
Commerce & Labor Committee

HB 1905

Brief Description: Repealing authority to request increased compensation due to a change of circumstances.

Sponsors: Representatives Grant, Condotta, Clements, Crouse, Quall, Armstrong, Fromhold and Woods.

Brief Summary of Bill

- Deletes authority to apply for an increase in certain industrial insurance benefits because of a "change of circumstances."

Hearing Date: 2/15/05

Staff: Jill Reinmuth (786-7134).

Background:

The general rule is that an injured worker may not challenge his or her rate of time-loss compensation after the Department of Labor and Industries (Department) issues a final order establishing the basis for calculation of the worker's rate of time loss compensation. This rule was set forth in the state Supreme Court's decision in Marley v. Department of Labor and Industries (1994).

Two exceptions, however, allow an injured worker to challenge his or her rate of time loss compensation after a final order is issued. First, a worker may apply for an increase in time loss or pension benefits if a "change of circumstances" warrants it. Second, a worker may apply to reopen a claim if the worker's condition has worsened within seven years after the claim's closure (or within 10 years if the claim involved loss of vision). If either application is granted, the Department allows compensation for periods up to 60 days before the application was received.

Applications for increased compensation due to a "change of circumstances" were relatively infrequent from 1911, when the Legislature enacted the Industrial Insurance Act and the "change of circumstances" provision, until 2001. Examples of facts found by the Board of Industrial Insurance Appeals (BIIA) to be a "change of circumstances" included: (1) an employer's termination of voluntary payments of wages made to an injured worker after the Department issued a final wage order; and (2) a third party's decision changing the worker's wage rate, retroactive to a date prior to the worker's industrial injury.

Applications for increased compensation due to a "change of circumstances" became more frequent, however, beginning in 2001 when the Supreme Court issued its decision in Cockle v. Department of Labor and Industries (2001). Examples of facts found by the BIIA to be a change of circumstances beginning in 2001 include an employer's termination of an injured worker's health insurance benefits after the Department issues a final wage order.

Summary of Bill:

The authority to apply for an increase in compensation because of a "change of circumstances" is deleted.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Requested on February 10, 2005.

Effective Date: The bill contains an emergency clause and takes effect immediately.