
Labor Committee

HB 1611

Brief Description: Addressing claims and compensation under the industrial insurance laws.

Sponsors: Representatives Reykdal, Dunshee, Sells and Pollet.

Brief Summary of Bill

- Defines "benefits" for purposes of self-insurer penalties for delay or refusal to pay benefits to include medical services and other payments.
- Requires that attorneys' fees and costs be paid by the State Fund or self-insurer, as appropriate, when the Board of Industrial Insurance Appeals issues certain orders regarding treatment or paying for treatment.

Hearing Date: 2/5/15

Staff: Joan Elgee (786-7106).

Background:

Self-Insurer Penalties.

Under the state's industrial insurance laws, employers must insure through the State Fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure. Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to benefits. Depending on the disability, workers are entitled to medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for total and partial permanent disabilities. If the worker returns to work while the claim is open, loss of earning power benefits may be payable.

A self-insured employer who unreasonably delays or refuses to pay benefits is subject to a penalty of \$500 or 25 percent of the amount due, whichever is greater, which is paid to the claimant. Within 30 days of a claimant's request for penalties, the Director of the Department must issue an order determining whether the self-insurer unreasonably delayed or refused to pay benefits.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 2012, the Board of Industrial Insurance Appeals (Board) issued a decision that "benefits" includes medical services. The Department subsequently amended a rule to specify when the Department will consider assessing a penalty for unreasonable delay and refusal to pay. The benefits specified in the rule are time-loss compensation, loss of earning power compensation, permanent partial disability awards, and medical treatment benefits. Penalties for a delay will be considered under specified circumstances. Penalties for failure to pay apply if there is no medical, vocational, or legal doubt about whether the self-insurer should pay the benefit.

Attorneys' Fees.

If the Board reverses or modifies a decision of the Department and grants the worker additional relief, or if an employer or other party appeals and the Board sustains the worker's right to relief, the worker or the worker's attorney may apply to the Board to fix the attorney's fee. If the Board fixes the fee, it is unlawful for an attorney to charge or receive an additional fee.

If a self-insurer or the Department fail to comply with a compensation order which has become final, an action in Superior Court may be initiated.

Summary of Bill:

Self-Insurer Penalties.

For purposes of self-insurer penalties for delay and refusal to pay benefits, "benefits" are defined to mean any compensation, services, payments, or entitlements due the claimant including time loss compensation and medical services.

Attorney's Fees.

Attorneys' fee provisions are modified for decisions concerning treatment or payment for treatment. If the Board reverses or modifies the Department's decision and orders treatment to be allowed or paid for, or if an employer appeals and a decision allowing treatment or payment for treatment is affirmed, in whole or part, the Board must fix a reasonable attorneys' fee and order reimbursement to the claimant of all costs incurred before the Board, including witness fees. The fees and costs are payable by the State Fund or self-insured employer, as appropriate.

Attorneys' fees and costs must be paid within 60 days of the date the Board's order becomes final. Interest at 12 percent per annum is payable on fees and costs not paid within 60 days. The claimant may enforce the award through Superior Court, and the Superior Court may award reasonable attorneys' fees and costs. These fees and costs must also be paid by the State Fund or self-insured employer, as appropriate.

Appropriation: None.

Fiscal Note: Requested on February 2, 1015.

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