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HOUSE BILL 1197

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State of Washington

68th Legislature

2023 Regular Session

**By** Representatives Bronoske, Berry, Bateman, Simmons, Fosse, Davis, and Pollet; by request of Department of Labor & Industries

Read first time 01/10/23. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to defining attending provider and clarifying  
2 other provider functions for workers' compensation claims, and adding  
3 psychologists as attending providers for mental health only claims;  
4 amending RCW 51.04.050, 51.28.010, 51.28.020, 51.28.030, 51.32.055,  
5 51.32.090, 51.32.095, 51.36.010, 51.36.022, 51.36.060, and 51.36.070;  
6 adding a new section to chapter 51.08 RCW; and providing an effective  
7 date.

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

9 **Sec. 1.** RCW 51.04.050 and 2004 c 65 s 2 are each amended to read  
10 as follows:

11 In all hearings, actions or proceedings before the department or  
12 the board of industrial insurance appeals, or before any court on  
13 appeal from the board, any (~~physician or licensed advanced~~  
14 ~~registered nurse practitioner~~) health services provider having  
15 theretofore examined or treated the claimant may be required to  
16 testify fully regarding such examination or treatment, and shall not  
17 be exempt from so testifying by reason of the relation of the  
18 (~~physician or licensed advanced registered nurse practitioner~~)  
19 health services provider to patient.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 51.08  
2    RCW to read as follows:

3        "Attending provider" means a person who is a member of the health  
4    care provider network established under RCW 51.36.010, is treating  
5    injured workers within the person's scope of practice, and is  
6    licensed under Title 18 RCW in one of the following professions:  
7    Physicians, chapter 18.71 RCW; osteopathy, chapter 18.57 RCW;  
8    chiropractic, chapter 18.25 RCW; naturopathy, chapter 18.36A RCW;  
9    podiatric medicine and surgery, chapter 18.22 RCW; dentistry, chapter  
10   18.32 RCW; optometry, chapter 18.53 RCW; in the case of claims solely  
11   for mental health conditions, psychology, chapter 18.83 RCW;  
12   physician assistants, chapter 18.71A RCW; and licensed advanced  
13   registered nurse practitioners, chapter 18.79 RCW.

14        **Sec. 3.**    RCW 51.28.010 and 2007 c 77 s 1 are each amended to read  
15   as follows:

16        (1) Whenever any accident occurs to any worker it shall be the  
17   duty of such worker or someone in his or her behalf to forthwith  
18   report such accident to his or her employer, superintendent, or  
19   supervisor in charge of the work, and of the employer to at once  
20   report such accident and the injury resulting therefrom to the  
21   department pursuant to RCW 51.28.025 where the worker has received  
22   treatment from a physician (~~or a~~), osteopathic physician,  
23   chiropractor, naturopath, podiatric physician, optometrist, dentist,  
24   licensed advanced registered nurse practitioner, physician assistant,  
25   or psychologist in claims solely for mental health conditions, has  
26   been hospitalized, disabled from work, or has died as the apparent  
27   result of such accident and injury.

28        (2) Upon receipt of such notice of accident, the department shall  
29   immediately forward to the worker or his or her beneficiaries or  
30   dependents notification, in nontechnical language, of their rights  
31   under this title. The notice must specify the worker's right to  
32   receive health services from a (~~physician or a licensed advanced~~  
33   ~~registered nurse practitioner~~) provider of the worker's choice under  
34   RCW 51.36.010(2)(a), including chiropractic services under RCW  
35   51.36.015, and must list the types of providers authorized to provide  
36   these services.

37        (3) Employers shall not engage in claim suppression.

38        (4) For the purposes of this section, "claim suppression" means  
39   intentionally:

1 (a) Inducing employees to fail to report injuries;

2 (b) Inducing employees to treat injuries in the course of  
3 employment as off-the-job injuries; or

4 (c) Acting otherwise to suppress legitimate industrial insurance  
5 claims.

6 (5) In determining whether an employer has engaged in claim  
7 suppression, the department shall consider the employer's history of  
8 compliance with industrial insurance reporting requirements, and  
9 whether the employer has discouraged employees from reporting  
10 injuries or filing claims. The department has the burden of proving  
11 claim suppression by a preponderance of the evidence.

12 (6) Claim suppression does not include bona fide workplace safety  
13 and accident prevention programs or an employer's provision at the  
14 worksite of first aid as defined by the department. The department  
15 shall adopt rules defining bona fide workplace safety and accident  
16 prevention programs and defining first aid.

17 **Sec. 4.** RCW 51.28.020 and 2005 c 108 s 3 are each amended to  
18 read as follows:

19 (1)(a) Where a worker is entitled to compensation under this  
20 title he or she shall file with the department or his or her self-  
21 insured employer, as the case may be, his or her application for  
22 such, together with the certificate of the physician ~~((or)),~~  
23 osteopathic physician, chiropractor, naturopath, podiatric physician,  
24 optometrist, dentist, licensed advanced registered nurse  
25 practitioner, physician assistant, or psychologist in claims solely  
26 for mental health conditions, who attended him or her. An application  
27 form developed by the department shall include a notice specifying  
28 the worker's right to receive health services from a ~~((physician or~~  
29 ~~licensed advanced registered nurse practitioner))~~ provider of the  
30 worker's choice under RCW 51.36.010(2)(a), ~~((including chiropractic~~  
31 ~~services under RCW 51.36.015,))~~ and listing the types of providers  
32 authorized to provide these services.

33 (b) The physician ~~((or)),~~ osteopathic physician, chiropractor,  
34 naturopath, podiatric physician, optometrist, dentist, licensed  
35 advanced registered nurse practitioner, physician assistant, or  
36 psychologist in claims solely for mental health conditions, who  
37 attended the injured worker shall inform the injured worker of his or  
38 her rights under this title and lend all necessary assistance in  
39 making this application for compensation and such proof of other

1 matters as required by the rules of the department without charge to  
2 the worker. The department shall provide (~~(physicians with)~~) a manual  
3 which outlines the procedures to be followed in applications for  
4 compensation involving occupational diseases, and which describes  
5 claimants' rights and responsibilities related to occupational  
6 disease claims.

7 (2) If the application required by this section is:

8 (a) (~~(Filed on behalf of the worker by the physician who attended~~  
9 ~~the worker, the physician may transmit the application to the~~  
10 ~~department electronically using facsimile mail;~~

11 ~~(b))~~) Made to the department and the employer has not received a  
12 copy of the application, the department shall immediately send a copy  
13 of the application to the employer; or

14 (~~(e))~~) (b) Made to a self-insured employer, the employer shall  
15 forthwith send a copy of the application to the department.

16 (3) The application required by this section may be transmitted  
17 to the department electronically.

