

HOUSE BILL REPORT

HB 1426

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to liens filed by the department of social and health services.

Brief Description: Revising provisions for liens filed by the department of social and health services.

Sponsors: Representatives Bush, McMorris and Dickerson; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Commerce & Labor: 2/5/97, 2/20/97 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Boldt; Clements; Cole and Hatfield.

Staff: Chris Cordes (786-7103).

Background:

INDUSTRIAL INSURANCE LIENS

When a person accepts public assistance, the Department of Social and Health Services (DSHS) has a statutory right to be reimbursed for the assistance paid if industrial insurance time-loss compensation (temporary total disability compensation) is due to the recipient for the same period.

The department's reimbursement right is secured by a lien up to the amount of time-loss compensation or the public assistance, whichever is less.

The DSHS may assert the lien by serving a signed statement of the lien and a notice to withhold and deliver with the director, or employee in the director's office, of the

Department of Labor and Industries (DLI) or, if applicable, with an employer who is self-insured for industrial insurance. The notice must identify the recipient and make a demand to withhold and deliver the amount claimed. The statute permits personal service or service by regular mail.

Notice of the lien must also be sent to the recipient by certified mail no later than the next business day after the notice is mailed or delivered to the DLI or employer.

The director of the DLI must deliver to the secretary of DSHS the claimed funds that the director may hold for time-loss compensation payable to the recipient during the period covered by the lien. The funds must be delivered immediately after a final determination of the recipient's entitlement to time-loss compensation. In practice, the DSHS has recovered time-loss compensation that was provisionally granted to a worker pending a final determination.

A recipient who is aggrieved by the action against his or her time-loss compensation must file a notice requesting a hearing within 28 days after the notice to withhold and deliver has been mailed to or served on the DLI.

Child Support Liens. The DSHS also has lien rights to enforce collection of child support debts. The department may serve the liens and notices to withhold and deliver by personal service or certified mail.

Collection Of Debt. The DSHS must commence action to collect overpayments and other debt due to the department within six years of notice of overpayment. The department is authorized to accept offers of compromise on disputed claims and may write off debts when it is no longer cost-effective to pursue collection.

Summary of Substitute Bill:

Industrial Insurance Liens. The Department of Social and Health Services' right to recover time-loss benefits is for the purpose of avoiding duplicate benefit payments. Language is deleted that refers to the amount furnished to the recipient for the period when time-loss is payable.

Requirements are deleted for signing the statement of lien and notice to withhold and deliver and for including a demand to withhold and deliver the claimed sum.

In addition to personal service and regular mail, the DSHS may serve the statement of lien and the notice to withhold and deliver by electronic means. The statement does not have to be received by a specified employee of the agency.

The statement of lien sent to the public assistance recipient must be mailed within two days, rather than by the next business day, after the notice is mailed or transmitted by the DSHS.

The provision requiring the director of the DLI to deliver funds that are in the director's possession is modified to specify that the funds must be time-loss compensation payable to the recipient. The director must deliver from funds currently in the director's possession or from any funds that might come into the director's possession as time-loss for the recipient. These provisions also apply to self-insured employers. The requirement for a final determination of time-loss compensation entitlement is deleted.

A recipient who wishes to request a hearing concerning the DSHS recovery of his or her time-loss compensation may file a hearing application within 28 days after the notice was mailed to the recipient, instead of within 28 days after the notice was mailed to the DLI. A new provision is added permitting a hearing if the applicant files a hearing application more than 28 days after, but within one year of, the date the notice was mailed and can show good cause for not filing within 28 days. Collection actions may continue until good cause is shown.

Child Support Liens. An additional method is added for serving liens and notices to withhold and deliver to enforce child support collections. These liens and notices may be served by electronic means if there is an agreement between the DSHS and the party receiving the notice.

Collection Of Debt.

The DSHS must report annually to the House and Senate Commerce & Labor Committees, the Senate Ways & Means Committee, and the House Appropriations Committee the amount of overpayment and other debt to the department that is due to the department and the amount of debt that has been written off by the department as no longer cost-effective to pursue. The report must include both cumulative information and annual information for the previous five fiscal years.

Substitute Bill Compared to Original Bill: The substitute bill (1) makes the references to "electronic" service consistent by using the term "electronic means;" (2) replaces references to "time-loss" with "temporary total disability;" (3) adds references to self-insured employers where the employer has the same obligations as the director of the Department of Labor and Industries to withhold and deliver funds to the DSHS; (4) requires the DSHS to make annual reports on the debt due to the department and the debt that is written off; and (5) makes other technical and clarifying changes.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will improve efficiency in state government by reducing costs and staff time. It will make it easier for the agencies to coordinate their efforts to avoid duplicate benefit payments. It also allows a longer appeal period for those recipients who can show good cause for failing to appeal within the first deadline. The bill is needed because of recent challenges to the department's authority to serve the lien notice electronically and to collect from funds received by the Department of Labor and Industries after the period in which the recipient received public assistance.

Testimony Against: None.

Testified: Representative Roger Bush, prime sponsor; and Carole Washburn, Department of Social and Health Services.