
HOUSE BILL 1607

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1997 Regular Session

By Representatives McMorris, Thompson, Dyer, Sheldon, Boldt, Honeyford, Lisk, Clements, Mulliken and Mielke

Read first time 02/03/97. Referred to Committee on Commerce & Labor.

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)) the director or the self-insurer's own motion.
19 Determinations shall be required in every instance where permanent

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

6 (3) A request for determination of permanent disability shall be
7 examined by the department or, if authorized in subsection (9) of this
8 section, the self-insurer, and the department shall issue an order
9 ((shall issue)) in accordance with RCW 51.52.050 or, in the case of a
10 self-insured employer, the self-insurer may: (a) Enter a written
11 order, communicated to the worker and the department self-insurance
12 section in accordance with subsection (9) of this section, or (b)
13 request the department to issue an order in accordance with RCW
14 51.52.050.

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

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

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

36 (7)(a) If a claim (i) is accepted by a self-insurer after June 30,
37 1986, (ii) involves only medical treatment and the payment of temporary
38 disability compensation under RCW 51.32.090 or only the payment of
39 temporary disability compensation under RCW 51.32.090, (iii) at the

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

9 (b) All determinations of permanent disability for claims accepted
10 under this subsection (7) by self-insurers after June 30, 1986, and
11 before July 1, 1997, shall be made by the self-insured section of the
12 department under subsections (1) through (4) of this section.

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

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

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

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

13 (9)(a) If a claim: (i) Is accepted by a self-insurer after June
14 30, 1997; (ii)(A) involves only medical treatment, or medical treatment
15 and the payment of temporary disability compensation under RCW
16 51.32.090, and a determination of permanent partial disability, if
17 applicable, has been made by the self-insurer as authorized in this
18 subsection; or (B) involves only the payment of temporary disability
19 compensation under RCW 51.32.090 and a determination of permanent
20 partial disability, if applicable, has been made by the self-insurer as
21 authorized in this subsection; (iii) is one with respect to which the
22 department has not intervened under subsection (6) of this section; and
23 (iv) concerns an injured worker who has returned to work with the self-
24 insured employer of record at the worker's previous job or at a job
25 that has comparable wages and benefits, the claim may be closed by the
26 self-insurer, subject to reporting of claims to the department in a
27 manner prescribed by department rules adopted under chapter 34.05 RCW.

28 (b) Upon closure of a claim under this subsection (9), the self-
29 insurer shall enter a written order, communicated to the worker and the
30 department self-insurance section, which contains the following
31 statement clearly set forth in bold-face type: "This order constitutes
32 notification that your claim is being closed with such medical benefits
33 and temporary disability compensation as provided to date and with such
34 award for permanent partial disability, if any, as set forth below, and
35 with the condition that you have returned to work with the self-insured
36 employer. If for any reason you disagree with the conditions or
37 duration of your return to work or the medical benefits, temporary
38 disability compensation provided, or permanent partial disability that
39 has been awarded, you may protest in writing to the Department of Labor

1 and Industries, Self-Insurance Section, within sixty days of the date
2 you received this order." If the department receives a protest, the
3 department shall review the claim closure action and enter a
4 determinative order as provided for in RCW 51.52.050. In no event is
5 an order issued under this subsection appealable to the board of
6 industrial insurance appeals.

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

12 (10) If within two years of claim closure under subsections (7)
13 through (9) of this section, the department determines that the self-
14 insurer has made payment of benefits because of clerical error, mistake
15 of identity, or innocent misrepresentation or the department discovers
16 a violation of the conditions of claim closure, the department may
17 require the self-insurer to correct the benefits paid or payable. This
18 subsection (10) does not limit in any way the application of RCW
19 51.32.240.

20 (11) Closing orders issued by self-insurers under subsections (7)
21 through (9) of this section have the same force and effect as
22 determinative orders issued by the department pursuant to RCW
23 51.52.050.

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