18 **Sec. 5.** RCW 51.28.030 and 2004 c 65 s 6 are each amended to read  
19 as follows:

20 Where death results from injury the parties entitled to  
21 compensation under this title, or someone in their behalf, shall make  
22 application for the same to the department or self-insurer as the  
23 case may be, which application must be accompanied with proof of  
24 death and proof of relationship showing the parties to be entitled to  
25 compensation under this title, certificates of attending (~~(physician~~  
26 ~~or licensed advanced registered nurse practitioner)) provider, if  
27 any, and such proof as required by the rules of the department.~~

28 Upon receipt of notice of accident under RCW 51.28.010, the  
29 director shall immediately forward to the party or parties required  
30 to make application for compensation under this section,  
31 notification, in nontechnical language, of their rights under this  
32 title.

33 **Sec. 6.** RCW 51.32.055 and 2004 c 65 s 8 are each amended to read  
34 as follows:

35 (1) One purpose of this title is to restore the injured worker as  
36 nearly as possible to the condition of self-support as an able-bodied  
37 worker. Benefits for permanent disability shall be determined under  
38 the director's supervision, except as otherwise authorized in

1 subsection (9) of this section, only after the injured worker's  
2 condition becomes fixed.

3 (2) All determinations of permanent disabilities shall be made by  
4 the department, except as otherwise authorized in subsection (9) of  
5 this section. Either the worker, employer, or self-insurer may make a  
6 request or the inquiry may be initiated by the director or, as  
7 authorized in subsection (9) of this section, by the self-insurer on  
8 the director or the self-insurer's own motion. Determinations shall  
9 be required in every instance where permanent disability is likely to  
10 be present. All medical reports and other pertinent information in  
11 the possession of or under the control of the employer or, if the  
12 self-insurer has made a request to the department, in the possession  
13 of or under the control of the self-insurer shall be forwarded to the  
14 director with the request.

15 (3) A request for determination of permanent disability shall be  
16 examined by the department or, if authorized in subsection (9) of  
17 this section, the self-insurer, and the department shall issue an  
18 order in accordance with RCW 51.52.050 or, in the case of a self-  
19 insured employer, the self-insurer may: (a) Enter a written order,  
20 communicated to the worker and the department self-insurance section  
21 in accordance with subsection (9) of this section, or (b) request the  
22 department to issue an order in accordance with RCW 51.52.050.

23 (4) The department or, in cases authorized in subsection (9) of  
24 this section, the self-insurer may require that the worker present  
25 himself or herself for a special medical examination by a physician  
26 or physicians selected by the department, and the department or, in  
27 cases authorized in subsection (9) of this section, the self-insurer  
28 may require that the worker present himself or herself for a personal  
29 interview. The costs of the examination or interview, including  
30 payment of any reasonable travel expenses, shall be paid by the  
31 department or self-insurer, as the case may be.

32 (5) The director may establish a medical bureau within the  
33 department to perform medical examinations under this section.  
34 Physicians hired or retained for this purpose shall be grounded in  
35 industrial medicine and in the assessment of industrial physical  
36 impairment. Self-insurers shall bear a proportionate share of the  
37 cost of the medical bureau in a manner to be determined by the  
38 department.

39 (6) Where a dispute arises from the handling of any claim before  
40 the condition of the injured worker becomes fixed, the worker,

1 employer, or self-insurer may request the department to resolve the  
2 dispute or the director may initiate an inquiry on his or her own  
3 motion. In these cases, the department shall proceed as provided in  
4 this section and an order shall issue in accordance with RCW  
5 51.52.050.

6 (7) (a) If a claim (i) is accepted by a self-insurer after June  
7 30, 1986, and before August 1, 1997, (ii) involves only medical  
8 treatment and the payment of temporary disability compensation under  
9 RCW 51.32.090 or only the payment of temporary disability  
10 compensation under RCW 51.32.090, (iii) at the time medical treatment  
11 is concluded does not involve permanent disability, (iv) is one with  
12 respect to which the department has not intervened under subsection  
13 (6) of this section, and (v) the injured worker has returned to work  
14 with the self-insured employer of record, whether at the worker's  
15 previous job or at a job that has comparable wages and benefits, the  
16 claim may be closed by the self-insurer, subject to reporting of  
17 claims to the department in a manner prescribed by department rules  
18 adopted under chapter 34.05 RCW.

19 (b) All determinations of permanent disability for claims  
20 accepted under this subsection (7) by self-insurers shall be made by  
21 the self-insured section of the department under subsections (1)  
22 through (4) of this section.

23 (c) Upon closure of a claim under (a) of this subsection, the  
24 self-insurer shall enter a written order, communicated to the worker  
25 and the department self-insurance section, which contains the  
26 following statement clearly set forth in bold face type: "This order  
27 constitutes notification that your claim is being closed with medical  
28 benefits and temporary disability compensation only as provided, and  
29 with the condition you have returned to work with the self-insured  
30 employer. If for any reason you disagree with the conditions or  
31 duration of your return to work or the medical benefits or the  
32 temporary disability compensation that has been provided, you must  
33 protest in writing to the department of labor and industries, self-  
34 insurance section, within sixty days of the date you received this  
35 order."

36 (8) (a) If a claim (i) is accepted by a self-insurer after June  
37 30, 1990, and before August 1, 1997, (ii) involves only medical  
38 treatment, (iii) does not involve payment of temporary disability  
39 compensation under RCW 51.32.090, and (iv) at the time medical  
40 treatment is concluded does not involve permanent disability, the

1 claim may be closed by the self-insurer, subject to reporting of  
2 claims to the department in a manner prescribed by department rules  
3 adopted under chapter 34.05 RCW. Upon closure of a claim, the self-  
4 insurer shall enter a written order, communicated to the worker,  
5 which contains the following statement clearly set forth in bold-face  
6 type: "This order constitutes notification that your claim is being  
7 closed with medical benefits only, as provided. If for any reason you  
8 disagree with this closure, you must protest in writing to the  
9 Department of Labor and Industries, Olympia, within 60 days of the  
10 date you received this order. The department will then review your  
11 claim and enter a further determinative order."

12 (b) All determinations of permanent disability for claims  
13 accepted under this subsection (8) by self-insurers shall be made by  
14 the self-insured section of the department under subsections (1)  
15 through (4) of this section.

16 (9) (a) If a claim: (i) Is accepted by a self-insurer after July  
17 31, 1997; (ii) (A) involves only medical treatment, or medical  
18 treatment and the payment of temporary disability compensation under  
19 RCW 51.32.090, and a determination of permanent partial disability,  
20 if applicable, has been made by the self-insurer as authorized in  
21 this subsection; or (B) involves only the payment of temporary  
22 disability compensation under RCW 51.32.090 and a determination of  
23 permanent partial disability, if applicable, has been made by the  
24 self-insurer as authorized in this subsection; (iii) is one with  
25 respect to which the department has not intervened under subsection  
26 (6) of this section; and (iv) concerns an injured worker who has  
27 returned to work with the self-insured employer of record, whether at  
28 the worker's previous job or at a job that has comparable wages and  
29 benefits, the claim may be closed by the self-insurer, subject to  
30 reporting of claims to the department in a manner prescribed by  
31 department rules adopted under chapter 34.05 RCW.

