

HOUSE BILL REPORT

HB 2862

As Reported By House Committee On:

Commerce & Labor

Title: An act relating to the department of social and health services lien and notice to withhold and deliver.

Brief Description: Regulating department of social and health services liens and notices to withhold and deliver.

Sponsors: Representatives Hargrove and McMorris.

Brief History:

Committee Activity:

Commerce & Labor: 1/18/96, 1/24/96 [DP].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 9 members: Representatives McMorris, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Romero, Ranking Minority Member; Cairnes; Cody; Fuhrman; Goldsmith and Lisk.

Staff: Chris Cordes (786-7117).

Background: If a person accepts state public assistance from the Department of Social and Health Services (DSHS), the department has a right to recover time-loss compensation (temporary total disability compensation) due to the recipient under the industrial insurance law to the extent of the public assistance furnished to the recipient for, or during, a period when time-loss compensation is payable. The DSHS has a lien to secure reimbursement of the public assistance paid. The lien is limited to the lesser of the public assistance or time-loss compensation.

The DSHS can assert the lien by serving a signed statement of the lien and a notice to withhold and deliver with the director, or employee in the director's office, of the Department of Labor and Industries (DLI). The notice must identify the recipient and make a demand to withhold and deliver the amount claimed. The statute permits personal service or service by regular mail.

Notice of the lien must also be sent to the recipient by certified mail no later than the next business day after the notice is mailed or delivered to the DLI.

The director of the DLI must deliver to the secretary of DSHS any funds up to the amount claimed in the notice that the director may hold, or may come into possession of, because of time-loss compensation payable to the recipient during the period stated.

A recipient who is aggrieved by the action against his or her time-loss compensation is entitled to a hearing. The recipient must file a notice requesting a hearing within 28 days after the notice to withhold and deliver has been mailed to or served on the DLI.

Summary of Bill: Several changes are made in the procedures relating to the Department of Social and Health Services' right to reimbursement for public assistance paid to a recipient who also is entitled to industrial insurance benefits for the same period.

Contents of the notice

Provisions are deleted that require the statement of lien and notice to withhold and deliver to be signed and to include a demand to withhold and deliver the claimed sum. (The notice will continue to identify the recipient and the amount claimed by the DSHS.)

Service of the notice

An additional method of serving notice on the Department of Labor and Industries is provided. In addition to personal service and regular mail, the DSHS may serve the statement of lien and the notice to withhold and deliver with the DLI by electronic device. The statement may be received by the agency and does not have to be received by a specified employee of the agency.

The statement of lien sent to the public assistance recipient must be mailed within two days, rather than by the next business day, after the notice is received by the DLI.

Funds subject to the notice

The provision requiring the director of the DLI to deliver funds that are in the director's possession is modified to delete the requirement that the funds be for time-loss compensation payable for or during the period of public assistance.

Hearings

A recipient who wishes to request a hearing concerning the impoundment of his or her time-loss compensation may file a hearing application within 28 days after the notice was mailed to the recipient, instead of within 28 days after the notice was

mailed to the DLI. A new provision is added permitting a hearing if the applicant files a hearing application more than 28 days after but within one year of the date the notice was mailed and can show good cause for not filing within 28 days. Collection actions may continue until good cause is shown.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Presented on HB 2272) There have been challenges recently to the Department of Social and Health Services' authority to obtain reimbursement when a public assistance recipient receives both industrial insurance time-loss benefits and assistance for the same period of time. Several clarifications are needed to ensure that the program continues to work efficiently and effectively. These changes will not change any rights of the recipient, but will allow liens to be filed electronically between the agencies, will delete language that could support arguments limiting the funds from which the department may seek reimbursement, and will provide better notice and hearing opportunities for recipients.

Testimony Against: None.

Testified: David Henry, Department of Social and Health Services.