

# HOUSE BILL REPORT

## HB 2622

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**As Reported by House Committee On:**  
Labor & Workforce Development

**Title:** An act relating to communicating with workers in their primary language.

**Brief Description:** Requiring medical claims to be addressed by communicating with workers in their primary language.

**Sponsors:** Representatives Kenney, Ormsby, Santos and Moscoso.

**Brief History:**

**Committee Activity:**

Labor & Workforce Development: 1/25/12, 1/30/12 [DPS].

**Brief Summary of Substitute Bill**

- Requires certain industrial insurance communications to be in the worker's primary language when designated by the worker.

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### HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Kenney, Miloscia, Moeller, Ormsby and Roberts.

**Minority Report:** Do not pass. Signed by 5 members: Representatives Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Taylor and Warnick.

**Staff:** Joan Elgee (786-7106).

**Background:**

Under the state's industrial insurance laws, employers must either insure through the State Fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure.

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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.*

To qualify for industrial insurance benefits, an injured worker files an application for benefits (report of accident) with the Department or his or her self-insured employer. For a State Fund claim, the provider may file the claim. Various documents are sent to the worker or the worker's representative.

Depending on the injury, an independent medical examination may be ordered and vocational rehabilitation assessments may take place.

A worker has 60 days after an order, decision, or award was communicated to appeal the order, decision, or award to the Board of Industrial Insurance Appeals (Board). Appeals are filed with the Board and the Department.

Department policy is that interpreter services, including written translations, are available on both State Fund and self-insured claims for persons with limited English proficiency.

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### **Summary of Substitute Bill:**

The report of accident form must allow a worker to designate a primary language for purposes of communicating about the worker's claim. The Department's notice to the worker of the worker's rights, and all correspondence, written notices, and orders must be in the language designated by the worker. However, if the the claimant is represented, the Department must send all correspondence, written notices, and orders to the representative in English if requested by the representative. Similarly, the Department must develop a form allowing the parties filing a claim when death resulted from the injury to designate a primary language.

If the worker designates a primary language other than English, interpreter services for any vocational meetings and for any independent medical examinations must be provided to the worker.

If the report of accident designates a primary language other than English, the 60-day appeal period does not begin until the order is communicated in the language requested.

The provisions apply to all claims open after January 1, 2013.

### **Substitute Bill Compared to Original Bill:**

The substitute bill:

- deletes a provision regarding claim suppression by a self-insurer who refuses to provide an accident form to a worker;
- deletes a requirement regarding suspension of benefits for worker lack of cooperation;
- restores current law regarding the information sent to the claimant and to the claimant's representatives;
- deletes references to self-insurers with respect to appeals; and
- makes language consistent with respect to communications.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support of substitute bill) Workers' compensation is complicated and it is important that workers understand their rights so they know, for example, whether to seek follow-up care. This bill assures all workers will receive information in their primary language. Interpreter services will also be available during vocational rehabilitation and independent medical exams.

The burden is on the worker to designate their primary language. If the worker has an attorney, the attorney has the responsibility to communicate with the worker.

(Neutral with concerns on substitute bill) The substitute bill is similar in process to the one followed in State Fund claims. There is some concern about languages other than the six common languages. Some information is not translated because it would cause a delay in getting the benefits out. If there is a problem with the process, a decision is not final.

(Opposed to substitute bill) There is no awareness of a problem. The current rule already requires self-insurers to communicate with the worker. Self-insurers would rely on the Department to revise forms. Does "language" mean one of the six languages? If translation into an unusual language is required, there should be accommodation for the inability to meet a deadline.

(Opposed to original bill) The opposition is to the original bill.

**Persons Testifying:** (In support of substitute bill) Rebecca Johnson, Washington State Labor Council.

(Neutral with concerns on substitute bill) Vickie Kennedy, Department of Labor and Industries.

(Opposed to substitute bill) Kathleen Collins, Washington Self-Insurers Association.

(Opposed to original bill) Kris Tefft, Association of Washington Business.

**Persons Signed In To Testify But Not Testifying:** None.