32 (b) If a (~~physician or licensed advanced registered nurse~~  
33 ~~practitioner submits a~~) medical report submitted to the self-insurer  
34 (~~that~~) concludes that the worker's condition is fixed and stable  
35 and supports payment of a permanent partial disability award, and, if  
36 within fourteen days from the date the self-insurer mailed the report  
37 to the attending (~~or treating physician or licensed advanced~~  
38 ~~registered nurse practitioner~~) provider, the worker's attending (~~or~~  
39 ~~treating physician or licensed advanced registered nurse~~  
40 ~~practitioner~~) provider disagrees in writing that the worker's

1 condition is fixed and stable, the self-insurer must get a  
2 supplemental medical opinion from a provider on the department's  
3 approved examiner's list before closing the claim. In the  
4 alternative, the self-insurer may forward the claim to the  
5 department, which must review the claim and enter a final order as  
6 provided for in RCW 51.52.050.

7 (c) Upon closure of a claim under this subsection (9), the self-  
8 insurer shall enter a written order, communicated to the worker and  
9 the department self-insurance section, which contains the following  
10 statement clearly set forth in bold-face type: "This order  
11 constitutes notification that your claim is being closed with such  
12 medical benefits and temporary disability compensation as provided to  
13 date and with such award for permanent partial disability, if any, as  
14 set forth below, and with the condition that you have returned to  
15 work with the self-insured employer. If for any reason you disagree  
16 with the conditions or duration of your return to work or the medical  
17 benefits, temporary disability compensation provided, or permanent  
18 partial disability that has been awarded, you must protest in writing  
19 to the Department of Labor and Industries, Self-Insurance Section,  
20 within sixty days of the date you received this order. If you do not  
21 protest this order to the department, this order will become final."

22 (d) All determinations of permanent partial disability for claims  
23 accepted by self-insurers under this subsection (9) may be made by  
24 the self-insurer or the self-insurer may request a determination by  
25 the self-insured section of the department. All determinations shall  
26 be made under subsections (1) through (4) of this section.

27 (10) If the department receives a protest of an order issued by a  
28 self-insurer under subsections (7) through (9) of this section, the  
29 self-insurer's closure order must be held in abeyance. The department  
30 shall review the claim closure action and enter a further  
31 determinative order as provided for in RCW 51.52.050. If no protest  
32 is timely filed, the closing order issued by the self-insurer shall  
33 become final and shall have the same force and effect as a department  
34 order that has become final under RCW 51.52.050.

35 (11) If within two years of claim closure under subsections (7)  
36 through (9) of this section, the department determines that the self-  
37 insurer has made payment of benefits because of clerical error,  
38 mistake of identity, or innocent misrepresentation or the department  
39 discovers a violation of the conditions of claim closure, the  
40 department may require the self-insurer to correct the benefits paid



1 or payable. This subsection (11) does not limit in any way the  
2 application of RCW 51.32.240.

3 (12) For the purposes of this section, "comparable wages and  
4 benefits" means wages and benefits that are at least ninety-five  
5 percent of the wages and benefits received by the worker at the time  
6 of injury.

7 **Sec. 7.** RCW 51.32.090 and 2011 1st sp.s. c 37 s 101 are each  
8 amended to read as follows:

9 (1) When the total disability is only temporary, the schedule of  
10 payments contained in RCW 51.32.060 (1) and (2) shall apply, so long  
11 as the total disability continues.

12 (2) Any compensation payable under this section for children not  
13 in the custody of the injured worker as of the date of injury shall  
14 be payable only to such person as actually is providing the support  
15 for such child or children pursuant to the order of a court of record  
16 providing for support of such child or children.

17 (3)(a) As soon as recovery is so complete that the present  
18 earning power of the worker, at any kind of work, is restored to that  
19 existing at the time of the occurrence of the injury, the payments  
20 shall cease. If and so long as the present earning power is only  
21 partially restored, the payments shall:

22 (i) For claims for injuries that occurred before May 7, 1993,  
23 continue in the proportion which the new earning power shall bear to  
24 the old; or

25 (ii) For claims for injuries occurring on or after May 7, 1993,  
26 equal eighty percent of the actual difference between the worker's  
27 present wages and earning power at the time of injury, but: (A) The  
28 total of these payments and the worker's present wages may not exceed  
29 one hundred fifty percent of the average monthly wage in the state as  
30 computed under RCW 51.08.018; (B) the payments may not exceed one  
31 hundred percent of the entitlement as computed under subsection (1)  
32 of this section; and (C) the payments may not be less than the worker  
33 would have received if (a)(i) of this subsection had been applicable  
34 to the worker's claim.

35 (b) No compensation shall be payable under this subsection (3)  
36 unless the loss of earning power shall exceed five percent.

37 (c) The prior closure of the claim or the receipt of permanent  
38 partial disability benefits shall not affect the rate at which loss  
39 of earning power benefits are calculated upon reopening the claim.

1 (4) (a) The legislature finds that long-term disability and the  
2 cost of injuries is significantly reduced when injured workers remain  
3 at work following their injury. To encourage employers at the time of  
4 injury to provide light duty or transitional work for their workers,  
5 wage subsidies and other incentives are made available to employers  
6 insured with the department.

7 (b) Whenever the employer of injury requests that a worker who is  
8 entitled to temporary total disability under this chapter be  
9 certified by ~~((a physician or licensed advanced registered nurse  
10 practitioner))~~ the attending provider as able to perform available  
11 work other than his or her usual work, the employer shall furnish to  
12 the ~~((physician or licensed advanced registered nurse practitioner))~~  
13 attending provider, with a copy to the worker, a statement describing  
14 the work available with the employer of injury in terms that will  
15 enable the ~~((physician or licensed advanced registered nurse  
16 practitioner))~~ attending provider to relate the ~~((physical))~~  
17 activities of the job to the worker's disability. The ~~((physician or  
18 licensed advanced registered nurse practitioner))~~ attending provider  
19 shall then determine whether the worker is ~~((physically))~~ able to  
20 perform the work described. The worker's temporary total disability  
21 payments shall continue until the worker is released by his or her  
22 ~~((physician or licensed advanced registered nurse practitioner))~~  
23 attending provider for the work, and begins the work with the  
24 employer of injury. If the work thereafter comes to an end before the  
25 worker's recovery is sufficient in the judgment of his or her  
26 ~~((physician or licensed advanced registered nurse practitioner))~~  
27 attending provider to permit him or her to return to his or her usual  
28 job, or to perform other available work offered by the employer of  
29 injury, the worker's temporary total disability payments shall be  
30 resumed. Should the available work described, once undertaken by the  
31 worker, impede his or her recovery to the extent that in the judgment  
32 of his or her ~~((physician or licensed advanced registered nurse  
33 practitioner))~~ attending provider he or she should not continue to  
34 work, the worker's temporary total disability payments shall be  
35 resumed when the worker ceases such work.

