
SUBSTITUTE HOUSE BILL 1910

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Goldsmith, Cairnes, Hargrove and Lisk)

Read first time 03/01/95.

1 AN ACT Relating to determination of benefits for permanent partial
2 disability by industrial insurance self-insurers; and amending RCW
3 51.32.055.

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

5 **Sec. 1.** RCW 51.32.055 and 1994 c 97 s 1 are each amended to read
6 as follows:

7 (1) One purpose of this title is to restore the injured worker as
8 nearly as possible to the condition of self-support as an able-bodied
9 worker. Benefits for permanent disability shall be determined under
10 the director's supervision, except as otherwise authorized in
11 subsection (9) of this section, only after the injured worker's
12 condition becomes fixed.

13 (2) All determinations of permanent disabilities shall be made by
14 the department, except as otherwise authorized in subsection (9) of
15 this section. Either the worker, employer, or self-insurer may make a
16 request or the inquiry may be initiated by the director or, as
17 authorized in subsection (9) of this section, by the self-insurer on
18 his or her own motion. Determinations shall be required in every
19 instance where permanent disability is likely to be present. All

1 medical reports and other pertinent information in the possession of or
2 under the control of the employer or, if the self-insurer has made a
3 request to the department, in the possession of or under the control of
4 the self-insurer shall be forwarded to the director with the request.

5 (3) A request for determination of permanent disability shall be
6 examined by the department or, if authorized in subsection (9) of this
7 section, the self-insurer, and the department shall issue an order
8 ((shall issue)) in accordance with RCW 51.52.050 or, in the case of a
9 self-insured employer, the self-insurer may: (a) Enter a written
10 order, communicated to the worker and the department self-insurance
11 section in accordance with subsection (9) of this section, or (b)
12 request the department to issue an order in accordance with RCW
13 51.52.050.

14 (4) The department or, in cases authorized in subsection (9) of
15 this section, the self-insurer may require that the worker present
16 himself or herself for a special medical examination by a physician or
17 physicians selected by the department, and the department or, in cases
18 authorized in subsection (9) of this section, the self-insurer may
19 require that the worker present himself or herself for a personal
20 interview. The costs of the examination or interview, including
21 payment of any reasonable travel expenses, shall be paid by the
22 department or self-insurer, as the case may be.

23 (5) The director may establish a medical bureau within the
24 department to perform medical examinations under this section.
25 Physicians hired or retained for this purpose shall be grounded in
26 industrial medicine and in the assessment of industrial physical
27 impairment. Self-insurers shall bear a proportionate share of the cost
28 of the medical bureau in a manner to be determined by the department.

29 (6) Where a dispute arises from the handling of any claim before
30 the condition of the injured worker becomes fixed, the worker,
31 employer, or self-insurer may request the department to resolve the
32 dispute or the director may initiate an inquiry on his or her own
33 motion. In these cases, the department shall proceed as provided in
34 this section and an order shall issue in accordance with RCW 51.52.050.

35 (7)(a) If a claim (i) is accepted by a self-insurer after June 30,
36 1986, and before July 1, 1995, (ii) involves only medical treatment and
37 the payment of temporary disability compensation under RCW 51.32.090 or
38 only the payment of temporary disability compensation under RCW
39 51.32.090, (iii) at the time medical treatment is concluded does not

1 involve permanent disability, (iv) is one with respect to which the
2 department has not intervened under subsection (6) of this section, and
3 (v) the injured worker has returned to work with the self-insured
4 employer of record at the worker's previous job or at a job that has
5 comparable wages and benefits, the claim may be closed by the self-
6 insurer, subject to reporting of claims to the department in a manner
7 prescribed by department rules adopted under chapter 34.05 RCW.

8 (b) All determinations of permanent disability for claims accepted
9 under this subsection (7) by self-insurers after June 30, 1986, and
10 before July 1, 1995, shall be made by the self-insured section of the
11 department under subsections (1) through (4) of this section.

