
SUBSTITUTE HOUSE BILL 1466

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Ludwig, R. King, Cole, Heavey, Jones and Franklin).

Read first time February 26, 1991.

1 AN ACT Relating to reimbursement for reasonable attorneys' fees and
2 costs for the collection of social security benefits; and amending RCW
3 51.32.220 and 51.32.225.

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

5 **Sec. 1.** RCW 51.32.220 and 1982 c 63 s 19 are each amended to read
6 as follows:

7 (1) For persons under the age of sixty-five receiving compensation
8 for temporary or permanent total disability pursuant to the provisions
9 of chapter 51.32 RCW, such compensation shall be reduced by an amount
10 equal to the benefits payable under the federal old-age, survivors and
11 disability insurance act as now or hereafter amended not to exceed the
12 amount of the reduction established pursuant to 42 USC 424a. However,
13 such reduction shall not apply when the combined compensation provided
14 pursuant to chapter 51.32 RCW and the federal old-age, survivors and
15 disability insurance act is less than the total benefits to which the

1 federal reduction would apply, pursuant to 42 USC 424a. Where any
2 person described in this section refuses to authorize the release of
3 information concerning the amount of benefits payable under said
4 federal act the department's estimate of said amount shall be deemed to
5 be correct unless and until the actual amount is established and no
6 adjustment shall be made for any period of time covered by any such
7 refusal.

8 (2) Any reduction under subsection (1) of this section shall be
9 effective the month following the month in which the department or
10 self-insurer is notified by the federal social security administration
11 that the person is receiving disability benefits under the federal old-
12 age, survivors and disability insurance act: PROVIDED, That in the
13 event of an overpayment of benefits the department or self-insurer may
14 not recover more than the overpayments for the six months immediately
15 preceding the date the department or self-insurer notifies the worker
16 that an overpayment has occurred: PROVIDED FURTHER, That upon
17 determining that there has been an overpayment, the department or self-
18 insurer shall immediately notify the person who received the
19 overpayment that he or she shall be required to make repayment pursuant
20 to this section and RCW 51.32.230.

21 (3) Recovery of any overpayment must be taken from future temporary
22 or permanent total disability benefits or permanent partial disability
23 benefits provided by this title. In the case of temporary or permanent
24 total disability benefits, the recovery shall not exceed twenty-five
25 percent of the monthly amount due from the department or self-insurer
26 or one-sixth of the total overpayment, whichever is the lesser.

27 (4) No reduction may be made unless the worker receives notice of
28 the reduction prior to the month in which the reduction is made.

1 (5) In no event shall the reduction reduce total benefits to less
2 than the greater amount the worker may be entitled to under this title
3 or the federal old-age, survivors and disability insurance act.

4 (6) Prior to a reduction in compensation under this section, the
5 state fund or self-insurer shall reimburse the worker, whose
6 compensation would be reduced, in the amount of the attorneys' fees and
7 expenses that are awarded in the administrative proceedings under the
8 federal social security, old-age survivors, and disability insurance
9 act and that are required to be paid by the worker. The reimbursement
10 may be made by delaying the implementation of the reduction under this
11 section as provided by department rules.

12 (7) The director, pursuant to rules adopted in accordance with the
13 procedures provided in the administrative procedure act, chapter 34.05
14 RCW, may exercise his discretion to waive, in whole or in part, the
15 amount of any overpayment where the recovery would be against equity
16 and good conscience.

17 ((+7)) (8) The amendment in subsection (1) of this section by
18 chapter 63, Laws of 1982 raising the age limit during which the
19 reduction shall be made from age sixty-two to age sixty-five shall
20 apply with respect to workers whose effective entitlement to total
21 disability compensation begins after January 1, 1983.

22 **Sec. 2.** RCW 51.32.225 and 1986 c 59 s 5 are each amended to read
23 as follows:

24 (1) For persons receiving compensation for temporary or permanent
25 total disability under this title, the compensation shall be reduced by
26 the department to allow an offset for social security retirement
27 benefits payable under the federal social security, old age survivors,
28 and disability insurance act, 42 U.S.C. ((This)) Reductions under this
29 section shall comply with the procedures in RCW 51.32.220 (1) through

1 (6), except those that relate to computation, and with any other
2 procedures established by the department to administer this section.

3 (2) Prior to a reduction in compensation under this section, the
4 state fund or self-insurer shall reimburse the worker, whose
5 compensation would be reduced, in the amount of the attorneys' fees and
6 expenses that are awarded in the administrative proceedings under the
7 federal social security, old-age survivors, and disability insurance
8 act and that are required to be paid by the worker. The reimbursement
9 may be made by delaying the implementation of the reduction under this
10 section as provided by department rules.

11 (3) The reduction under this section shall not apply to any worker
12 who is receiving permanent total disability benefits prior to July 1,
13 1986.

14 ~~((2) Reductions for social security retirement benefits under this~~
15 ~~section shall comply with the procedures in RCW 51.32.220 (1) through~~
16 ~~(6), except those that relate to computation, and with any other~~
17 ~~procedures established by the department to administer this section.~~

18 ~~(3))~~ (4) Any reduction in compensation made under chapter 58, Laws
19 of 1986, shall be made before the reduction established in this
20 section.