36 (c) To further encourage employers to maintain the employment of  
37 their injured workers, an employer insured with the department and  
38 that offers work to a worker pursuant to this subsection (4) shall be  
39 eligible for reimbursement of the injured worker's wages for light  
40 duty or transitional work equal to fifty percent of the basic, gross

1 wages paid for that work, for a maximum of sixty-six workdays within  
2 a consecutive twenty-four month period. In no event may the wage  
3 subsidies paid to an employer on a claim exceed ten thousand dollars.  
4 Wage subsidies shall be calculated using the worker's basic hourly  
5 wages or basic salary, and no subsidy shall be paid for any other  
6 form of compensation or payment to the worker such as tips,  
7 commissions, bonuses, board, housing, fuel, health care, dental care,  
8 vision care, per diem, reimbursements for work-related expenses, or  
9 any other payments. An employer may not, under any circumstances,  
10 receive a wage subsidy for a day in which the worker did not actually  
11 perform any work, regardless of whether or not the employer paid the  
12 worker wages for that day.

13 (d) If an employer insured with the department offers a worker  
14 work pursuant to this subsection (4) and the worker must be provided  
15 with training or instruction to be qualified to perform the offered  
16 work, the employer shall be eligible for a reimbursement from the  
17 department for any tuition, books, fees, and materials required for  
18 that training or instruction, up to a maximum of one thousand  
19 dollars. Reimbursing an employer for the costs of such training or  
20 instruction does not constitute a determination by the department  
21 that the worker is eligible for vocational services authorized by RCW  
22 51.32.095 and 51.32.099.

23 (e) If an employer insured with the department offers a worker  
24 work pursuant to this subsection (4), and the employer provides the  
25 worker with clothing that is necessary to allow the worker to perform  
26 the offered work, the employer shall be eligible for reimbursement  
27 for such clothing from the department, up to a maximum of four  
28 hundred dollars. However, an employer shall not receive reimbursement  
29 for any clothing it provided to the worker that it normally provides  
30 to its workers. The clothing purchased for the worker shall become  
31 the worker's property once the work comes to an end.

32 (f) If an employer insured with the department offers a worker  
33 work pursuant to this subsection (4) and the worker must be provided  
34 with tools or equipment to perform the offered work, the employer  
35 shall be eligible for a reimbursement from the department for such  
36 tools and equipment and related costs as determined by department  
37 rule, up to a maximum of two thousand five hundred dollars. An  
38 employer shall not be reimbursed for any tools or equipment purchased  
39 prior to offering the work to the worker pursuant to this subsection  
40 (4). An employer shall not be reimbursed for any tools or equipment

1 that it normally provides to its workers. The tools and equipment  
2 shall be the property of the employer.

3 (g) An employer may offer work to a worker pursuant to this  
4 subsection (4) more than once, but in no event may the employer  
5 receive wage subsidies for more than sixty-six days of work in a  
6 consecutive twenty-four month period under one claim. An employer may  
7 continue to offer work pursuant to this subsection (4) after the  
8 worker has performed sixty-six days of work, but the employer shall  
9 not be eligible to receive wage subsidies for such work.

10 (h) An employer shall not receive any wage subsidies or  
11 reimbursement of any expenses pursuant to this subsection (4) unless  
12 the employer has completed and submitted the reimbursement request on  
13 forms developed by the department, along with all related information  
14 required by department rules. No wage subsidy or reimbursement shall  
15 be paid to an employer who fails to submit a form for such payment  
16 within one year of the date the work was performed. In no event shall  
17 an employer receive wage subsidy payments or reimbursements of any  
18 expenses pursuant to this subsection (4) unless the worker's  
19 (~~(physician or licensed advanced registered nurse practitioner)~~)  
20 attending provider has restricted him or her from performing his or  
21 her usual work and the worker's (~~(physician or licensed advanced~~  
22 ~~registered nurse practitioner)~~) attending provider has released him  
23 or her to perform the work offered.

24 (i) Payments made under (b) through (g) of this subsection are  
25 subject to penalties under RCW 51.32.240(5) in cases where the funds  
26 were obtained through willful misrepresentation.

27 (j) Once the worker returns to work under the terms of this  
28 subsection (4), he or she shall not be assigned by the employer to  
29 work other than the available work described without the worker's  
30 written consent, or without prior review and approval by the worker's  
31 (~~(physician or licensed advanced registered nurse practitioner)~~)  
32 attending provider. An employer who directs a claimant to perform  
33 work other than that approved by the attending (~~(physician)~~) provider  
34 and without the approval of the worker's (~~(physician or licensed~~  
35 ~~advanced registered nurse practitioner)~~) attending provider shall not  
36 receive any wage subsidy or other reimbursements for such work.

37 (k) If the worker returns to work under this subsection (4), any  
38 employee health and welfare benefits that the worker was receiving at  
39 the time of injury shall continue or be resumed at the level provided  
40 at the time of injury. Such benefits shall not be continued or

1 resumed if to do so is inconsistent with the terms of the benefit  
2 program, or with the terms of the collective bargaining agreement  
3 currently in force.

4 (1) In the event of any dispute as to the validity of the work  
5 offered or as to the worker's ability to perform the available work  
6 offered by the employer, the department shall make the final  
7 determination pursuant to an order that contains the notice required  
8 by RCW 51.52.060 and that is subject to appeal subject to RCW  
9 51.52.050.

10 (5) An employer's experience rating shall not be affected by the  
11 employer's request for or receipt of wage subsidies.

12 (6) The department shall create a Washington stay-at-work account  
13 which shall be funded by assessments of employers insured through the  
14 state fund for the costs of the payments authorized by subsection (4)  
15 of this section and for the cost of creating a reserve for  
16 anticipated liabilities. Employers may collect up to one-half the  
17 fund assessment from workers.

18 (7) No worker shall receive compensation for or during the day on  
19 which injury was received or the three days following the same,  
20 unless his or her disability shall continue for a period of fourteen  
21 consecutive calendar days from date of injury: PROVIDED, That  
22 attempts to return to work in the first fourteen days following the  
23 injury shall not serve to break the continuity of the period of  
24 disability if the disability continues fourteen days after the injury  
25 occurs.

26 (8) Should a worker suffer a temporary total disability and  
27 should his or her employer at the time of the injury continue to pay  
28 him or her the wages which he or she was earning at the time of such  
29 injury, such injured worker shall not receive any payment provided in  
30 subsection (1) of this section during the period his or her employer  
31 shall so pay such wages: PROVIDED, That holiday pay, vacation pay,  
32 sick leave, or other similar benefits shall not be deemed to be  
33 payments by the employer for the purposes of this subsection.

34 (9) In no event shall the monthly payments provided in this  
35 section:

36 (a) Exceed the applicable percentage of the average monthly wage  
37 in the state as computed under the provisions of RCW 51.08.018 as  
38 follows:

39 AFTER PERCENTAGE

1	June 30, 1993	105%
2	June 30, 1994	110%
3	June 30, 1995	115%
4	June 30, 1996	120%

5 (b) For dates of injury or disease manifestation after July 1,  
6 2008, be less than fifteen percent of the average monthly wage in the  
7 state as computed under RCW 51.08.018 plus an additional ten dollars  
8 per month if the worker is married and an additional ten dollars per  
9 month for each child of the worker up to a maximum of five children.  
10 However, if the monthly payment computed under this subsection (9) (b)  
11 is greater than one hundred percent of the wages of the worker as  
12 determined under RCW 51.08.178, the monthly payment due to the worker  
13 shall be equal to the greater of the monthly wages of the worker or  
14 the minimum benefit set forth in this section on June 30, 2008.