12 (c) Upon closure of a claim under (a) of this subsection, the self-
13 insurer shall enter a written order, communicated to the worker and the
14 department self-insurance section, which contains the following
15 statement clearly set forth in bold face type: "This order constitutes
16 notification that your claim is being closed with medical benefits and
17 temporary disability compensation only as provided, and with the
18 condition you have returned to work with the self-insured employer. If
19 for any reason you disagree with the conditions or duration of your
20 return to work or the medical benefits or the temporary disability
21 compensation that has been provided, you may protest in writing to the
22 department of labor and industries, self-insurance section, within
23 sixty days of the date you received this order." If the department
24 receives such a protest, the self-insurer's closure order shall be held
25 in abeyance. The department shall review the claim closure action and
26 enter a determinative order as provided for in RCW 51.52.050.

27 ~~((d) If within two years of claim closure the department
28 determines that the self-insurer has made payment of benefits because
29 of clerical error, mistake of identity, or innocent misrepresentation
30 or the department discovers a violation of the conditions of claim
31 closure, the department may require the self-insurer to correct the
32 benefits paid or payable. This paragraph does not limit in any way the
33 application of RCW 51.32.240.))~~

34 (8) If a claim (a) is accepted by a self-insurer after June 30,
35 1990, (b) involves only medical treatment, (c) does not involve payment
36 of temporary disability compensation under RCW 51.32.090, and (d) at
37 the time medical treatment is concluded does not involve permanent
38 disability, the claim may be closed by the self-insurer, subject to
39 reporting of claims to the department in a manner prescribed by

1 department rules adopted under chapter 34.05 RCW. Upon closure of a
2 claim, the self-insurer shall enter a written order, communicated to
3 the worker, which contains the following statement clearly set forth in
4 bold-face type: "This order constitutes notification that your claim
5 is being closed with medical benefits only, as provided. If for any
6 reason you disagree with this closure, you may protest in writing to
7 the Department of Labor and Industries, Olympia, within 60 days of the
8 date you received this order. The department will then review your
9 claim and enter a further determinative order." If the department
10 receives such a protest, it shall review the claim and enter a further
11 determinative order as provided for in RCW 51.52.050.

12 (9)(a) If a claim: (i) Is accepted by a self-insurer after June
13 30, 1995; (ii)(A) involves only medical treatment and the payment of
14 temporary disability compensation under RCW 51.32.090 and a
15 determination of permanent partial disability, if applicable, has been
16 made by the self-insurer as authorized in this subsection; or (B)
17 involves only the payment of temporary disability compensation under
18 RCW 51.32.090 and a determination of permanent partial disability, if
19 applicable, has been made by the self-insurer as authorized in this
20 subsection; (iii) is one with respect to which the department has not
21 intervened under subsection (6) of this section; and (iv) concerns an
22 injured worker who has returned to work with the self-insured employer
23 of record at the worker's previous job or at a job that has comparable
24 wages and benefits, the claim may be closed by the self-insurer,
25 subject to reporting of claims to the department in a manner prescribed
26 by department rules adopted under chapter 34.05 RCW.

27 (b) Upon closure of a claim under this subsection (9), the self-
28 insurer shall enter a written order, communicated to the worker and the
29 department self-insurance section, which contains the following
30 statement clearly set forth in bold-face type: "This order constitutes
31 notification that your claim is being closed with medical benefits
32 and/or temporary disability compensation as provided and with/without
33 award for permanent partial disability set forth below, and with the
34 condition that you have returned to work with the self-insured
35 employer. If for any reason you disagree with the conditions or
36 duration of your return to work or the medical benefits, temporary
37 disability compensation provided, or permanent partial disability that
38 has been awarded, you may protest in writing to the Department of Labor
39 and Industries, Self-Insurance Section, within sixty days of the date

1 you received this order." If the department receives such a protest,
2 the self-insurer's closure order shall be held in abeyance. The
3 department shall review the claim closure action and enter a
4 determinative order as provided for in RCW 51.52.050.

5 (c) All determinations of permanent partial disability for claims
6 accepted by self-insurers under this subsection (9) may be made by the
7 self-insurer or the self-insurer may request a determination by the
8 self-insured section of the department. All determinations shall be
9 made under subsections (1) through (4) of this section.

10 (10) If within two years of claim closure under subsections (7)
11 through (9) of this section, the department determines that the self-
12 insurer has made payment of benefits because of clerical error, mistake
13 of identity, or innocent misrepresentation or the department discovers
14 a violation of the conditions of claim closure, the department may
15 require the self-insurer to correct the benefits paid or payable. This
16 subsection (10) does not limit in any way the application of RCW
17 51.32.240.

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