

SENATE BILL REPORT

ESSB 6226

As Passed Senate, February 13, 2018

Title: An act relating to improving health outcomes for injured workers by facilitating better access to medical records and telemedicine.

Brief Description: Improving health outcomes for injured workers by facilitating better access to medical records and telemedicine.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Keiser, Conway, Cleveland, Kuderer and Saldaña).

Brief History:

Committee Activity: Labor & Commerce: 1/22/18, 1/29/18 [DPS, w/oRec].

Floor Activity:

Passed Senate: 2/13/18, 47-0.

Brief Summary of Engrossed First Substitute Bill

- Requires a self-insured employer to provide electronic copies of medical records for an independent medical exam (IME), and, if not possible, paper copies at least ten business days before the scheduled exam.
- Provides that the director of the Department of Labor and Industries (L&I) must adopt policies developed by the telemedicine collaborative to establish access to telemedicine for IMEs and reimburse independent medical exam physicians for services.
- Requires physicians must undertake the training developed by the telemedicine collaborative, prior to performing any independent medical exams through telemedicine. The telemedicine collaborative means the collaborative for the advancement of telemedicine created in 2016.

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 6226 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, King, Kuderer and Saldaña.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun and Wilson.

Staff: Susan Jones (786-7404)

Background: Whenever the director of L&I or the self-insurer deems it necessary in order to resolve any medical issue, a worker must submit to examination by a physician or physicians selected by the director. L&I or the self-insurer must provide the physician performing an examination with all relevant medical records from the worker's claim file. The director, in the director's discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund. The cost of the examination must include payment to the worker of reasonable expenses.

Summary of Engrossed First Substitute Bill: The self-insured employer must ensure that all relevant medical records of the injured worker scheduled for an IME are provided as electronic medical records to the IME physician or physicians, and, if electronic medical records are not possible, paper records must be delivered to the IME physician or physicians at least ten business days before the scheduled exam. If the IME is scheduled to occur before ten business days or if a medical record only becomes available to the employer during the ten business days, then the paper records must be delivered to the IME physician as soon as possible before the exam occurs.

The director must adopt policies developed by the telemedicine collaborative to establish access to telemedicine for IMEs and reimburse the physicians for services. Physicians must undertake the training developed by the telemedicine collaborative, prior to performing any independent medical exams through telemedicine. The telemedicine collaborative means the collaborative for the advancement of telemedicine created in 2016. The telemedicine collaborative must develop policies for the department to establish access to telemedicine for independent medical exams and reimburse independent medical exam physicians for services in a manner that is similar to the policies developed for commercial health insurance plans and Medicaid managed care plans. The telemedicine collaborative must develop a training program to train physicians who perform independent medical exams. The training program must be offered to physicians seeking to provide independent medical exams through telemedicine.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: The bill is brought because of complaints that are pretty routinely lodged with the ombudsman for workers of self-insured employers about the lack of access to timely medical records and to IME panel exams, sometimes involving travel and some pain and difficulty for injured workers to get to

them. The bill would require timely medical records and allow telemedicine, which may be more convenient and less costly.

OTHER: We do not have a lot of issues on electronic records, but sometimes there are exceptions to the rule. There may be an IME sent within the ten days or a paper record that comes in during that ten-day period. We have language that may correct that issue. We are a little skeptical about how telemedicine may work in the IME context. We pledge to be involved in the development of it. Hopefully it would distinguish between where telemedicine makes sense in the IME context or where it may not, for example in litigation or rating impairments.

We agree that anything you can do for more electronic records is good. L&I has done a very good job on their electronic claims management. There are possibly some exceptions that we need to figure out. Telemedicine is not always appropriate in all instances for IMEs. We suggest that telemedicine for IMEs be the worker's option. For example, when the worker does not want to travel. When you have telemedicine being conducted in-state, there may be a worker who is now living in another state and they might want telemedicine.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor.

OTHER: Michael Temple, Washington State Association for Justice; David Lauman, Small, Snell, Weiss & Comfort, P.S.; Kris Tefft, Washington Self Insurers Association.

Persons Signed In To Testify But Not Testifying: No one.