15 (10) If the supervisor of industrial insurance determines that  
16 the worker is voluntarily retired and is no longer attached to the  
17 workforce, benefits shall not be paid under this section.

18 (11) The department shall adopt rules as necessary to implement  
19 this section.

20 **Sec. 8.** RCW 51.32.095 and 2018 c 22 s 13 are each amended to  
21 read as follows:

22 (1) One of the primary purposes of this title is to enable the  
23 injured worker to become employable at gainful employment. To this  
24 end, the department or self-insurers must utilize the services of  
25 individuals and organizations, public or private, whose experience,  
26 training, and interests in vocational rehabilitation and retraining  
27 qualify them to lend expert assistance to the supervisor of  
28 industrial insurance in such programs of vocational rehabilitation as  
29 may be reasonable to make the worker employable consistent with his  
30 or her physical and mental status. Where, after evaluation and  
31 recommendation by such individuals or organizations and prior to  
32 final evaluation of the worker's permanent disability and in the sole  
33 opinion of the supervisor or supervisor's designee, whether or not  
34 medical treatment has been concluded, vocational rehabilitation is  
35 both necessary and likely to enable the injured worker to become  
36 employable at gainful employment, the supervisor or supervisor's  
37 designee may, in his or her sole discretion, pay or, if the employer  
38 is a self-insurer, direct the self-insurer to pay the cost as

1 provided in subsection (5) of this section or RCW 51.32.099, as  
2 appropriate. An injured worker may not participate in vocational  
3 rehabilitation under this section or RCW 51.32.099 if such  
4 participation would result in a payment of benefits as described in  
5 RCW 51.32.240(5), and any benefits so paid must be recovered  
6 according to the terms of that section.

7 (2) Vocational rehabilitation services may be provided to an  
8 injured worker when in the sole discretion of the supervisor or the  
9 supervisor's designee vocational rehabilitation is both necessary and  
10 likely to make the worker employable at gainful employment. In  
11 determining whether to provide vocational services and at what level,  
12 the following list must be used, in order of priority with the  
13 highest priority given to returning a worker to employment:

14 (a) Return to the previous job with the same employer;

15 (b) Modification of the previous job with the same employer  
16 including transitional return to work;

17 (c) A new job with the same employer in keeping with any  
18 limitations or restrictions;

19 (d) Modification of a new job with the same employer including  
20 transitional return to work;

21 (e) Modification of the previous job with a new employer;

22 (f) A new job with a new employer or self-employment based upon  
23 transferable skills;

24 (g) Modification of a new job with a new employer;

25 (h) A new job with a new employer or self-employment involving  
26 on-the-job training;

27 (i) Short-term retraining.

28 (3) Notwithstanding subsection (2) of this section, vocational  
29 services may be provided to an injured worker who has suffered the  
30 loss or complete use of both legs, or arms, or one leg and one arm,  
31 or total eyesight when, in the sole discretion of the supervisor or  
32 the supervisor's designee, these services will either substantially  
33 improve the worker's quality of life or substantially improve the  
34 worker's ability to function in an employment setting, regardless of  
35 whether or not these services are either necessary or reasonably  
36 likely to make the worker employable at any gainful employment.  
37 Vocational services must be completed prior to the commencement of  
38 the worker's entitlement to benefits under RCW 51.32.060. However,  
39 workers who are eligible for vocational services under this

1 subsection are not eligible for option 2 benefits, as provided in RCW  
2 51.32.099(4) and 51.32.096.

3 (4) To encourage the employment of individuals who have suffered  
4 an injury or occupational disease resulting in permanent disability  
5 which may be a substantial obstacle to employment, the supervisor or  
6 supervisor's designee, in his or her sole discretion, may provide  
7 assistance including job placement services for eligible injured  
8 workers who are receiving vocational services under the return-to-  
9 work priorities listed in subsection (2)(b) through (i) of this  
10 section, except for self-employment, and to employers that employ  
11 them. The assistance listed in (a) through (f) of this subsection is  
12 only available in cases where the worker is employed:

13 (a) Reduction or elimination of premiums or assessments owed by  
14 employers for such workers;

15 (b) Reduction or elimination of charges against the employers in  
16 the event of further injury to such workers in their employ;

17 (c) Reimbursement of the injured worker's wages for light duty or  
18 transitional work consistent with the limitations in RCW  
19 51.32.090(4)(c);

20 (d) Reimbursement for the costs of clothing that is necessary to  
21 allow the worker to perform the offered work consistent with the  
22 limitations in RCW 51.32.090(4)(e);

23 (e) Reimbursement for the costs of tools or equipment to allow  
24 the worker to perform the work consistent with the limitations in RCW  
25 51.32.090(4)(f);

26 (f) A one-time payment equal to the lesser of ten percent of the  
27 worker's wages including commissions and bonuses paid or ten thousand  
28 dollars for continuous employment without reduction in base wages for  
29 at least twelve months. The twelve months begin the first date of  
30 employment and the one-time payment is available at the sole  
31 discretion of the supervisor of industrial insurance;

32 (g) The benefits described in this section are available to a  
33 state fund employer without regard to whether the worker was employed  
34 by the state fund employer at the time of injury. The benefits are  
35 available to a self-insured employer only in cases where the worker  
36 was employed by a state fund employer at the time of injury or  
37 occupational disease manifestation;

38 (h) The benefits described in (a) through (f) of this subsection  
39 (4) are only available in instances where a vocational rehabilitation  
40 professional and the injured worker's health care provider have



1 confirmed that the worker has returned to work that is consistent  
2 with the worker's limitations and physical restrictions.

3 (5) (a) Except as provided in (b) of this subsection, costs for  
4 vocational rehabilitation benefits allowed by the supervisor or  
5 supervisor's designee under subsection (1) of this section may  
6 include the cost of books, tuition, fees, supplies, equipment,  
7 transportation, child or dependent care, and other necessary expenses  
8 for any such worker in an amount not to exceed three thousand dollars  
9 in any fifty-two week period, and the cost of continuing the  
10 temporary total disability compensation under RCW 51.32.090 while the  
11 worker is actively and successfully undergoing a formal program of  
12 vocational rehabilitation.

13 (b) Beginning with vocational rehabilitation plans approved on or  
14 after July 1, 1999, through December 31, 2007, costs for vocational  
15 rehabilitation benefits allowed by the supervisor or supervisor's  
16 designee under subsection (1) of this section may include the cost of  
17 books, tuition, fees, supplies, equipment, child or dependent care,  
18 and other necessary expenses for any such worker in an amount not to  
19 exceed four thousand dollars in any fifty-two week period, and the  
20 cost of transportation and continuing the temporary total disability  
21 compensation under RCW 51.32.090 while the worker is actively and  
22 successfully undergoing a formal program of vocational  
23 rehabilitation.

