
SENATE BILL 5663

State of Washington

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By Senators Deccio, Fraser, Newhouse, Owen, A. Anderson and Palmer

Read first time 01/31/95. Referred to Committee on Labor, Commerce & Trade.

1 AN ACT Relating to determination of benefits for permanent
2 disability by industrial insurance self-insurers; and amending RCW
3 51.32.055, 51.14.120, and 51.14.130.

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

5 **Sec. 1.** RCW 51.32.055 and 1994 c 97 s 1 are each amended to read
6 as follows:

7 (1) One purpose of this title is to restore the injured worker as
8 nearly as possible to the condition of self-support as an able-bodied
9 worker. Benefits for permanent disability shall be determined under
10 the director's or self-insurer's supervision only after the injured
11 worker's condition becomes fixed.

12 (2) All determinations of permanent disabilities shall be made by
13 the department or the self-insurer. Either the worker(~~(or)~~) or the
14 employer(~~(or self-insurer)~~) may make a request or the inquiry may be
15 initiated by the director or the self-insurer on his or her own motion.
16 Determinations shall be required in every instance where permanent
17 disability is likely to be present. All medical reports and other
18 pertinent information in the possession of or under the control of the

1 employer or self-insurer shall be forwarded to the director with the
2 request.

3 (3) A request for determination of permanent disability shall be
4 examined by the department or the self-insurer and an order shall issue
5 in accordance with RCW 51.52.050.

6 (4) The department or self-insurer may require that the worker
7 present himself or herself for a special medical examination by a
8 physician or physicians selected by the department, and the department
9 or self-insurer may require that the worker present himself or herself
10 for a personal interview. The costs of the examination or interview,
11 including payment of any reasonable travel expenses, shall be paid by
12 the department or self-insurer, as the case may be.

13 (5) The director may establish a medical bureau within the
14 department to perform medical examinations under this section.
15 Physicians hired or retained for this purpose shall be grounded in
16 industrial medicine and in the assessment of industrial physical
17 impairment. Self-insurers shall bear a proportionate share of the cost
18 of the medical bureau in a manner to be determined by the department.

19 (6) Where a dispute arises from the handling of any claim before
20 the condition of the injured worker becomes fixed, the worker,
21 employer, or self-insurer may request the department to resolve the
22 dispute or the director may initiate an inquiry on his or her own
23 motion. In these cases, the department shall proceed as provided in
24 this section and an order shall issue in accordance with RCW 51.52.050.

25 (7)(a) If a claim (i) is accepted by a self-insurer after June 30,
26 1986, (ii) involves only medical treatment and the payment of temporary
27 disability compensation under RCW 51.32.090 or only the payment of
28 temporary disability compensation under RCW 51.32.090, (iii) at the
29 time medical treatment is concluded does not involve permanent
30 disability, (iv) is one with respect to which the department has not
31 intervened under subsection (6) of this section, and (v) the injured
32 worker has returned to work with the self-insured employer of record at
33 the worker's previous job or at a job that has comparable wages and
34 benefits, the claim may be closed by the self-insurer, subject to
35 reporting of claims to the department in a manner prescribed by
36 department rules adopted under chapter 34.05 RCW.

37 (b) All determinations of permanent disability for claims accepted
38 by self-insurers after June 30, 1986, shall be made by the ((self-

1 ~~insured section of the department~~) self-insurer under subsections (1)
2 through (4) of this section.

3 (c) Upon closure of a claim under (a) of this subsection, the self-
4 insurer shall enter a written order, communicated to the worker and the
5 department self-insurance section, which contains the following
6 statement clearly set forth in bold face type: "This order constitutes
7 notification that your claim is being closed with medical benefits and
8 temporary disability compensation only as provided, and with the
9 condition you have returned to work with the self-insured employer. If
10 for any reason you disagree with the conditions or duration of your
11 return to work or the medical benefits or the temporary disability
12 compensation that has been provided, you may protest in writing to the
13 department of labor and industries, self-insurance section, within
14 sixty days of the date you received this order." If the department
15 receives such a protest, the self-insurer's closure order shall be held
16 in abeyance. The department shall review the claim closure action and
17 enter a determinative order as provided for in RCW 51.52.050.

18 (d) If within two years of claim closure the department determines
19 that the self-insurer has made payment of benefits because of clerical
20 error, mistake of identity, or innocent misrepresentation or the
21 department discovers a violation of the conditions of claim closure,
22 the department may require the self-insurer to correct the benefits
23 paid or payable. This paragraph does not limit in any way the
24 application of RCW 51.32.240.

25 (8) If a claim (a) is accepted by a self-insurer after June 30,
26 1990, (b) involves only medical treatment, (c) does not involve payment
27 of temporary disability compensation under RCW 51.32.090, and (d) at
28 the time medical treatment is concluded does not involve permanent
29 disability, 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. Upon closure of a
32 claim, the self-insurer shall enter a written order, communicated to
33 the worker, which contains the following statement clearly set forth in
34 bold-face type: "This order constitutes notification that your claim
35 is being closed with medical benefits only, as provided. If for any
36 reason you disagree with this closure, you may protest in writing to
37 the Department of Labor and Industries, Olympia, within 60 days of the
38 date you received this order. The department will then review your
39 claim and enter a further determinative order." If the department

1 receives such a protest, it shall review the claim and enter a further
2 determinative order as provided for in RCW 51.52.050.

3 **Sec. 2.** RCW 51.14.120 and 1993 c 122 s 2 are each amended to read
4 as follows:

5 (1) The self-insurer shall provide, when authorized under RCW
6 51.28.070, a copy of the employee's claim file at no cost within
7 fifteen days of receipt of a request by the employee or the employee's
8 representative. If the self-insured employer determines that release
9 of the claim file to an unrepresented worker in whole or in part, may
10 not be in the worker's best interests, the employer must submit a
11 request for denial with an explanation along with a copy of that
12 portion of the claim file not previously provided within twenty days
13 after the request from the worker. In the case of second or subsequent
14 requests, a reasonable charge for copying may be made. The self-
15 insurer shall provide the entire contents of the claim file unless the
16 request is for only a particular portion of the file. Any new material
17 added to the claim file after the initial request shall be provided
18 under the same terms and conditions as the initial request.

19 (2) The self-insurer shall transmit notice to the department of any
20 protest or appeal by an employee relating to the administration of an
21 industrial injury or occupational disease claim under this chapter
22 within five working days of receipt. The date that the protest or
23 appeal is received by the self-insurer shall be deemed to be the date
24 the protest is received by the department for the purpose of RCW
25 51.52.050.

26 ~~((3) The self-insurer shall submit a medical report with the
27 request for closure of a claim under this chapter.))~~

28 **Sec. 3.** RCW 51.14.130 and 1993 c 122 s 3 are each amended to read
29 as follows:

30 The self-insurer shall ~~((request allowance or denial of))~~ issue an
31 order allowing or denying a claim within sixty days from the date that
32 the claim is filed. If the self-insurer fails to act within sixty
33 days, the department shall promptly intervene and adjudicate the claim.

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