
**Labor & Workforce Development
Committee**

HB 1872

Brief Description: Addressing occupational disease claims and authorization of voluntary settlements.

Sponsors: Representatives Springer, Condotta, Eddy, Clibborn, Shea, Warnick, Morris, Fagan, Taylor and Takko.

Brief Summary of Bill

- Modifies the definition of occupational disease for purposes of industrial insurance to require that the disease arise out of and in the course of the particular employment and meet other criteria.
- Limits the time for filing occupational disease claims.
- Authorizes voluntary settlement agreements regarding any or all aspects of industrial insurance claims under certain conditions.

Hearing Date: 2/9/11

Staff: Joan Elgee (786-7106).

Background:

Under the state's Industrial Insurance Act (Act), workers injured in the course of employment are entitled to certain benefits. Workers who are disabled from an occupational disease in the course of employment are entitled to the same benefits as injured workers. An occupational disease is a disease or infection as arises naturally and proximately out of employment. Court decisions have held that occupational disease may include disability resulting from work-related aggravation of a preexisting nonwork-related disease. Occupational disease claims must be filed within two years from the date the worker had written notice from a medical provider of the existence of the occupational disease and that a claim for benefits may be filed.

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.

The Act provides that a worker may not waive industrial insurance benefits by an agreement and that any such agreement is void.

Summary of Bill:

Occupational disease.

The definition of occupational disease is modified. An occupational disease is a disease that arises out of and in the course of the particular employment in which the worker is exposed to the disease or infection and the following criteria are met:

- the disease or infection is proximately caused by the distinctive conditions under which the work is performed and risk of exposure inherent therein;
- the disease or infection arose as a natural incident of the employment-related exposure;
- the worker would not have ordinarily been exposed to the disease or infection outside of his or her employment; and
- the disease or infection is not an ordinary condition of life to which the general public is exposed without regard to employment.

"Proximate cause" means that cause which, in a direct sequence, unbroken by any new, independent cause, produces the disease or infection, and without which the disease or infection would not have occurred.

The time frames for filing occupational disease claims are modified. Claims must be filed within one year of the earliest of the date: (1) the disease or infection was first diagnosed; (2) the worker first received treatment for symptoms of the disease from any health services provider; or (3) the worker was first partially or fully restricted from work due to the disease or infection.

Voluntary settlement agreements.

The parties to an industrial insurance claim may enter into a voluntary settlement agreement (agreement) at any time. The agreement may bind the parties to any or all aspects of a claim, including allowance or rejection of the claim, monetary payment, vocational services, claim closure, and claim reopening. The parties for a State Fund claim are the worker, the Department of Labor and Industries (Department), employer, and respective rating group, if the employer participates in a group. For a self-insured employer claim, the parties are the worker and the employer.

The agreement process depends on whether the worker is represented by an attorney. If a worker is not represented, the parties must forward a copy of the signed agreement to the Board of Industrial Insurance Appeals (Board) and request a settlement conference. The settlement officer (officer) must convene a conference within 14 days of the request unless one of the parties requests a later date. The officer must explain to the worker the industrial insurance benefits available under the law and that an agreement may alter the benefits payable on a claim, and ensure that the worker has an adequate understanding of the proposal and its consequences to the worker. The officer may reject an agreement only if the officer finds that the parties have not entered into the agreement knowingly and willingly. Within seven days after the conference, the officer must issue an order allowing or rejecting the agreement. If the officer allows the agreement, the order is submitted to the Board. No appeal of the officer's decision is permitted.

If the worker is represented by an attorney, the parties may submit the agreement directly to the Board.

The Board must approve the agreement within 30 working days unless the Board finds that the parties have not entered the agreement knowingly and willingly. A party may revoke consent by providing written notice to the other parties and the Board within 30 days after the Board approves the agreement. If the agreement is not revoked, it becomes final and binding on all parties 30 days after approval and may not be appealed.

If a worker is entitled to time-loss or pension benefits while an agreement is being negotiated or during the revocation period, the benefits must be paid until the agreement becomes final.

If the agreement provides that a claim is not subject to reopening, any reapplication to reopen must be denied.

The Department must maintain copies of all agreements and develop processes to furnish copies to any party contemplating any subsequent agreement with the worker. The Department must also furnish claims histories. Copies of agreements and claims histories must be furnished within 10 working days of a written request, and an employer may not consider a prior agreement or claims history when making a decision about hiring or the terms or conditions of employment.

If a worker received an award of, or entered into an agreement for, a pension or permanent partial disability benefits, it shall be conclusively presumed that the medical condition causing the prior disability exists and is disabling at the time of any subsequent injury or occupational disease.

Appropriation: None.

Fiscal Note: Requested on February 7, 2011.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.