24 (c) The expenses allowed under (a) or (b) of this subsection may  
25 include training fees for on-the-job training and the cost of  
26 furnishing tools and other equipment necessary for self-employment or  
27 reemployment. However, compensation or payment of retraining with job  
28 placement expenses under (a) or (b) of this subsection may not be  
29 authorized for a period of more than fifty-two weeks, except that  
30 such period may, in the sole discretion of the supervisor after his  
31 or her review, be extended for an additional fifty-two weeks or  
32 portion thereof by written order of the supervisor.

33 (d) In cases where the worker is required to reside away from his  
34 or her customary residence, the reasonable cost of board and lodging  
35 must also be paid.

36 (e) Costs paid under this subsection must be chargeable to the  
37 employer's cost experience or must be paid by the self-insurer as the  
38 case may be.

39 (6) In addition to the vocational rehabilitation expenditures  
40 provided for under subsection (5) of this section and RCW 51.32.099,

1 an additional five thousand dollars may, upon authorization of the  
2 supervisor or the supervisor's designee, be expended for: (a)  
3 Accommodations for an injured worker that are medically necessary for  
4 the worker to participate in an approved retraining plan; and (b)  
5 accommodations necessary to perform the essential functions of an  
6 occupation in which an injured worker is seeking employment,  
7 consistent with the retraining plan or the recommendations of a  
8 vocational evaluation. The injured worker's attending (~~(physician or~~  
9 ~~licensed advanced registered nurse practitioner)~~) provider must  
10 verify the necessity of the modifications or accommodations. The  
11 total expenditures authorized in this subsection and the expenditures  
12 authorized under RCW 51.32.250 may not exceed five thousand dollars.

13 (7) (a) When the department has approved a vocational plan for a  
14 worker prior to January 1, 2008, regardless of whether the worker has  
15 begun participating in the approved plan, costs for vocational  
16 rehabilitation benefits allowed by the supervisor or supervisor's  
17 designee under subsection (1) of this section are limited to those  
18 provided under subsections (5) and (6) of this section.

19 (b) For vocational plans approved for a worker between January 1,  
20 2008, through July 31, 2015, total vocational costs allowed by the  
21 supervisor or supervisor's designee under subsection (1) of this  
22 section is limited to those provided under the pilot program  
23 established in RCW 51.32.099, and vocational rehabilitation services  
24 must conform to the requirements in RCW 51.32.099.

25 (8) The department must establish criteria to monitor the quality  
26 and effectiveness of rehabilitation services provided by the  
27 individuals and organizations. The state fund must make referrals for  
28 vocational rehabilitation services based on these performance  
29 criteria.

30 (9) The department must engage in, where feasible and cost-  
31 effective, a cooperative program with the state employment security  
32 department to provide job placement services under this section  
33 including participation by the department as a partner with  
34 WorkSource and with the private vocational rehabilitation community  
35 to refer workers to these vocational professionals for job search and  
36 job placement assistance. As a partner, the department must place  
37 vocational professional full-time employees at selected WorkSource  
38 locations who will work with employers to market the benefits of on-  
39 the-job training programs and preferred worker financial incentives  
40 as described in (~~(RCW 51.32.095(4))~~) subsection (4) of this section.

1 For the purposes of this subsection, "WorkSource" means the  
2 established state system that administers the federal workforce  
3 investment act of 1998.

4 (10) The benefits in this section(~~(r)~~) and RCW 51.32.099(~~(r)~~) and  
5 51.32.096 must be provided for the injured workers of self-insured  
6 employers. Self-insurers must report both benefits provided and  
7 benefits denied in the manner prescribed by the department by rule  
8 adopted under chapter 34.05 RCW. The director may, in his or her sole  
9 discretion and upon his or her own initiative or at any time that a  
10 dispute arises under this section(~~(r)~~) or RCW 51.32.099(~~(r)~~) or  
11 51.32.096, promptly make such inquiries as circumstances require and  
12 take such other action as he or she considers will properly determine  
13 the matter and protect the rights of the parties.

14 (11) Except as otherwise provided, the benefits provided for in  
15 this section(~~(r)~~) and RCW 51.32.099(~~(r)~~) and 51.32.096 are available  
16 to any otherwise eligible worker regardless of the date of industrial  
17 injury. However, claims may not be reopened solely for vocational  
18 rehabilitation purposes.

19 **Sec. 9.** RCW 51.36.010 and 2013 c 19 s 48 are each amended to  
20 read as follows:

21 (1) The legislature finds that high quality medical treatment and  
22 adherence to occupational health best practices can prevent  
23 disability and reduce loss of family income for workers, and lower  
24 labor and insurance costs for employers. Injured workers deserve high  
25 quality medical care in accordance with current health care best  
26 practices. To this end, the department shall establish minimum  
27 standards for providers who treat workers from both state fund and  
28 self-insured employers. The department shall establish a health care  
29 provider network to treat injured workers, and shall accept providers  
30 into the network who meet those minimum standards. The department  
31 shall convene an advisory group made up of representatives from or  
32 designees of the workers' compensation advisory committee and the  
33 industrial insurance medical and chiropractic advisory committees to  
34 consider and advise the department related to implementation of this  
35 section, including development of best practices treatment guidelines  
36 for providers in the network. The department shall also seek the  
37 input of various health care provider groups and associations  
38 concerning the network's implementation. Network providers must be  
39 required to follow the department's evidence-based coverage decisions

1 and treatment guidelines, policies, and must be expected to follow  
2 other national treatment guidelines appropriate for their patient.  
3 The department, in collaboration with the advisory group, shall also  
4 establish additional best practice standards for providers to qualify  
5 for a second tier within the network, based on demonstrated use of  
6 occupational health best practices. This second tier is separate from  
7 and in addition to the centers for occupational health and education  
8 established under subsection (5) of this section.

9 (2) (a) Upon the occurrence of any injury to a worker entitled to  
10 compensation under the provisions of this title, he or she shall  
11 receive proper and necessary medical and surgical services at the  
12 hands of a physician (~~(or)~~), osteopathic physician, chiropractor,  
13 naturopath, podiatric physician, optometrist, dentist, licensed  
14 advanced registered nurse practitioner, physician assistant, or  
15 psychologist in claims solely for mental health conditions, of his or  
16 her own choice, if conveniently located, except as provided in (b) of  
17 this subsection, and proper and necessary hospital care and services  
18 during the period of his or her disability from such injury.

19 (b) Once the provider network is established in the worker's  
20 geographic area, an injured worker may receive care from a nonnetwork  
21 provider only for an initial office or emergency room visit. However,  
22 the department or self-insurer may limit reimbursement to the  
23 department's standard fee for the services. The provider must comply  
24 with all applicable billing policies and must accept the department's  
25 fee schedule as payment in full.

