
HOUSE BILL 1466

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Ludwig, R. King, Cole, Heavey, Jones and Franklin.

Read first time January 30, 1991. Referred to Committee on Commerce & Labor.

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. Prior to a
2 reduction in compensation under this section, the state fund or self-
3 insurer shall reimburse a person, whose compensation would be reduced,
4 for the reasonable attorneys' fees and costs necessary for the person
5 to actually receive the benefits payable under the federal old-age,
6 survivors, and disability act. Where any person described in this
7 section refuses to authorize the release of information concerning the
8 amount of benefits payable under said federal act the department's
9 estimate of said amount shall be deemed to be correct unless and until
10 the actual amount is established and no adjustment shall be made for
11 any period of time covered by any such refusal.

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

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

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

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

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

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

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

18 (1) For persons receiving compensation for temporary or permanent
19 total disability under this title, the compensation shall be reduced by
20 the department to allow an offset for social security retirement
21 benefits payable under the federal social security, old age survivors,
22 and disability insurance act, 42 U.S.C. This reduction shall not apply
23 to any worker who is receiving permanent total disability benefits
24 prior to July 1, 1986. Prior to a reduction in compensation under this
25 section, the state fund or self-insurer shall reimburse a person, whose
26 compensation would be reduced, for the reasonable attorneys' fees and
27 costs necessary for the person to actually receive the social security
28 retirement benefits payable under the federal social security, old-age,
29 survivors, and disability insurance act.

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

5 (3) Any reduction in compensation made under chapter 58, Laws of
6 1986, shall be made before the reduction established in this section.