

# SENATE BILL REPORT

## EHB 2105

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As Reported By Senate Committee On:  
Labor, Commerce, Research & Development, March 29, 2007

**Title:** An act relating to payment of prescription drugs for industrial insurance medical aid claims.

**Brief Description:** Requiring payment of prescription drugs for industrial insurance medical aid claims for initial visits.

**Sponsors:** Representatives Conway, Condotta, Kenney, Simpson and Ormsby.

**Brief History:** Passed House: 3/14/07, 96-0.

**Committee Activity:** Labor, Commerce, Research & Development: 3/27/07, 3/29/07 [DP].

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Majority Report:** Do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Clements, Ranking Minority Member; Franklin, Hewitt, Holmquist, Murray and Prentice.

**Staff:** Kathleen Buchli (786-7488)

**Background:** Under the Industrial Insurance Act, a worker injured in the course of employment may be entitled to proper and necessary medical and surgical services from a physician of his or her choice. All fees and medical charges must comply with a fee schedule established by the Department of Labor and Industries (L&I) and must be paid within 60 days of receipt by L&I or self-insured employer of a proper billing, or 60 days after the claim is allowed by final order or judgment, if an otherwise proper billing is received by L&I or self-insured employer prior to final adjudication of claim allowance.

Under L&I policy, the initial prescription costs associated with a potential claim are not paid until a decision is made to allow or reject the claim. In addition, if a claim is initially allowed, but later rejected, overpayments may be assessed for the cost of treatment and benefits, including any related prescription costs.

**Summary of Engrossed Bill:** For state fund claims, L&I must pay for any initial prescription drugs provided in an initial medical visit for any injury for which a worker files a claim. Payment must be made without regard to whether the worker's claim for benefits is ultimately allowed. Payments must be made in accordance with L&I's fee schedule.

By December 1, 2009, L&I must report to the Legislature on implementation.

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*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.*

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on January 1, 2008.

**Staff Summary of Public Testimony:** PRO: There is a financial risk in filling the first fill of a prescription. The pharmacist can fill a worker's prescription and file a claim with L&I. If the claim is rejected, L&I may need to come back and recoup amounts. This bill guarantees a first fill of the initial prescription before the claim gets in the process. It removes risk to pharmacies and would provide incentive for pharmacies to fill workers' compensation prescriptions.

OTHER: The bill applies only to state fund cases; self-insurers are not under the bill. This is because self-insurers are covering their own prescriptions, but there is a concern that it implies two layers of coverage. L&I has tried to address the issue of pharmacies not being paid on first claims. In April 2007, L&I will implement a higher dispensing fee on first fills for allowed claims. This adds incentive which is meant to offset losses with claims that are ultimately rejected. The reporting requirement was added to the bill to monitor this program. If fraudulent activity such as prescription shopping occurs, L&I will report back to the Legislature.

**Persons Testifying:** PRO: Dedi Hitchens, Washington State Pharmacy Association; Holly Chisa, Northwest Grocery Association.

OTHER: Vickie Kennedy, Department of Labor and Industries.