

FINAL BILL REPORT

EHB 1894

C 396 L 99

Synopsis as Enacted

Brief Description: Correcting industrial insurance benefit errors.

Sponsors: Representative Conway.

House Committee on Commerce & Labor

Senate Committee on Labor & Workforce Development

Background:

The industrial insurance law permits the Department of Labor and Industries to recover benefits that are overpaid to injured workers because of clerical error, mistaken identity, innocent misrepresentation, or similar circumstances. The department must make a claim for repayment within one year of making the overpayment or the claim is deemed waived.

This statute does not address benefits that are underpaid. If the department issues an order that underpays benefits, the worker must ask the department to reconsider the order or must file an appeal with the Board of Industrial Insurance Appeals within 60 days. If a request for reconsideration or an appeal is not filed within the time period, the order is final and binding.

The Washington Supreme Court has held that the doctrine of claim preclusion applies to final orders of the department. The court stated that failure to appeal an order, even an order containing a clear error of law, precludes reargument of the same claim. Under the court's decision, final department orders may not be declared void unless the department lacked either personal or subject matter jurisdiction over the claim.

Summary:

If the Department of Labor and Industries or a self-insured employer fails to pay industrial insurance benefits because of clerical error, mistake of identity, or innocent misrepresentation, the recipient of the benefits may request adjustment of the benefits. Adjustment must be requested within one year from the date of the incorrect payment or the claim is deemed waived. Adjustment may not be sought for adjudicator error, including failing to consider information in the claim file, failing to secure adequate information, or making an error in judgment.

Votes on Final Passage:

House 95 0

Senate 49 0

Effective: July 25, 1999