26 (c) The department, in collaboration with the advisory group,  
27 shall adopt policies for the development, credentialing,  
28 accreditation, and continued oversight of a network of health care  
29 providers approved to treat injured workers. Health care providers  
30 shall apply to the network by completing the department's provider  
31 application which shall have the force of a contract with the  
32 department to treat injured workers. The advisory group shall  
33 recommend minimum network standards for the department to approve a  
34 provider's application, to remove a provider from the network, or to  
35 require peer review such as, but not limited to:

36 (i) Current malpractice insurance coverage exceeding a dollar  
37 amount threshold, number, or seriousness of malpractice suits over a  
38 specific time frame;

39 (ii) Previous malpractice judgments or settlements that do not  
40 exceed a dollar amount threshold recommended by the advisory group,

1 or a specific number or seriousness of malpractice suits over a  
2 specific time frame;

3 (iii) No licensing or disciplinary action in any jurisdiction or  
4 loss of treating or admitting privileges by any board, commission,  
5 agency, public or private health care payer, or hospital;

6 (iv) For some specialties such as surgeons, privileges in at  
7 least one hospital;

8 (v) Whether the provider has been credentialed by another health  
9 plan that follows national quality assurance guidelines; and

10 (vi) Alternative criteria for providers that are not credentialed  
11 by another health plan.

12 The department shall develop alternative criteria for providers  
13 that are not credentialed by another health plan or as needed to  
14 address access to care concerns in certain regions.

15 (d) Network provider contracts will automatically renew at the  
16 end of the contract period unless the department provides written  
17 notice of changes in contract provisions or the department or  
18 provider provides written notice of contract termination. The  
19 industrial insurance medical advisory committee shall develop  
20 criteria for removal of a provider from the network to be presented  
21 to the department and advisory group for consideration in the  
22 development of contract terms.

23 (e) In order to monitor quality of care and assure efficient  
24 management of the provider network, the department shall establish  
25 additional criteria and terms for network participation including,  
26 but not limited to, requiring compliance with administrative and  
27 billing policies.

28 (f) The advisory group shall recommend best practices standards  
29 to the department to use in determining second tier network  
30 providers. The department shall develop and implement financial and  
31 nonfinancial incentives for network providers who qualify for the  
32 second tier. The department is authorized to certify and decertify  
33 second tier providers.

34 (3) The department shall work with self-insurers and the  
35 department utilization review provider to implement utilization  
36 review for the self-insured community to ensure consistent quality,  
37 cost-effective care for all injured workers and employers, and to  
38 reduce administrative burden for providers.

39 (4) The department for state fund claims shall pay, in accordance  
40 with the department's fee schedule, for any alleged injury for which

1 a worker files a claim, any initial prescription drugs provided in  
2 relation to that initial visit, without regard to whether the  
3 worker's claim for benefits is allowed. In all accepted claims,  
4 treatment shall be limited in point of duration as follows:

5 In the case of permanent partial disability, not to extend beyond  
6 the date when compensation shall be awarded him or her, except when  
7 the worker returned to work before permanent partial disability award  
8 is made, in such case not to extend beyond the time when monthly  
9 allowances to him or her shall cease; in case of temporary disability  
10 not to extend beyond the time when monthly allowances to him or her  
11 shall cease: PROVIDED, That after any injured worker has returned to  
12 his or her work his or her medical and surgical treatment may be  
13 continued if, and so long as, such continuation is deemed necessary  
14 by the supervisor of industrial insurance to be necessary to his or  
15 her more complete recovery; in case of a permanent total disability  
16 not to extend beyond the date on which a lump sum settlement is made  
17 with him or her or he or she is placed upon the permanent pension  
18 roll: PROVIDED, HOWEVER, That the supervisor of industrial insurance,  
19 solely in his or her discretion, may authorize continued medical and  
20 surgical treatment for conditions previously accepted by the  
21 department when such medical and surgical treatment is deemed  
22 necessary by the supervisor of industrial insurance to protect such  
23 worker's life or provide for the administration of medical and  
24 therapeutic measures including payment of prescription medications,  
25 but not including those controlled substances currently scheduled by  
26 the pharmacy quality assurance commission as Schedule I, II, III, or  
27 IV substances under chapter 69.50 RCW, which are necessary to  
28 alleviate continuing pain which results from the industrial injury.  
29 In order to authorize such continued treatment the written order of  
30 the supervisor of industrial insurance issued in advance of the  
31 continuation shall be necessary.

32 The supervisor of industrial insurance, the supervisor's  
33 designee, or a self-insurer, in his or her sole discretion, may  
34 authorize inoculation or other immunological treatment in cases in  
35 which a work-related activity has resulted in probable exposure of  
36 the worker to a potential infectious occupational disease.  
37 Authorization of such treatment does not bind the department or self-  
38 insurer in any adjudication of a claim by the same worker or the  
39 worker's beneficiary for an occupational disease.

1 (5) (a) The legislature finds that the department and its business  
2 and labor partners have collaborated in establishing centers for  
3 occupational health and education to promote best practices and  
4 prevent preventable disability by focusing additional provider-based  
5 resources during the first twelve weeks following an injury. The  
6 centers for occupational health and education represent innovative  
7 accountable care systems in an early stage of development consistent  
8 with national health care reform efforts. Many Washington workers do  
9 not yet have access to these innovative health care delivery models.

10 (b) To expand evidence-based occupational health best practices,  
11 the department shall establish additional centers for occupational  
12 health and education, with the goal of extending access to at least  
13 fifty percent of injured and ill workers by December 2013 and to all  
14 injured workers by December 2015. The department shall also develop  
15 additional best practices and incentives that span the entire period  
16 of recovery, not only the first twelve weeks.

17 (c) The department shall certify and decertify centers for  
18 occupational health and education based on criteria including  
19 institutional leadership and geographic areas covered by the center  
20 for occupational health and education, occupational health leadership  
21 and education, mix of participating health care providers necessary  
22 to address the anticipated needs of injured workers, health services  
23 coordination to deliver occupational health best practices,  
24 indicators to measure the success of the center for occupational  
25 health and education, and agreement that the center's providers  
26 shall, if feasible, treat certain injured workers if referred by the  
27 department or a self-insurer.

28 (d) Health care delivery organizations may apply to the  
29 department for certification as a center for occupational health and  
30 education. These may include, but are not limited to, hospitals and  
31 affiliated clinics and providers, multispecialty clinics, health  
32 maintenance organizations, and organized systems of network  
33 physicians.

34 (e) The centers for occupational health and education shall  
35 implement benchmark quality indicators of occupational health best  
36 practices for individual providers, developed in collaboration with  
37 the department. A center for occupational health and education shall  
38 remove individual providers who do not consistently meet these  
39 quality benchmarks.

1 (f) The department shall develop and implement financial and  
2 nonfinancial incentives for center for occupational health and  
3 education providers that are based on progressive and measurable  
4 gains in occupational health best practices, and that are applicable  
5 throughout the duration of an injured or ill worker's episode of  
6 care.

