

WAC 296-14-4122 For purposes of determining willful misrepresentation, what does the term "specific intent" mean? "Specific intent" means the commission of an act or the omission of information with the knowledge that such an act or omission will lead to wrongfully obtaining benefits. For example, a worker who completes a document knowingly misrepresenting that he/she is unable to perform work or work-type activities has committed an act. Submitting this document to the department or self-insurer in order to wrongfully receive workers' compensation benefits under Title 51 RCW represents specific intent.

Examples of the omission of information with the intent of obtaining benefits include, but are not limited to, failure of the worker to advise the department or self-insurer of a return to work or of self-employment; or failure to provide the department or self-insurer with complete information about skills and abilities that would have changed the outcome of a vocational assessment or the department's decision to provide vocational services. Not providing this information to the department or self-insurer represents specific intent because the omission of it can cause continued workers' compensation benefits to which the worker would not have been entitled had the information been provided.

The following is an example of a situation that does not represent "specific intent": An injured worker's wife is hired to manage the mobile home park where they live. Wages were paid to her for the management duties. The injured worker would occasionally answer the telephone when his wife was not available and he opened and closed the park gates each morning. He did not engage in the maintenance work of the park, provide tours of the park to prospective customers or perform any other park management duties. The worker did not report this activity to the department, his physician or his vocational counselor. The worker's omission of information is not considered "willful misrepresentation" with "specific intent" to receive benefits to which he would not be otherwise entitled.

[Statutory Authority: RCW 51.04.010, 51.04.020, and 2004 c 243. WSR 04-20-024, § 296-14-4122, filed 9/28/04, effective 11/1/04.]