
SENATE BILL 5512

State of Washington 64th Legislature 2015 Regular Session

By Senators Braun, Baumgartner, Rivers, Bailey, Schoesler, and Warnick

Read first time 01/22/15. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to independent medical exam and consultation and
2 vocational rehabilitation assessment scheduling authority for
3 qualified retrospective rating plan employers and groups; amending
4 RCW 51.04.1101; adding a new section to chapter 51.18 RCW; and
5 providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.18
8 RCW to read as follows:

9 (1) In addition to those general powers and rights deemed
10 appropriate by the department, retrospective rating plan employers
11 and groups may assist the department in the processing of claims as
12 provided in this section. The department retains the final authority
13 over decisions with respect to any individual claim. Claims
14 representatives for retrospective rating plan employers and groups
15 may:

16 (a) Schedule medical examinations and consultations, using only
17 qualified persons from the department's approved examiner list. No
18 more than two independent medical examinations for each claim may be
19 scheduled by the claims representative within any twenty-four month
20 period. An independent medical examination may be scheduled when the
21 claim file includes medical reports indicating that an examination

1 may be necessary for any of the following reasons: Establishing a
2 diagnosis; outlining a program of treatment; evaluating what, if any,
3 conditions are related to the claimed industrial injury or
4 occupational disease; determining whether an industrial injury or
5 occupational disease has aggravated a preexisting condition;
6 establishing an impairment rating when the claim file medical reports
7 indicate that the worker's claim-related condition is at maximum
8 medical improvement; evaluating whether the industrial injury or
9 occupational disease has worsened; or evaluating the worker's mental
10 or physical restrictions as well as the worker's ability to work. The
11 results of any independent medical examination scheduled under this
12 subsection must be sent by the examiner or independent medical
13 examination panel directly to the department for the claimant's claim
14 file. The department must use the same criteria it applies to
15 department requested examinations to impose penalties under RCW
16 51.32.110 for a worker's refusal to submit to a medical examination
17 or obstruction of an examination; and

18 (b) Schedule vocational rehabilitation assessments using only
19 qualified providers approved by the department. Providers must be
20 selected based on experience with the industry involved. Any
21 vocational rehabilitation assessment resulting from a referral under
22 this subsection must be sent by the vocational rehabilitation
23 counselor directly to the department for the claimant's claim file.

24 (2) If a dispute arises from the handling of any claim under this
25 section, the injured worker, or retrospective rating plan employer or
26 group, may request the department to intervene. When exercising any
27 authority under this section, a retrospective rating plan employer or
28 group must inform a worker in writing that the worker may request the
29 department to intervene at any time.

30 (3) The department must require the retrospective rating plan
31 employer or group to notify the department prior to exercising any
32 authority authorized by this section. Rules adopted under this
33 section must minimize the department's need to respond and ensure
34 that any delay in response by the department does not impede the
35 timely administration of the claim. Providers must bill the
36 department for their services based on the medical aid rules and fee
37 schedules in effect at the time of the examination.

38 (4) Charges incurred by the retrospective rating plan employer or
39 group for independent medical examinations or vocational
40 rehabilitation assessments must be charged against the claim.

1 (5) The department must establish training requirements by rule
2 for exercising the authority under this section. At least one claims
3 representative for each retrospective rating plan employer or group
4 exercising the authority under this section must have received the
5 training.

6 (6)(a) The director may take corrective action, subject to RCW
7 51.52.050, against a retrospective rating plan employer or group if
8 the director determines that a claims representative under its
9 direction is not following proper industrial insurance claims
10 procedures under this section. Corrective actions taken by the
11 director may include:

12 (i) A probationary period of time for the claims representative;

13 (ii) Additional mandatory training for the claims representative;

14 and

15 (iii) Monitoring of the activities of the claims representative
16 to determine progress towards compliance.

17 (b) The director must adopt rules defining the corrective actions
18 in response to final determinations of failure to follow proper
19 procedures.

20 (c) If the director determines that compliance has been attained,
21 no further action may be taken. If compliance has not been attained,
22 the director may take additional corrective action including
23 restricting the retrospective rating plan employer or group from
24 exercising the authority under this section. Restricting the exercise
25 of authority under this section does not otherwise affect the claim
26 representative's status or the retrospective rating plan employer's
27 or group's status in the retrospective rating program.

28 (7) Retrospective rating plan employers and groups must send to
29 the claim file maintained by the department any written communication
30 made under this section with a medical provider or vocational
31 services provider not otherwise required to be submitted to the claim
32 file.

33 (8) In addition to rules required to be adopted under this
34 section, the department may adopt additional rules to implement this
35 section.

36 **Sec. 2.** RCW 51.04.1101 and 2011 1st sp.s. c 37 s 801 are each
37 amended to read as follows:

38 (1) The joint legislative audit and review committee, in
39 consultation with the department of labor and industries and the

1 workers' compensation advisory committee, (~~shall~~) must conduct a
2 performance audit of the workers' compensation claims management
3 system, including self-insured claims. The joint legislative audit
4 and review committee may contract with an independent expert in
5 workers' compensation claims management to assist with the audit.

6 (2) The audit (~~shall~~) must:

7 (a) Evaluate the extent to which the department: (i) Makes fair
8 and timely decisions, and resolves complaints and disputes in a
9 timely, fair, and effective manner; and (ii) communicates with
10 employers and workers in a timely, responsive, and accurate manner,
11 including communication about review and appeal rights, and including
12 the use of plain language and sufficient opportunities for face-to-
13 face meetings;

14 (b) Determine if current claims management organization and
15 service delivery models are the most efficient available; analyze
16 organization and delivery for retrospective rating plan participants
17 as compared to nonparticipants to identify differences and how those
18 differences influence retrospective rating plan refunds; and
19 determine whether current initiatives, including the scheduling
20 authority granted to retrospective rating plan employers and groups
21 under section 1 of this act, improve service delivery, meet the needs
22 of current and future workers and employers, improve public education
23 and outreach, and are otherwise measurable; and

24 (c) Make recommendations regarding administrative changes that
25 should be made to improve efficiency while maintaining high levels of
26 quality service to help address system costs, and any needed
27 legislative changes to implement the recommendations.

28 (3) The joint legislative audit and review committee (~~shall~~)
29 must submit progress reports by (~~December 1, 2012, and December 1,~~
30 ~~2013,~~) June 30, 2015, and December 1, 2015, and the results of the
31 audit by June 30, (~~2015~~) 2016, to the appropriate committees of the
32 legislature.

33 (4) This section expires December 31, (~~2015~~) 2017.

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