

SENATE BILL REPORT

ESHB 1292

As Reported By Senate Committee On:
Commerce & Labor, April 1, 1997

Title: An act relating to expanding claims management authority for industrial insurance retrospective rating programs.

Brief Description: Expanding claims management authority for industrial insurance rating programs.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Lisk, Quall, Linville, Thompson, Mulliken, Sheldon, Grant, D. Schmidt, Skinner, Robertson, Boldt, Honeyford and Clements).

Brief History:

Committee Activity: Commerce & Labor: 3/24/97, 4/1/97 [DP, DNP].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

Minority Report: Do not pass.

Signed by Senators Franklin, Fraser and Heavey.

Staff: Jack Brummel (786-7428)

Background: The Department of Labor and Industries has adopted rules providing for retrospective adjustment of an employer's premium under a retrospective rating plan. The plan is also available to groups of employers that meet statutory requirements for group insurance. The plan is available on a voluntary basis for a one-year period, beginning in January, April, July, or October, and may be renewed at the end of that year. The plan must be consistent with recognized insurance principles and be administered under rules adopted by the department.

According to department data, approximately 12,000 employers participate in retrospective rating programs. Of these, over 90 percent participate as a member of a retrospective rating group. The department estimates that employers in retrospective rating plans pay approximately 41 percent of the premiums paid to the state fund.

Summary of Bill: The Department of Labor and Industries is directed to offer a voluntary retrospective rating plan to qualified employers and groups of employers. The plan is to be available for one year, renewable at the end of the year. The plan must be consistent with recognized insurance principles and be administered under department rules.

Retrospective rating plan employers or groups of employers using authorized claims administrators have authority to assist in the processing of claims that have a date of injury on or after January 1, 1998.

The department is to adopt rules which include authorization to schedule medical examinations using only the attending physician or department approved providers, and authorization to initiate vocational or other rehabilitation services and select providers from the department's contracted provider list or use department providers.

For independent medical examinations, the employer or group must select examiners from a rotating list of no more than five names for each provider specialty, unless the list is not provided within three working days of a written request for the list or the employer is scheduling pursuant to special circumstances, as permitted in department rules

Retrospective rating plan employers may close industrial insurance claims if the claim involves only medical treatment and/or the payment for 120 days or less of time loss benefits; the claim does not involve permanent disability; the department has not intervened in the claim because of a dispute; and the injured worker has returned to work with the retrospective rating plan employer or group at the same job or a job with comparable wages and benefits.

No later than at the time of closure, the retrospective rating plan employer or group must notify a worker of his or her rights to protest the closure to the department.

If a dispute arises from the handling of a claim by the retrospective rating plan employer or group before the worker's condition becomes fixed, the worker or employer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion.

If an employer or group violates the claims processing or claims closure authority, the department must notify the employer or group in writing and outline the corrective action to be taken. The employer or group is subject to penalties for: (1) failing to take the required corrective action within the period specified by the department; or (2) committing a second violation of the similar nature. Penalties may also be imposed if the violation resulted in or could have resulted in a loss of worker rights or benefits. The employer or group is also subject to suspension of authority to assist in claims processing for up to two years if the department finds a pattern of improper claims closure or other violations of claims processing authority.

The department is directed to adopt rules governing administration of the retrospective rating program.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill will speed up claims processing. Allowing retro employers to operate under the terms of the bill will free up the department to handle more complex claims. The bill has protection for employees by allowing the department to resume handling claims. There is written notice to employees when their claims are to be closed. The bill gives more flexibility to employers and benefits injured workers as well.

Testimony Against: The vocational counselors should be treated like the medical examiners are « chosen from a rotating list. There should be more of an arms-length relationship between employers and vocational rehabilitation counselors. The department should be required to take over the claims if there is a dispute. There should be a separate right of action for employees if their retro employers are not operating in good faith.

Testified: PRO: Representative Cathy McMorris, original prime sponsor; Jan Gee, Washington Retail Industry; Tony Morris, Dick's Food Center; John Warling, Washington State Farm Bureau; Craig Levee, Roolan Health Care; Joanne Collier, AWB; Helen Nelson, Panorama City; Terry Peterson, AWRE; CON: Michael Temple, Bill Hochberg, Washington State Trial Lawyers Association; Robby Stern, Washington State Labor Council; Karen McDonnell; Kathy Willis, L&I (neutral).