
SUBSTITUTE HOUSE BILL 1911

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, Goldsmith, Hargrove and Cairnes)

Read first time 03/01/95.

1 AN ACT Relating to expanding authority for retrospective rating
2 plans; and adding a new section to chapter 51.16 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.16 RCW
5 to read as follows:

6 (1) The department shall offer a retrospective rating plan to
7 qualified employers and groups of employers. The plan shall be
8 available on a voluntary basis for the period of one coverage period
9 and may be renewed at the end of the year. The retrospective rating
10 plan shall be consistent with recognized insurance principles and shall
11 be administered according to rules, scales, tables, formulas,
12 schedules, and factors adopted by the department. Rules adopted under
13 this section should encourage the broadest possible participation by
14 employers and groups consistent with insurance principles.

15 (2) In addition to those general powers and rights deemed
16 appropriate by the department, retrospective rating plan employers and
17 groups who administer their plans with an authorized claims
18 administrator shall have the authority to assist the department in the
19 processing of claims after January 1, 1996. The authority shall

1 include implementation of administrative functions that are necessary
2 to the timely management of a claim. The department shall adopt rules
3 detailing such authority, which shall be comprehensive and include, but
4 not be limited to, the following:

5 (a) Authorization to schedule medical examinations and
6 consultations, provided that only qualified persons from the department
7 list may be selected. The department shall strictly enforce penalties
8 under RCW 51.32.110 for refusals to submit to medical examinations
9 scheduled by retrospective rating plan employers or groups, obstruction
10 of the same, or other prohibited actions set out in RCW 51.32.110.

11 (b) Authorization to initiate any rehabilitation services and
12 select providers from the department list of qualified persons or,
13 consistent with department utilization guidelines, use department
14 providers. The time limitation on the expenditure of three thousand
15 dollars in any fifty-two week period established in RCW 51.32.095 shall
16 not apply to the provision of vocational rehabilitation approved by a
17 retrospective rating plan employer or group, and the supervisor of
18 industrial insurance may at any time, in the supervisor's sole
19 discretion, authorize the expenditure of a sum not to exceed six
20 thousand dollars for the costs of vocational rehabilitation. At the
21 request of the retrospective rating plan employer or group, the
22 supervisor may also waive department timelines to facilitate prompt
23 intervention. If consistent with the discretion of the supervisor and
24 department rules regarding vocational rehabilitation services, when
25 both the employer or group and the worker sign an agreement for
26 vocational rehabilitation services, the agreement is deemed approved.
27 Vocational rehabilitation services may include job placement services,
28 skill enhancement services, vocational rehabilitation plans, or other
29 accepted services.

30 (3) Retrospective rating plan employers and groups who administer
31 their plans with an authorized claims administrator shall have the
32 authority to close claims as authorized in this subsection. If a claim
33 accepted by the department after January 1, 1996, (a) involves only
34 medical treatment and the payment of temporary disability compensation
35 under RCW 51.32.090, or only the payment of temporary disability
36 compensation under RCW 51.32.090, (b) at the time medical treatment is
37 concluded, does not involve permanent disability, (c) is one with
38 respect to which the department has not intervened under subsection (4)
39 of this section, and (d) concerns an injured worker who has returned to

1 work with the retrospective rating plan employer or group at the
2 worker's previous job or at a job that has comparable wages and
3 benefits, the claim may be closed by the retrospective rating plan
4 employer or group, subject to reporting of claims to the department in
5 a manner prescribed by department rules adopted under chapter 34.05
6 RCW. No later than at the time of closure for such claims, the
7 retrospective rating plan employer or group shall forward notification
8 to the worker, in nontechnical language, of the worker's rights under
9 this title.

10 (4) If a dispute arises from the handling of any claim under this
11 section before the condition of the injured worker becomes fixed, the
12 injured worker, or retrospective rating plan employer or group, may
13 request the department to intervene and assume all responsibilities for
14 the claim and its processing.

15 (5) Exercise of any authority authorized by this section may
16 require prior notification to the department, but rules adopted under
17 this section shall minimize the department's need to respond and ensure
18 that a failure to respond or delay in response by the department does
19 not impede the timely administration of the claim. Standard charges
20 incurred by the retrospective rating plan employer or group in the
21 exercise of authority authorized by this section, other than management
22 costs, shall continue to be charged against the claim. A retrospective
23 rating plan employer or group may exceed department medical fee or
24 other fee schedules but shall be required to pay any difference.

25 (6) The department shall conduct a study of all retrospective
26 rating plan employers or groups who exercise the authority authorized
27 under subsections (2) and (3) of this section and report to the
28 legislature by December 1, 1998. The study plan shall be approved by
29 the workers' compensation advisory committee and shall include
30 examination of injured worker outcomes, worker complaints, litigation
31 rates, and employer claims management problems with the department.
32 The study shall focus specifically on return-to-work and long-term wage
33 replacement outcomes for workers of the employers in the study compared
34 with workers of state fund employers in similar risk classifications.

35 (7) For purposes of this section, "authorized claims administrator"
36 means a person who meets department qualifications under chapter 51.14
37 RCW to manage industrial insurance claims.

38 (8) If, and only if, the outcome of the study under subsection (6)
39 of this section demonstrates that, as a whole, retrospective rating

1 plan employers or groups who exercise the authority authorized under
2 subsections (2) and (3) of this section are not achieving better
3 overall injured worker outcomes than their state fund counterparts,
4 this section shall expire on July 1, 1999.

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