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HOUSE BILL 2114

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State of Washington                      62nd Legislature                      2011 1st Special Session

By Representatives Kirby and Ryu

Read first time 05/06/11. Referred to Committee on Labor & Workforce Development.

1            AN ACT Relating to the duty of good faith and fair dealing to  
2 injured workers; amending RCW 51.48.080; adding a new section to  
3 chapter 51.48 RCW; and prescribing penalties.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 51.48 RCW  
6 to read as follows:

7            (1) The department, employer, employer representative, and other  
8 persons have a duty to injured workers of good faith and fair dealing  
9 relating to all aspects of this title. This duty is violated if:

10            (a)(i) The department, employer, or employer representative denies  
11 or delays payment of benefits, including medical benefits, without a  
12 reasonable basis; and

13            (ii) The department, employer, or employer representative knew, or  
14 should have known, there was not a reasonable basis for denying or  
15 delaying payment of benefits. A reasonable basis is an objective  
16 standard based on the information available at the time.

17            (b) An employer, employer representative, or any person:

18            (i) Persuades a worker to accept less than the compensation due  
19 under this title;

1 (ii) Induces or coerces a worker who is entitled to temporary total  
2 disability under this title to return to work in contravention of RCW  
3 51.32.090(4); or

4 (iii) Fails to comply with the rules of the department regarding  
5 reports or other requirements necessary for adjudicating claims under  
6 this title.

7 (2) The department may adopt by rule additional applications of the  
8 duty of good faith and fair dealing. In adopting a rule under this  
9 subsection, the department shall consider, among other factors,  
10 recognized and approved claim processing practices within the insurance  
11 industry, the department's own experience, and the industrial insurance  
12 and insurance laws and rules of the state.

13 (3) The department shall investigate each alleged violation of this  
14 section upon the filing of a written complaint or on its own motion.  
15 Violations shall be determined in the sole discretion of the director  
16 or designee. An order conforming with RCW 51.52.050 determining  
17 whether a violation has occurred shall be issued within thirty days of  
18 a request for an investigation.

19 (4) If the department, employer, employer representative, or other  
20 person violates any provision of this section, the violator shall pay  
21 a civil penalty of at least two hundred fifty dollars but not to exceed  
22 two thousand five hundred dollars for each offense upon order of the  
23 director. The penalty shall accrue for the benefit of:

24 (a) The affected worker if the violation pertains to a specific  
25 claim; or

26 (b) To the department to be used specifically for worker safety  
27 programs if the penalty is based on a history or pattern of violations.

28 **Sec. 2.** RCW 51.48.080 and 1985 c 347 s 7 are each amended to read  
29 as follows:

30 Except as provided in section 1 of this act, every person, firm or  
31 corporation who violates or fails to obey, observe or comply with any  
32 rule of the department (~~(promulgated)~~) adopted under (~~(authority of)~~)  
33 this title(~~(7)~~) shall be subject to a penalty of not (~~(to exceed)~~) more  
34 than five hundred dollars.

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