7 (g) The department shall develop electronic methods of tracking  
8 evidence-based quality measures to identify and improve outcomes for  
9 injured workers at risk of developing prolonged disability. In  
10 addition, these methods must be used to provide systematic feedback  
11 to physicians regarding quality of care, to conduct appropriate  
12 objective evaluation of progress in the centers for occupational  
13 health and education, and to allow efficient coordination of  
14 services.

15 (6) If a provider fails to meet the minimum network standards  
16 established in subsection (2) of this section, the department is  
17 authorized to remove the provider from the network or take other  
18 appropriate action regarding a provider's participation. The  
19 department may also require remedial steps as a condition for a  
20 provider to participate in the network. The department, with input  
21 from the advisory group, shall establish waiting periods that may be  
22 imposed before a provider who has been denied or removed from the  
23 network may reapply.

24 (7) The department may permanently remove a provider from the  
25 network or take other appropriate action when the provider exhibits a  
26 pattern of conduct of low quality care that exposes patients to risk  
27 of physical or psychiatric harm or death. Patterns that qualify as  
28 risk of harm include, but are not limited to, poor health care  
29 outcomes evidenced by increased, chronic, or prolonged pain or  
30 decreased function due to treatments that have not been shown to be  
31 curative, safe, or effective or for which it has been shown that the  
32 risks of harm exceed the benefits that can be reasonably expected  
33 based on peer-reviewed opinion.

34 (8) The department may not remove a health care provider from the  
35 network for an isolated instance of poor health and recovery outcomes  
36 due to treatment by the provider.

37 (9) When the department terminates a provider from the network,  
38 the department or self-insurer shall assist an injured worker  
39 currently under the provider's care in identifying a new network  
40 provider or providers from whom the worker can select an attending or



1 treating provider. In such a case, the department or self-insurer  
2 shall notify the injured worker that he or she must choose a new  
3 attending or treating provider.

4 (10) The department may adopt rules related to this section.

5 (11) The department shall report to the workers' compensation  
6 advisory committee and to the appropriate committees of the  
7 legislature on each December 1st, beginning in 2012 and ending in  
8 2016, on the implementation of the provider network and expansion of  
9 the centers for occupational health and education. The reports must  
10 include a summary of actions taken, progress toward long-term goals,  
11 outcomes of key initiatives, access to care issues, results of  
12 disputes or controversies related to new provisions, and whether any  
13 changes are needed to further improve the occupational health best  
14 practices care of injured workers.

15 **Sec. 10.** RCW 51.36.022 and 2005 c 411 s 1 are each amended to  
16 read as follows:

17 (1) The legislature finds that there is a need to clarify the  
18 process and standards under which the department provides residence  
19 modification assistance to workers who have sustained catastrophic  
20 injury.

21 (2) The director shall adopt rules that take effect no later than  
22 nine months after July 24, 2005, to establish guidelines and  
23 processes for residence modification pursuant to RCW 51.36.020(7).

24 (3) In developing rules under this section, the director shall  
25 consult with interested persons, including persons with expertise in  
26 the rehabilitation of (~~catastrophically disabled~~) individuals with  
27 catastrophic disabilities and modifications for adaptive housing.

28 (4) These rules must address at least the following:

29 (a) The process for a catastrophically injured worker to access  
30 the residence modification benefits provided by RCW 51.36.020; and

31 (b) How the department may address the needs and preferences of  
32 the individual worker on a case-by-case basis taking into account  
33 information provided by the injured worker. For purposes of  
34 determining the needs and requirements of the worker under RCW  
35 51.36.020, including whether a modification is medically necessary,  
36 the department must consider all available information regarding the  
37 medical condition and physical restrictions of the injured worker,  
38 including the opinion of the worker's attending (~~health services~~)  
39 provider.

1 (5) The rules should be based upon nationally accepted guidelines  
2 and publications addressing adaptive residential housing. The  
3 department must consider the guidelines established by the United  
4 States department of veterans affairs in their publication entitled  
5 "Handbook for Design: Specially Adapted Housing," and the  
6 recommendations published in "The Accessible Housing Design File" by  
7 Barrier Free Environments, Inc.

8 (6) In developing rules under this section, the director shall  
9 consult with other persons with an interest in improving standards  
10 for adaptive housing.

11 (7) The director shall report by December 2007 to the appropriate  
12 committees of the legislature on the rules adopted under this  
13 section.

14 **Sec. 11.** RCW 51.36.060 and 2004 c 65 s 12 are each amended to  
15 read as follows:

16 (~~Physicians or licensed advanced registered nurse practitioners~~  
17 ~~examining or attending injured workers~~) Attending providers under  
18 this title shall comply with rules and regulations adopted by the  
19 director, and shall make such reports as may be requested by the  
20 department or self-insurer upon the condition or treatment of any  
21 such worker, or upon any other matters concerning such workers in  
22 their care. Except under RCW 49.17.210 and 49.17.250, all medical  
23 information in the possession or control of any person and relevant  
24 to the particular injury in the opinion of the department pertaining  
25 to any worker whose injury or occupational disease is the basis of a  
26 claim under this title shall be made available at any stage of the  
27 proceedings to the employer, the claimant's representative, and the  
28 department upon request, and no person shall incur any legal  
29 liability by reason of releasing such information.

30 **Sec. 12.** RCW 51.36.070 and 2020 c 213 s 3 are each amended to  
31 read as follows:

32 (1)(a) Whenever the department or the self-insurer deems it  
33 necessary in order to (i) make a decision regarding claim allowance  
34 or reopening, (ii) resolve a new medical issue, an appeal, or case  
35 progress, or (iii) evaluate the worker's permanent disability or work  
36 restriction, a worker shall submit to examination by a physician or  
37 physicians selected by the department, with the rendition of a report

1 to the person ordering the examination, the attending (~~physician~~)  
2 provider, and the injured worker.

3 (b) The examination must be at a place reasonably convenient to  
4 the injured worker, or alternatively utilize telemedicine if the  
5 department determines telemedicine is appropriate for the  
6 examination. For purposes of this subsection, "reasonably convenient"  
7 means at a place where residents in the injured worker's community  
8 would normally travel to seek medical care for the same specialty as  
9 the examiner. The department must address in rule how to accommodate  
10 the injured worker if no approved medical examiner in the specialty  
11 needed is available in that community.

12 (2) The department or self-insurer shall provide the physician  
13 performing an examination with all relevant medical records from the  
14 worker's claim file. The director, in his or her discretion, may  
15 charge the cost of such examination or examinations to the self-  
16 insurer or to the medical aid fund as the case may be. The cost of  
17 said examination shall include payment to the worker of reasonable  
18 expenses connected therewith.

19 (3) For purposes of this section, "examination" means a physical  
20 or mental examination by a medical care provider licensed to practice  
21 medicine, osteopathy, podiatry, chiropractic, dentistry, or  
22 psychiatry at the request of the department or self-insured employer  
23 or by order of the board of industrial insurance appeals.

24 (4) This section applies prospectively to all claims regardless  
25 of the date of injury.

26 NEW SECTION. **Sec. 13.** This act takes effect July 1, 2025, and  
27 applies retroactively.

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