

WAC 263-12-160 Final decisions favoring workers or beneficiaries

—Retention of jurisdiction to fix interest due. (1) Qualifying appeals. A worker or beneficiary who prevails in his or her own appeal regarding a claim for temporary total disability or in any appeal by the employer shall be paid simple interest at the rate of twelve percent per annum on the unpaid amount of the award after deducting the amount of attorney's fees.

(2) Retention of jurisdiction to enter order for payment of interest. In a qualifying appeal the board will retain jurisdiction after issuance of its final order for the purpose of entering an order fixing the amount of interest to be paid by the party having the obligation to pay the amount of the award as a result of the board's final order. In the event a further appeal is taken to superior court from the final order of the board, the board will retain jurisdiction to fix interest only if directed to fix interest by order or judgment of the court or if the appeal to superior court is dismissed without a decision on the merits of the appeal.

(3) Party who may be obligated to pay award to transmit interest fixing information. In those cases where the board determines that interest may be payable pursuant to RCW 51.52.135, the department or self-insurer, as the case may be, shall notify the board in writing of the amount of any award paid subsequent to the date of the department order under appeal, the date of payment of the award, and any other information necessary for the board to calculate and fix the interest which may be due on such award. In cases involving payment of compensation for temporary total disability the department or self-insurer shall notify the board of the monthly rate or rates at which payments are made and the periods to which the rate or rates apply.

(4) Attorneys to notify board of amount of fees. The attorney or attorneys of record for a worker or beneficiary in a qualifying appeal shall upon the request of the board provide a written statement indicating the dollar amount of fees charged to the worker or beneficiary for services rendered in obtaining or securing the award in qualifying appeals under RCW 51.52.135. Such statement shall be provided by a date specified in the board's request, but in no case later than thirty days from the date of payment by the department or self-insurer of the award paid as a result of the board's final order. In the event that the attorney or attorneys of record do not provide the board with the requisite statement within the time specified, the amount of fees paid to the attorney or attorneys will be deemed to be equal to thirty percent of the award paid as a result of the board's final order.

(5) Fixing of interest and entry of order. Upon receipt of all required information, interest will be calculated by the board at twelve percent per annum from the date of the department order granting the award in an appeal by the employer or the date of the department order denying payment of the award in a qualifying appeal by a worker or beneficiary. Thereafter, the board will enter an order fixing the amount of interest to be paid by the party having the obligation to pay the award as a result of the board's final order. Such interest shall be paid in full to the worker or beneficiary and is not subject to any claim for attorney's fees.

[Statutory Authority: RCW 51.52.020. WSR 91-13-038, § 263-12-160, filed 6/14/91, effective 7/15/91. Statutory Authority: RCW 51.52.020 and 51.52.135. WSR 84-02-024 (Order 15), § 263-12-160, filed 12/29/83.]