
SENATE BILL 5212

State of Washington

68th Legislature

2023 Regular Session

By Senators Stanford, Conway, Dhingra, Lovelett, Nguyen, and Valdez

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

1 AN ACT Relating to injured workers' rights during compelled
2 medical examinations; and amending RCW 51.36.070.

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

4 **Sec. 1.** RCW 51.36.070 and 2020 c 213 s 3 are each amended to
5 read as follows:

6 (1)(a) Whenever the department or the self-insurer deems it
7 necessary in order to (i) make a decision regarding claim allowance
8 or reopening, (ii) resolve a new medical issue, an appeal, or case
9 progress, or (iii) evaluate the worker's permanent disability or work
10 restriction, a worker shall submit to examination by a physician or
11 physicians selected by the department, with the rendition of a report
12 to the person ordering the compelled examination, the attending
13 physician, and the injured worker.

14 (b) The compelled examination must be at a place reasonably
15 convenient to the injured worker, or alternatively utilize
16 telemedicine if the department determines telemedicine is appropriate
17 for the examination. For purposes of this subsection, "reasonably
18 convenient" means at a place where residents in the injured worker's
19 community would normally travel to seek medical care for the same
20 specialty as the examiner. The department must address in rule how to

1 accommodate the injured worker if no approved medical examiner in the
2 specialty needed is available in that community.

3 (2) The department or self-insurer shall provide the physician
4 performing ~~((an))~~ a compelled examination with all relevant medical
5 records from the worker's claim file. The director, in his or her
6 discretion, may charge the cost of such examination or examinations
7 to the self-insurer or to the medical aid fund as the case may be.
8 The cost of said examination shall include payment to the worker of
9 reasonable expenses connected therewith.

10 (3) For purposes of this section, "compelled examination" means a
11 physical or mental examination by a medical care provider licensed to
12 practice medicine, osteopathy, podiatry, chiropractic, dentistry, or
13 psychiatry at the request of the department or self-insured employer
14 ~~((or by order of the board of industrial insurance appeals))~~.

15 (4)(a) The worker has the right to record the audio, video, or
16 both, of all compelled examinations ordered under this section, RCW
17 51.32.110, or by the board of industrial insurance appeals.

18 (b) The worker is responsible for paying the costs of recording.

19 (c) Upon request, the worker must provide one copy of the
20 recording to the department or self-insured employer within 14 days
21 of receiving the request, but in no case prior to the issuance of a
22 written report of the compelled examination.

23 (d) The worker must take reasonable steps to ensure the recording
24 equipment does not interfere with the compelled examination.

25 (e) Benefits received as a result of any material alteration of
26 the recording by the worker or done on the worker's behalf may be
27 subject to repayment pursuant to RCW 51.32.240.

28 (f) Recordings made under this subsection are deemed confidential
29 pursuant to RCW 51.28.070.

30 (g) The worker has the right to have one person, who is at least
31 the age of majority and who is of the worker's choosing, to be
32 present to observe all compelled examinations ordered under this
33 section, RCW 51.32.110, or by the board of industrial insurance
34 appeals. The observer must be unobtrusive and not interfere with the
35 examination. The observer may not be the worker's legal
36 representative.

37 (5) This section applies prospectively to all claims regardless
38 of the date of injury.

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