

**SSB 6440 - S AMD 1042**  
By Senator Stanford

ADOPTED 02/14/2020

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 51.08  
4 RCW to read as follows:

5 "New medical issue" means a medical issue not covered by a  
6 previous medical examination requested by the department or the self-  
7 insurer such as an issue regarding medical causation, medical  
8 treatment, work restrictions, or evaluating permanent partial  
9 disability.

10 **Sec. 2.** RCW 51.32.110 and 1997 c 325 s 3 are each amended to  
11 read as follows:

12 (1) (~~(Any)~~) As required under RCW 51.36.070, any worker entitled  
13 to receive any benefits or claiming such under this title shall, if  
14 requested by the department or self-insurer, submit himself or  
15 herself for medical examination, (~~(at a time and from time to time,)~~)  
16 at a place reasonably convenient for the worker (~~(and as may be~~  
17 ~~provided by the rules of the department)~~). An injured worker, whether  
18 an alien or other injured worker, who is not residing in the United  
19 States at the time that a medical examination is requested may be  
20 required to submit to an examination at any location in the United  
21 States determined by the department or self-insurer.

22 (2) If the worker refuses to submit to medical examination, or  
23 obstructs the same, or, if any injured worker shall persist in  
24 unsanitary or injurious practices which tend to imperil or retard his  
25 or her recovery, or shall refuse to submit to such medical or  
26 surgical treatment as is reasonably essential to his or her recovery  
27 or refuse or obstruct evaluation or examination for the purpose of  
28 vocational rehabilitation or does not cooperate in reasonable efforts  
29 at such rehabilitation, the department or the self-insurer upon  
30 approval by the department, with notice to the worker may suspend any  
31 further action on any claim of such worker so long as such refusal,

1 obstruction, noncooperation, or practice continues and reduce,  
2 suspend, or deny any compensation for such period: PROVIDED, That  
3 (~~the~~) (a) The department or the self-insurer shall not suspend any  
4 further action on any claim of a worker or reduce, suspend, or deny  
5 any compensation if a worker has good cause for refusing to submit to  
6 or to obstruct any examination, evaluation, treatment or practice  
7 requested by the department or required under this section and (b)  
8 the department or self-insurer may not assess a no-show fee against  
9 the worker if the worker gives at least five business days' notice of  
10 the worker's intent not to attend the examination.

11 (3) If the worker necessarily incurs traveling expenses in  
12 attending the examination pursuant to the request of the department,  
13 such traveling expenses shall be repaid to him or her out of the  
14 accident fund upon proper voucher and audit or shall be repaid by the  
15 self-insurer, as the case may be.

16 (4) (a) If the medical examination required by this section causes  
17 the worker to be absent from his or her work without pay:

18 (i) In the case of a worker insured by the department, the worker  
19 shall be paid compensation out of the accident fund in an amount  
20 equal to his or her usual wages for the time lost from work while  
21 attending the medical examination; or

22 (ii) In the case of a worker of a self-insurer, the self-insurer  
23 shall pay the worker an amount equal to his or her usual wages for  
24 the time lost from work while attending the medical examination.

25 (b) This subsection (4) shall apply prospectively to all claims  
26 regardless of the date of injury.

27 **Sec. 3.** RCW 51.36.070 and 2001 c 152 s 2 are each amended to  
28 read as follows:

29 (1)(a) Whenever the (~~director~~) department or the self-insurer  
30 deems it necessary in order to (~~resolve any~~) (i) make a decision  
31 regarding claim allowance or reopening, (ii) resolve a new medical  
32 issue, an appeal, or case progress, or (iii) evaluate the worker's  
33 permanent disability or work restriction, a worker shall submit to  
34 examination by a physician or physicians selected by the (~~director~~)  
35 department, with the rendition of a report to the person ordering the  
36 examination, the attending physician, and the injured worker.

37 (b) The examination must be at a place reasonably convenient to  
38 the injured worker, or alternatively utilize telemedicine. For  
39 purposes of this subsection, "reasonably convenient" means at a place

1 where residents in the injured worker's community would normally  
2 travel to seek medical care for the same specialty as the examiner.

