fee schedule of the maximum charges to
31 be made by any physician, surgeon, chiropractor, hospital, druggist,
32 licensed advanced registered nurse practitioner, physicians' assistants
33 as defined in chapters 18.57A and 18.71A RCW, acting under a
34 supervising physician or other agency or person rendering services to
35 injured workers. The department shall coordinate with other state
36 purchasers of health care services to establish as much consistency and
37 uniformity in billing and coding practices as possible, taking into
38 account the unique requirements and differences between programs. No

1 service covered under this title, including services provided to
2 injured workers, whether aliens or other injured workers, who are not
3 residing in the United States at the time of receiving the services,
4 shall be charged or paid at a rate or rates exceeding those specified
5 in such fee schedule, and no contract providing for greater fees shall
6 be valid as to the excess. The establishment of such a schedule,
7 exclusive of conversion factors, does not constitute "agency action" as
8 used in RCW 34.05.010(3), nor does such a fee schedule constitute a
9 "rule" as used in RCW 34.05.010(16).

10 (3) The director or self-insurer, as the case may be, shall make a
11 record of the commencement of every disability and the termination
12 thereof and, when bills are rendered for the care and treatment of
13 injured workers, shall approve and pay those which conform to the
14 adopted rules, (~~(regulations,)~~) established fee schedules, and
15 practices of the director and may reject any bill or item thereof
16 incurred in violation of the principles laid down in this section or
17 the rules(~~(, regulations,)~~) or the established fee schedules and rules
18 (~~(and regulations)~~) adopted under it.

19 (4)(a) Except as otherwise provided in this section, each medical
20 or vocational provider must submit and receive transactions with the
21 department electronically in the manner and format prescribed by the
22 department. For the purposes of this section, "transactions" include,
23 but are not limited to, billing, receipt of payments and remittance
24 advice documents, requests for authorization of medical services, and
25 applications to be a provider who treats injured workers.

26 (b) The department may, for good cause, temporarily or permanently
27 exempt a provider from the requirements of this section. Circumstances
28 that the department may consider as justification for good cause
29 include:

30 (i) Initial transactions for new providers during their first three
31 months of participation;

32 (ii) A need to provide access to care when other appropriate
33 options are unavailable or would cause substantial delays;

34 (iii) Providers who engage in minimal transactions with the
35 department; and

36 (iv) Service interruptions or inadequate internet service in the
37 provider's community.

1 (c) The department shall adopt rules necessary to implement this
2 section, including the criteria for any exemptions. The rules must
3 implement requirements for authorization, billing, payment, and
4 remittance advice documents in the following phases:

5 (i) By July 1, 2012, medical and vocational providers must be
6 required to bill the department electronically;

7 (ii) By January 1, 2014, medical and vocational providers must be
8 required to receive payments and remittance advice documents
9 electronically; and

10 (iii) By January 1, 2015, medical providers must be required to
11 submit authorization requests electronically for services requiring
12 preauthorization.

13 **Sec. 4.** RCW 7.68.030 and 2009 c 479 s 7 are each amended to read
14 as follows:

15 (1) It shall be the duty of the director to establish and
16 administer a program of benefits to innocent victims of criminal acts
17 within the terms and limitations of this chapter. In so doing, the
18 director shall, in accordance with chapter 34.05 RCW, adopt rules and
19 regulations necessary to the administration of this chapter, and the
20 provisions contained in chapter 51.04 RCW, including but not limited to
21 RCW 51.04.020, 51.04.030, 51.04.040, 51.04.050 and 51.04.100 as now or
22 hereafter amended, shall apply where appropriate in keeping with the
23 intent of this chapter. The director may apply for and, subject to
24 appropriation, expend federal funds under Public Law 98-473 and any
25 other federal program providing financial assistance to state crime
26 victim compensation programs. The federal funds shall be deposited in
27 the state general fund and may be expended only for purposes authorized
28 by applicable federal law.

29 (2)(a) Except as otherwise provided by this section, each medical
30 provider must submit and receive transactions with the department
31 electronically in the manner and format prescribed by the department.
32 For the purposes of this section, "transactions" include, but are not
33 limited to, billing, receipt of payments and remittance advice
34 documents, and applications to be a provider who treats crime victims.

35 (b) The department may, for good cause, temporarily or permanently
36 exempt a provider from the requirements of this section. Circumstances

1 that the department may consider as justification for good cause
2 include:

3 (i) Initial transactions for new providers during their first three
4 months of participation;

5 (ii) A need to provide access to care when other appropriate
6 options are unavailable or would cause substantial delays;

7 (iii) Providers who engage in minimal transactions with the
8 department; and

9 (iv) Service interruptions or inadequate internet service in the
10 provider's community.

11 (c) The department shall adopt rules necessary to implement this
12 section, including the criteria for any exemptions. The rules must
13 implement requirements for authorization, billing, payment, and
14 remittance advice documents in the following phases:

15 (i) By July 1, 2012, medical providers must be required to bill the
16 department electronically; and

17 (ii) By January 1, 2014, medical providers must be required to
18 receive payments and remittance advice documents electronically.

