
SENATE BILL 5515

State of Washington 53rd Legislature 1993 Regular Session

By Senators Prentice and Sutherland

Read first time 02/01/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to employee rights regarding industrial insurance
2 claims; amending RCW 51.52.130; adding a new section to chapter 51.52
3 RCW; adding new sections to chapter 51.14 RCW; and prescribing
4 penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.52 RCW
7 to read as follows:

8 Upon appeal of a worker's claim to the board of industrial
9 insurance appeals, ex parte contact between a representative of the
10 department, self-insured employer, or employer, and a treating,
11 examining, or consulting physician of the worker is prohibited unless
12 prior notice of such contact is provided to the worker or the worker's
13 representative and the contact is conducted under applicable rules of
14 civil discovery.

15 **Sec. 2.** RCW 51.52.130 and 1982 c 63 s 23 are each amended to read
16 as follows:

17 If, on appeal to the superior or appellate court from the decision
18 and order of the board, said decision and order is reversed or modified

1 and additional relief is granted to a worker or beneficiary, or in
2 cases where a party other than the worker or beneficiary is the
3 appealing party and the worker's or beneficiary's right to relief is
4 sustained (~~by the court~~), a reasonable fee for the services of the
5 worker's or beneficiary's attorney shall be fixed by the court. In
6 fixing the fee the court shall take into consideration the fee or fees,
7 if any, fixed by the director and the board for such attorney's
8 services before the department and the board. If the court finds that
9 the fee fixed by the director or by the board is inadequate for
10 services performed before the department or board, or if the director
11 or the board has fixed no fee for such services, then the court shall
12 fix a fee for the attorney's services before the department, or the
13 board, as the case may be, in addition to the fee fixed for the
14 services in the court. If in a worker or beneficiary appeal the
15 decision and order of the board is reversed or modified (~~and if the~~
16 ~~accident fund is affected by the litigation then~~) or if in an appeal
17 by the department or employer the worker or beneficiary's right to
18 relief is sustained, the attorney's fee fixed by the court, for
19 services before the court only, and the fees of medical and other
20 witnesses and (~~the~~) other litigation costs shall be payable out of
21 the administrative fund of the department. In the case of self-insured
22 employers, (~~if the decision and order of the board is reversed or~~
23 ~~modified resulting in additional benefits by the litigation that would~~
24 ~~be paid from the accident fund if the employer were not self-insured,~~
25 ~~then~~) the attorney fees fixed by the court, for services before the
26 court(~~or~~) only, and the fees of medical and other witnesses and
27 (~~the~~) other litigation costs shall be payable directly by the self-
28 insured employer.

29 NEW SECTION. Sec. 3. (1) The self-insurer shall provide, when
30 authorized under RCW 51.28.070, a copy of the employee's claim file at
31 no cost within fifteen days of receipt of a request by the employee or
32 the employee's representative. The self-insurer shall provide the
33 entire contents of the claim file unless the request is for only a
34 particular portion of the file.

35 (2) The self-insurer shall transmit notice to the department of any
36 protest or appeal by an employee relating to the administration of an
37 industrial injury or occupational disease claim under this chapter
38 within five working days of receipt. The date that the protest or

1 appeal is received by the self-insurer shall be deemed to be the date
2 the protest is received by the department for the purpose of RCW
3 51.52.050.

4 (3) The self-insurer shall submit a medical report with the request
5 for closure of a claim under this chapter.

6 NEW SECTION. **Sec. 4.** The self-insurer shall request allowance or
7 denial of a claim within sixty days from the date that the claim is
8 filed, or the claim shall be deemed allowed. A self-insurer may
9 request, for good cause, an extension of the deadline for an additional
10 thirty days, if written notice of the extension is provided to the
11 employee within forty-five days from the date the claim is filed.

12 NEW SECTION. **Sec. 5.** Failure of a self-insurer to comply with
13 sections 3 and 4 of this act shall subject the self-insurer to a
14 penalty under RCW 51.48.080, which shall accrue for the benefit of the
15 employee. The director shall issue an order conforming with RCW
16 51.52.050 determining whether a violation has occurred within thirty
17 days of a request by an employee.

18 NEW SECTION. **Sec. 6.** Sections 3 through 5 of this act are each
19 added to chapter 51.14 RCW.

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