3 (2) The department or self-insurer shall provide the physician  
4 performing an examination with all relevant medical records from the  
5 worker's claim file. The director, in his or her discretion, may  
6 charge the cost of such examination or examinations to the self-  
7 insurer or to the medical aid fund as the case may be. The cost of  
8 said examination shall include payment to the worker of reasonable  
9 expenses connected therewith.

10 (3) For purposes of this section, "examination" means a physical  
11 or mental examination by a medical care provider licensed to practice  
12 medicine, osteopathy, podiatry, chiropractic, dentistry, or  
13 psychiatry at the request of the department or self-insured employer  
14 or by order of the board of industrial insurance appeals.

15 (4) The department may adopt rules to implement this section.

16 (5) This section applies prospectively to all claims regardless  
17 of the date of injury.

18 NEW SECTION. Sec. 4. (1) An independent medical examination  
19 work group is established within the department of labor and  
20 industries, with members as provided in this subsection.

21 (a) The speaker of the house of representatives shall appoint two  
22 members from the house of representatives, with one member appointed  
23 from each of the two largest caucuses of the house of  
24 representatives;

25 (b) The president of the senate shall appoint two members from  
26 the senate, with one member appointed from each of the two largest  
27 caucuses of the senate;

28 (c) The department of labor and industries shall appoint one  
29 business representative representing employers participating in the  
30 state fund;

31 (d) The department of labor and industries shall appoint one  
32 business representative representing employers who are self-insured  
33 for purposes of workers' compensation insurance;

34 (e) The department of labor and industries shall appoint two  
35 labor representatives;

36 (f) The department of labor and industries shall appoint one  
37 representative of both an association representing physicians who  
38 perform examinations for purposes of workers' compensation insurance  
39 and the panel companies that work with them; and

1 (g) The department of labor and industries shall appoint one  
2 attorney who represents injured workers.

3 (2) The work group must:

4 (a) Develop strategies for reducing the number of medical  
5 examinations per claim while considering claim duration and medical  
6 complexity;

7 (b) Develop strategies for improving access to medical records,  
8 including records and reports created during the course of or  
9 pursuant to an examination;

10 (c) Consider whether the department of labor and industries  
11 should do all the scheduling of independent medical examinations;

12 (d) Consider the circumstances for which independent medical  
13 examiners should be randomly selected or specified;

14 (e) Consider workers' rights in the independent medical  
15 examination process including attendance, specialist consultations,  
16 the audio or video recording of examinations, and the distance and  
17 location of examinations;

18 (f) Recommend changes to improve the efficiency of the  
19 independent medical examination process; and

20 (g) Identify barriers to increasing the supply of in-state  
21 physicians willing to do independent medical examinations in the  
22 workers' compensation system.

23 (3) The department of labor and industries must report its  
24 findings and recommendations to the legislature by December 11, 2020.

25 (4) This section expires December 31, 2020."

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26 On page 1, line 1 of the title, after "examinations;" strike the  
27 remainder of the title and insert "amending RCW 51.32.110 and  
28 51.36.070; adding a new section to chapter 51.08 RCW; creating a new  
29 section; and providing an expiration date."

**EFFECT:** (1) Removes the provisions regarding:

(a) Allowing the worker's attending physician to facilitate getting a consulting specialist.

(b) Considering the number of IMEs per exam to limit them.

(c) The worker's right to record the exam.

(d) Exam locations and completion time.

(e) Requiring that the self-insurer send all scheduling requests; examiners make themselves available for testimony within one hundred miles of the exam location and keep and provide certain records; and the exam report be sent to labor and industries within fourteen days and copies being mailed to the attending physician.

(f) The membership of the work group to provide that the representative of IME physicians association also be a representative of panel companies.

(g) The work group responsibilities to provide that the strategies for improving access to medical records include records created during the exam and to consider workers' rights in the IME process including attendance, specialist consultations, the audio or video recording of examinations, and the distance and location of examination.

(2) Reinstates the provisions that L&I may charge the cost of such examination or examinations to the self-insurer or to the medical aid fund as the case may be.

(3) Changes the "stalled treatment plan" to "case progress."

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