
SUBSTITUTE HOUSE BILL 1292

State of Washington

55th Legislature

1997 Regular Session

By 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)

Read first time 02/14/97.

1 AN ACT Relating to expanding claims management authority for
2 industrial insurance retrospective rating programs; and adding a new
3 section to chapter 51.16 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.16 RCW
6 to read as follows:

7 (1) The department shall offer a retrospective rating plan to
8 qualified employers and qualified groups of employers. The plan must
9 be available on a voluntary basis for one coverage period and may be
10 renewed at the end of the coverage period. The retrospective rating
11 plan must be consistent with recognized insurance principles and must
12 be administered according to rules, schedules, and factors adopted by
13 the department.

14 (2) In addition to those general powers and rights deemed
15 appropriate by the department, retrospective rating plan employers and
16 groups who administer their plans with an authorized claims
17 administrator are authorized to assist the department in the processing
18 of claims that have a date of injury on or after January 1, 1998. The
19 department shall adopt rules detailing the authority of retrospective

1 rating plan employers and groups, which authority must be comprehensive
2 and include, but not be limited to, the following:

3 (a) Authorization to schedule medical examinations and
4 consultations, as long as scheduling is only with providers who have
5 been qualified by the department as approved providers under department
6 rules. A retrospective rating plan employer or group may authorize
7 fees for medical examinations and consultations that exceed the
8 department's medical fee or other fee schedules but the employer or
9 group must be required to pay the difference;

10 (b) Authorization to initiate vocational services and select
11 providers from the department's contracted provider list or use
12 department providers. Vocational services may include job placement
13 services, skill enhancement services, vocational rehabilitation plans,
14 or other accepted services.

15 (3)(a) Retrospective rating plan employers and groups who
16 administer their plans with authorized claims administrators may close
17 claims as authorized in this subsection. A claim having a date of
18 injury on or after January 1, 1998, may be closed by the retrospective
19 rating plan employer or group, subject to reporting of claims to the
20 department in a manner prescribed by department rules, if the claim (i)
21 involves medical treatment or the payment, for a period of one hundred
22 and twenty days or less, of temporary disability compensation under RCW
23 51.32.090, or both, (ii) at the time medical treatment is concluded,
24 does not involve permanent disability, (iii) is one with respect to
25 which the department has not intervened under subsection (4) of this
26 section, and (iv) involves an injured worker who has returned to work
27 with the retrospective rating plan employer or group at the worker's
28 previous job or at a job that has comparable wages and benefits.

29 (b) Upon closure of a claim under this subsection, the
30 retrospective rating plan employer or group must enter a written order,
31 communicated to the worker, the attending physician, and the
32 department, which contains one of the following statements, as
33 applicable, clearly set forth in at least ten-point bold face type:
34 (i) For claims involving only medical treatment: "This order
35 constitutes notification that your claim is being closed with medical
36 benefits only as provided. If for any reason you disagree with the
37 closure of your claim, you may protest in writing to the Department of
38 Labor and Industries, Division of Insurance Services, Olympia,
39 Washington 98504, within sixty days of the date you received this

1 order."; or (ii) for claims involving the payment of temporary
2 disability compensation: "This order constitutes notification that
3 your claim is being closed with medical benefits and temporary
4 disability compensation only as provided, and with the condition that
5 you have returned to work at your previous job or at a job that has
6 comparable wages and benefits. If for any reason you disagree with the
7 closure of your claim, you may protest in writing to the Department of
8 Labor of Industries, Division of Insurance Services, Olympia,
9 Washington 98504, within sixty days of the date you received this
10 order." If the department receives a protest, the closure must be held
11 in abeyance. The department shall review the claim closure action and
12 enter a determination order as provided for in RCW 51.52.050.

13 (4) If a dispute arises from the handling of a claim under this
14 section before the condition of the injured worker becomes fixed, the
15 worker or employer may request the department to resolve the dispute or
16 the director, or his or her designee, may initiate an inquiry on his or
17 her own motion.

18 (5)(a) If the department determines that a retrospective rating
19 employer or group may have violated the authority granted in this
20 section, the department shall notify the retrospective rating employer
21 or group in writing outlining the violation and the corrective action
22 required. The notice must specify a reasonable period of time for
23 corrective action. Except as provided in (b) of this subsection, the
24 employer or group is subject to penalties under this subsection only if
25 (i) the employer or group fails to take the required corrective action
26 within the specified period, or (ii) the employer or group is
27 determined to have committed a second violation of a similar nature, in
28 which case penalties may be imposed for the second and subsequent
29 similar violations.

30 (b) If the department determines that a retrospective rating
31 employer's or group's violation of the authority granted in this
32 section resulted or could have resulted in a loss of a worker's rights
33 or benefits under this title, or other similar serious violation, the
34 employer or group is subject to penalties without regard to the
35 limitation of (a)(i) or (ii) of this subsection (5).

36 (c) If the department finds a pattern of improper claims closure or
37 other violations of the authority granted in subsection (2) or (3) of
38 this section, the director, or his or her designee, may suspend the
39 retrospective rating employer or group's authority to assist the

1 department in the processing of claims under this section for a period
2 of up to two years. The department shall issue an order and notice
3 under RCW 51.52.050 which states the grounds for the suspension. As
4 provided in chapter 51.52 RCW, the order becomes final within sixty
5 days from the date the order is communicated to the employer or group
6 unless a written request for reconsideration is filed with the
7 department or an appeal is filed with the board of industrial insurance
8 appeals.

9 (d) Except as otherwise provided in this section, this subsection
10 does not limit the department's authority to impose penalties under
11 chapter 51.48 RCW.

12 (6)(a) The director shall adopt under chapter 34.05 RCW all
13 necessary rules governing the administration of this section. The
14 rules should encourage broad participation in retrospective rating
15 plans by employers and groups of employers consistent with insurance
16 principles. The retrospective rating plan employer's or group's
17 exercise of authority under this section may require prior notification
18 to the department, but the rules must minimize the department's need to
19 respond and must ensure that a failure to respond or a delay in
20 response by the department does not impede the timely administration of
21 the claim.

22 (b) The department shall adopt rules establishing qualifications
23 for authorized claims administrators. The rules must require an
24 authorized claims administrator to demonstrate, in a manner
25 satisfactory to the department, a thorough knowledge of the industrial
26 insurance laws, including the department rules applying to
27 retrospective rating plans, and an expertise in processing claims as
28 authorized under this section. The rules must also establish
29 procedures for approval and disapproval of authorized claims
30 administrators.

31 (7) For purposes of this section:

32 (a) "Authorized claims administrator" means a person who is
33 approved by the department as meeting the qualifications established by
34 rule under subsection (6)(b) of this section.

35 (b) "Comparable wages and benefits" means that the wages and
36 benefits received in the new job do not exceed a five percent loss in
37 comparison to those received in the previous job held by the worker at
38 the time of the industrial injury.

1 (c) "Coverage period" means a one-year period beginning the first
2 day of any calendar quarter.

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