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HOUSE BILL 2643

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State of Washington

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By Representatives Cody, Campbell, Cole, Romero, Hatfield, Ogden, Scheuerman, Mason, Conway, Veloria, Regala, Chopp, Patterson, Dickerson, Appelwick, Kessler, Valle and Dellwo

Read first time 01/16/96. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to compensation during appeal of department of  
2 labor and industries' industrial insurance orders; and reenacting and  
3 amending RCW 51.52.060.

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

5 **Sec. 1.** RCW 51.52.060 and 1995 c 253 s 1 and 1995 c 199 s 7 are  
6 each reenacted and amended to read as follows:

7 (1)(a) Except as otherwise specifically provided in this section,  
8 any worker, beneficiary, employer, health services provider, or other  
9 person aggrieved by an order, decision, or award of the department  
10 must, before he or she appeals to the courts, file with the board and  
11 the director, by mail or personally, within sixty days from the day on  
12 which a copy of the order, decision, or award was communicated to such  
13 person, a notice of appeal to the board. However, a health services  
14 provider or other person aggrieved by a department order or decision  
15 making demand, whether with or without penalty, solely for repayment of  
16 sums paid to a provider of medical, dental, vocational, or other health  
17 services rendered to an industrially injured worker must, before he or  
18 she appeals to the courts, file with the board and the director, by  
19 mail or personally, within twenty days from the day on which a copy of

1 the order or decision was communicated to the health services provider  
2 upon whom the department order or decision was served, a notice of  
3 appeal to the board.

4 (b) Failure to file a notice of appeal with both the board and the  
5 department shall not be grounds for denying the appeal if the notice of  
6 appeal is filed with either the board or the department.

7 (2) Within ten days of the date on which an appeal has been granted  
8 by the board, the board shall notify the other interested parties to  
9 the appeal of the receipt of the appeal and shall forward a copy of the  
10 notice of appeal to the other interested parties. Within twenty days  
11 of the receipt of such notice of the board, the worker or the employer  
12 may file with the board a cross-appeal from the order of the department  
13 from which the original appeal was taken.

14 (3) If within the time limited for filing a notice of appeal to the  
15 board from an order, decision, or award of the department, the  
16 department directs the submission of further evidence or the  
17 investigation of any further fact, the time for filing the notice of  
18 appeal shall not commence to run until the person has been advised in  
19 writing of the final decision of the department in the matter. In the  
20 event the department directs the submission of further evidence or the  
21 investigation of any further fact, as provided in this section, the  
22 department shall render a final order, decision, or award within ninety  
23 days from the date further submission of evidence or investigation of  
24 further fact is ordered which time period may be extended by the  
25 department for good cause stated in writing to all interested parties  
26 for an additional ninety days.

27 (4) The department, either within the time limited for appeal, or  
28 within thirty days after receiving a notice of appeal, may:

29 (a) Modify, reverse, or change any order, decision, or award; or

30 (b)(i) Except as provided in (b)(ii) of this subsection, hold an  
31 order, decision, or award in abeyance for a period of ninety days which  
32 time period may be extended by the department for good cause stated in  
33 writing to all interested parties for an additional ninety days pending  
34 further investigation in light of the allegations of the notice of  
35 appeal; or

36 (ii) Hold an order, decision, or award issued under RCW 51.32.160  
37 in abeyance for a period not to exceed ninety days from the date of  
38 receipt of an application under RCW 51.32.160. The department may

1 extend the ninety-day time period for an additional sixty days for good  
2 cause.

3 For purposes of this subsection, good cause includes delay that  
4 results from conduct of the claimant that is subject to sanction under  
5 RCW 51.32.110.

6 The board shall deny the appeal upon the issuance of an order under  
7 (b) (i) or (ii) of this subsection holding an earlier order, decision,  
8 or award in abeyance, without prejudice to the appellant's right to  
9 appeal from any subsequent determinative order issued by the  
10 department.

11 This subsection (4)(b) does not apply to applications deemed  
12 granted under RCW 51.32.160.

13 (5) An employer shall have the right to appeal an application  
14 deemed granted under RCW 51.32.160 on the same basis as any other  
15 application adjudicated pursuant to that section.

16 (6) A provision of this section shall not be deemed to change,  
17 alter, or modify the practice or procedure of the department for the  
18 payment of awards pending appeal. However, if an employer appeals to  
19 the board a department order granting temporary total disability  
20 compensation or medical aid benefits to a worker, the worker is  
21 entitled to the compensation or medical aid benefits while the appeal  
22 is pending before the board, subject to the requirements of RCW  
23 51.32.240(3).

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