19 **Sec. 5.** RCW 51.52.050 and 2008 c 280 s 1 are each amended to read
20 as follows:

21 (1) Whenever the department has made any order, decision, or award,
22 it shall promptly serve the worker, beneficiary, employer, or other
23 person affected thereby, with a copy thereof by mail, (~~which shall be~~
24 ~~addressed to such person at his or her last known address as shown by~~
25 ~~the records of the department~~) or if the worker, beneficiary,
26 employer, or other person affected thereby chooses, the department may
27 send correspondence and other legal notices by secure electronic means.
28 Correspondence and notices must be addressed to such a person at his or
29 her last known postal or electronic address as shown by the records of
30 the department. Correspondence and notices sent electronically are
31 considered received on the date sent by the department. The copy, in
32 case the same is a final order, decision, or award, shall bear on the
33 same side of the same page on which is found the amount of the award,
34 a statement, set in black faced type of at least ten point body or
35 size, that such final order, decision, or award shall become final
36 within sixty days from the date the order is communicated to the
37 parties unless a written request for reconsideration is filed with the

1 department of labor and industries, Olympia, or an appeal is filed with
2 the board of industrial insurance appeals, Olympia. However, a
3 department order or decision making demand, whether with or without
4 penalty, for repayment of sums paid to a provider of medical, dental,
5 vocational, or other health services rendered to an industrially
6 injured worker, shall state that such order or decision shall become
7 final within twenty days from the date the order or decision is
8 communicated to the parties unless a written request for
9 reconsideration is filed with the department of labor and industries,
10 Olympia, or an appeal is filed with the board of industrial insurance
11 appeals, Olympia.

12 (2)(a) Whenever the department has taken any action or made any
13 decision relating to any phase of the administration of this title the
14 worker, beneficiary, employer, or other person aggrieved thereby may
15 request reconsideration of the department, or may appeal to the board.
16 In an appeal before the board, the appellant shall have the burden of
17 proceeding with the evidence to establish a prima facie case for the
18 relief sought in such appeal.

19 (b) An order by the department awarding benefits shall become
20 effective and benefits due on the date issued. Subject to (b)(i) and
21 (ii) of this subsection, if the department order is appealed the order
22 shall not be stayed pending a final decision on the merits unless
23 ordered by the board. Upon issuance of the order granting the appeal,
24 the board will provide the worker with notice concerning the potential
25 of an overpayment of benefits paid pending the outcome of the appeal
26 and the requirements for interest on unpaid benefits pursuant to RCW
27 51.52.135. A worker may request that benefits cease pending appeal at
28 any time following the employer's motion for stay or the board's order
29 granting appeal. The request must be submitted in writing to the
30 employer, the board, and the department. Any employer may move for a
31 stay of the order on appeal, in whole or in part. The motion must be
32 filed within fifteen days of the order granting appeal. The board
33 shall conduct an expedited review of the claim file provided by the
34 department as it existed on the date of the department order. The
35 board shall issue a final decision within twenty-five days of the
36 filing of the motion for stay or the order granting appeal, whichever
37 is later. The board's final decision may be appealed to superior court
38 in accordance with RCW 51.52.110. The board shall grant a motion to

1 stay if the moving party demonstrates that it is more likely than not
2 to prevail on the facts as they existed at the time of the order on
3 appeal. The board shall not consider the likelihood of recoupment of
4 benefits as a basis to grant or deny a motion to stay. If a
5 self-insured employer prevails on the merits, any benefits paid may be
6 recouped pursuant to RCW 51.32.240.

7 (i) If upon reconsideration requested by a worker or medical
8 provider, the department has ordered an increase in a permanent partial
9 disability award from the amount reflected in an earlier order, the
10 award reflected in the earlier order shall not be stayed pending a
11 final decision on the merits. However, the increase is stayed without
12 further action by the board pending a final decision on the merits.

13 (ii) If any party appeals an order establishing a worker's wages or
14 the compensation rate at which a worker will be paid temporary or
15 permanent total disability or loss of earning power benefits, the
16 worker shall receive payment pending a final decision on the merits
17 based on the following:

18 (A) When the employer is self-insured, the wage calculation or
19 compensation rate the employer most recently submitted to the
20 department; or

21 (B) When the employer is insured through the state fund, the
22 highest wage amount or compensation rate uncontested by the parties.

23 Payment of benefits or consideration of wages at a rate that is
24 higher than that specified in (b)(ii)(A) or (B) of this subsection is
25 stayed without further action by the board pending a final decision on
26 the merits.

27 (c) In an appeal from an order of the department that alleges
28 willful misrepresentation, the department or self-insured employer
29 shall initially introduce all evidence in its case in chief. Any such
30 person aggrieved by the decision and order of the board may thereafter
31 appeal to the superior court, as prescribed in this chapter.

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