
SUBSTITUTE HOUSE BILL 2980

State of Washington 60th Legislature 2008 Regular Session

By House Commerce & Labor (originally sponsored by Representatives Williams, Conway, Moeller, and Hasegawa)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to ex parte contacts with medical providers during
2 industrial insurance appeals; adding a new section to chapter 51.52
3 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.52 RCW
6 to read as follows:

7 (1)(a) Except as provided in (b) through (d) of this subsection,
8 after the filing of a notice of an appeal under RCW 51.52.060(2), the
9 department, the employer, and the representatives of each shall not
10 have ex parte contact, to discuss the facts or issues in question in
11 the appeal, with any medical provider who has examined or treated the
12 claimant at the request of the claimant or treating medical provider,
13 unless written authorization for such contact is given by the claimant
14 or the claimant's representative. Such written authorization is only
15 valid if given after the date that the appeal is filed and shall expire
16 ninety days after it is signed.

17 (b) If the department, the employer, or their representatives wish
18 to communicate with the examining or treating medical providers and no

1 written authorization from the claimant or the claimant's
2 representative has been obtained, such communication must be:

3 (i) In writing, sent contemporaneously to all parties with a notice
4 to the provider in bold type that any response must be in writing;

5 (ii) In person, by telephone, or by videoconference, at a date and
6 time mutually agreed to by all parties, with the claimant or their
7 representative given the opportunity to fully participate; or

8 (iii) Pursuant to a properly scheduled and noted deposition.

9 (c) Written authorization is not required if the claimant fails to
10 identify or confirm the examining or treating medical provider as a
11 witness as required by the board.

12 (d) This subsection does not apply to the department while it is
13 investigating the claim to make a decision on whether to modify,
14 reverse, change, or hold in abeyance an order pursuant to RCW
15 51.52.060(4).

16 (2)(a) Except as provided in (b) and (c) of this subsection, after
17 the filing of a notice of an appeal under RCW 51.52.060(2), the
18 claimant and the representative for the claimant, if any, shall not
19 have ex parte contact, to discuss the facts or issues in question in
20 the appeal, with any medical provider who has examined the claimant
21 pursuant to RCW 51.36.070, unless written authorization for such
22 contact is given by the department or self-insured employer or their
23 representative. Such written authorization is only valid if given
24 after the date that the appeal is filed and shall expire ninety days
25 after it is signed.

26 (b) If the claimant or the claimant's representative wishes to
27 communicate with a medical provider who has examined the claimant
28 pursuant to RCW 51.36.070 and no written authorization from the
29 department or self-insured employer or their representative has been
30 obtained, such communication must be:

31 (i) In writing, sent contemporaneously to all parties with a notice
32 to the provider in bold type that any response must be in writing;

33 (ii) In person, by telephone, or by videoconference, at a date and
34 time mutually agreed to by all parties, with the department, self-
35 insured employer, and their representatives given the opportunity to
36 fully participate; or

37 (iii) Pursuant to a properly scheduled and noted deposition.

1 (c) Written authorization is not required if the department or
2 self-insured employer fails to identify or confirm the examining
3 medical provider as a witness as required by the board.

4 (3) This section only applies to issues set forth in a notice of
5 appeal under RCW 51.52.060(2).

6 (4) Nothing in this section shall be construed to limit the
7 reporting requirements under RCW 51.04.050 and 51.36.060 for issues not
8 set forth in a notice of appeal.

9 NEW SECTION. **Sec. 2.** This act applies to orders issued on or
10 after the effective date of this act.

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