
HOUSE BILL 1611

State of Washington 64th Legislature 2015 Regular Session

By Representatives Reykdal, Dunshee, Sells, and Pollet

Read first time 01/23/15. Referred to Committee on Labor.

1 AN ACT Relating to claims and compensation under the industrial
2 insurance laws; and amending RCW 51.48.017 and 51.52.120.

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

4 **Sec. 1.** RCW 51.48.017 and 2010 c 8 s 14011 are each amended to
5 read as follows:

6 If a self-insurer unreasonably delays or refuses to pay benefits
7 as they become due there shall be paid by the self-insurer upon order
8 of the director an additional amount equal to five hundred dollars or
9 twenty-five percent of the amount then due, whichever is greater,
10 which shall (~~accrue for the benefit of the claimant and shall~~) be
11 paid to (~~him or her~~) the claimant along with the benefits which may
12 be assessed under this title. For the purposes of this section,
13 "benefits" means any compensation, services, payments, or
14 entitlements due the claimant under this title including, but not
15 limited to, time loss compensation and medical services. The director
16 shall issue an order determining whether there was an unreasonable
17 delay or refusal to pay benefits within thirty days upon the request
18 of the claimant. Such an order shall conform to the requirements of
19 RCW 51.52.050.

1 **Sec. 2.** RCW 51.52.120 and 2011 1st sp.s. c 37 s 304 are each
2 amended to read as follows:

3 (1) Except for claim resolution structured settlement agreements,
4 it shall be unlawful for an attorney engaged in the representation of
5 any worker or beneficiary to charge for services in the department
6 any fee in excess of a reasonable fee, of not more than thirty
7 percent of the increase in the award secured by the attorney's
8 services. Such reasonable fee shall be fixed by the director or the
9 director's designee for services performed by an attorney for such
10 worker or beneficiary, if written application therefor is made by the
11 attorney, worker, or beneficiary within one year from the date the
12 final decision and order of the department is communicated to the
13 party making the application.

14 (2) Subject to subsection (3) of this section, if, on appeal to
15 the board, the order, decision, or award of the department is
16 reversed or modified and additional relief is granted to a worker or
17 beneficiary, or in cases where a party other than the worker or
18 beneficiary is the appealing party and the worker's or beneficiary's
19 right to relief is sustained by the board, the board shall fix a
20 reasonable fee for the services of his or her attorney in proceedings
21 before the board if written application therefor is made by the
22 attorney, worker, or beneficiary within one year from the date the
23 final decision and order of the board is communicated to the party
24 making the application. In fixing the amount of such attorney's fee,
25 the board shall take into consideration the fee allowed, if any, by
26 the director, for services before the department, and the board may
27 review the fee fixed by the director. Any attorney's fee set by the
28 department or the board may be reviewed by the superior court upon
29 application of such attorney, worker, or beneficiary. The department
30 or self-insured employer, as the case may be, shall be served a copy
31 of the application and shall be entitled to appear and take part in
32 the proceedings. Where the board, pursuant to this section, fixes the
33 attorney's fee, it shall be unlawful for an attorney to charge or
34 receive any fee for services before the board in excess of that fee
35 fixed by the board.

36 (3)(a) If, on appeal to the board, an order, decision, or award
37 of the department denying treatment or payment for treatment is
38 reversed or modified and the treatment is ordered to be allowed or
39 paid for, or in cases where the employer is the appealing party and
40 an order, decision, or award of the department allowing treatment or

1 paying for treatment is affirmed in whole or part, the board shall
2 fix a reasonable fee for the services of the worker's attorney before
3 the board and the board shall order reimbursement to the claimant for
4 all costs incurred before the board including fees of medical and
5 other witnesses. The fees and costs shall be payable directly by the
6 state fund or self-insured employer, as appropriate.

7 (b) Attorneys' fees and costs under this subsection must be paid
8 within sixty days of the date the board's order becomes final. If the
9 fees and costs are not paid within sixty days, interest shall be
10 payable on such fees and costs at a rate of twelve percent per annum.
11 If such fees and costs are not paid within sixty days, the claimant
12 may enforce the board's order pursuant to RCW 51.32.200 or 51.32.215.
13 In such instances, the superior court may award reasonable attorneys'
14 fees and costs associated with the proceedings before the superior
15 court. The fees and costs shall be payable directly by the state fund
16 or self-insured employer, as appropriate.

17 (4) For claim resolution structured settlement agreements, fees
18 for attorney services are limited to fifteen percent of the total
19 amount to be paid to the worker after the agreement becomes final.
20 The board will also decide on any disputes as to attorneys' fees for
21 services related to claim resolution structured settlement agreements
22 consistent with the procedures in subsection (2) of this section.

23 ((+4)) (5) In an appeal to the board involving the presumption
24 established under RCW 51.32.185, the attorney's fee shall be payable
25 as set forth under RCW 51.32.185.

26 ((+5)) (6) Any person who violates this section is guilty of a
27 misdemeanor.

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