

1 **SHB 1911 - H AMD 023 NOT CONSIDERED 1-19-96**

2 By Representative Romero

3 Strike everything after the enacting clause and insert the
4 following:

5 "NEW SECTION. **Sec. 1.** A new section is added to chapter
6 51.16 RCW to read as follows:

7 (1) The department shall offer a retrospective rating plan to
8 qualified employers and groups of employers. The plan shall be
9 available on a voluntary basis for the period of one coverage
10 period and may be renewed at the end of the year. The
11 retrospective rating plan shall be consistent with recognized
12 insurance principles and shall be administered according to rules,
13 scales, tables, formulas, schedules, and factors adopted by the
14 department. Rules adopted under this section should encourage the
15 broadest possible participation by employers and groups consistent
16 with insurance principles.

17 (2) In addition to those general powers and rights deemed
18 appropriate by the department, retrospective rating plan employers
19 and groups who administer their plans with an authorized claims
20 administrator shall have the authority to assist the department in
21 the processing of claims after January 1, 1997. The authority
22 shall include implementation of administrative functions that are
23 necessary to the timely management of a claim. The department
24 shall adopt rules detailing such authority, which shall be
25 comprehensive and include, but not be limited to, the following:

26 (a) Authorization to schedule medical examinations and
27 consultations, provided that scheduling may only be with qualified
28 providers approved by the department. To schedule an examination
29 or consultation, the employer shall request a list of not more than
30 three providers from the department. The department shall select
31 providers for the list on a rotating basis. The department shall

1 strictly enforce penalties under RCW 51.32.110 for refusals to
2 submit to medical examinations scheduled by retrospective rating
3 plan employers or groups, obstruction of the same, or other
4 prohibited actions set out in RCW 51.32.110.

5 (b)(i) Authorization to initiate any vocational rehabilitation
6 services and, with the approval of the injured worker and/or the
7 injured worker's representative, make referrals to qualified
8 providers. To make a referral, the employer shall request a list
9 of not more than three providers from the department. The
10 department shall select providers for the list on a rotating basis.
11 Consistent with department utilization guidelines, the employer may
12 also use department providers.

13 (ii) The time limitation on the expenditure of three thousand
14 dollars in any fifty-two week period established in RCW 51.32.095
15 shall not apply to the provision of vocational rehabilitation
16 approved by a retrospective rating plan employer or group, and the
17 supervisor of industrial insurance may at any time, in the
18 supervisor's sole discretion, authorize the expenditure of a sum
19 not to exceed six thousand dollars for the costs of vocational
20 rehabilitation. At the request of the retrospective rating plan
21 employer or group, the supervisor may also waive department
22 timelines to facilitate prompt intervention. If a vocational
23 rehabilitation plan is developed to retrain the worker for
24 employment that pays less than seventy-five percent of the worker's
25 preinjury wage, or if the worker returns to work after vocational
26 services are provided to employment that pays less than seventy-
27 five percent of the worker's preinjury wage, the worker may request
28 the department to authorize further vocational rehabilitation
29 services. If consistent with the discretion of the supervisor and
30 department rules regarding vocational rehabilitation services, when
31 both the employer or group and the worker sign an agreement for
32 vocational rehabilitation services, the agreement is deemed
33 approved. Vocational rehabilitation services may include job

1 placement services, skill enhancement services, vocational
2 rehabilitation plans, or other accepted services.

3 (3)(a) Retrospective rating plan employers and groups who
4 administer their plans with an authorized claims administrator
5 shall have the authority to close claims as authorized in this
6 subsection. If a claim accepted by the department after January 1,
7 1997, (i) involves only medical treatment and the payment of
8 temporary disability compensation under RCW 51.32.090, or only the
9 payment of temporary disability compensation under RCW 51.32.090,
10 (ii) at the time medical treatment is concluded, does not involve
11 permanent disability, (iii) is one with respect to which the
12 department has not intervened under subsection (4) of this section,
13 and (iv) concerns an injured worker who has returned to work with
14 the retrospective rating plan employer or group at the worker's
15 previous job or at a job that has the same wages and benefits, the
16 claim may be closed by the retrospective rating plan employer or
17 group, subject to reporting of claims to the department in a manner
18 prescribed by department rules adopted under chapter 34.05 RCW. No
19 later than at the time of closure for such claims, the
20 retrospective rating plan employer or group shall forward
21 notification to the worker, in nontechnical language, of the
22 worker's rights under this title.

23 (b) If a worker protests the closure of a claim under this
24 subsection (3) and provides evidence that the claim was closed
25 prematurely, the worker's medical benefits shall continue until the
26 department resolves the protest and/or orders reinstatement of
27 benefits.

28 (c) If an employer (i) closes a valid claim under this
29 subsection (3) that the employer knew or should have known was
30 closed inappropriately, or (ii) interferes with a worker's right to
31 file a claim under this title, the employer shall be ineligible for
32 participation in a retrospective rating plan for a period of five
33 years.

1 (4) If a dispute arises from the handling of any claim under
2 this section before the condition of the injured worker becomes
3 fixed, the injured worker, or retrospective rating plan employer or
4 group, may request the department to intervene and assume all
5 responsibilities for the claim and its processing.

6 (5) Exercise of any authority authorized by this section may
7 require prior notification to the department, but rules adopted
8 under this section shall minimize the department's need to respond
9 and ensure that a failure to respond or delay in response by the
10 department does not impede the timely administration of the claim.
11 Standard charges incurred by the retrospective rating plan employer
12 or group in the exercise of authority authorized by this section,
13 other than management costs, shall continue to be charged against
14 the claim. A retrospective rating plan employer or group may
15 exceed department medical fee or other fee schedules but shall be
16 required to pay any difference.

17 (6) The department shall conduct a study of all retrospective
18 rating plan employers or groups who exercise the authority
19 authorized under subsections (2) and (3) of this section and report
20 to the legislature by December 1, 1999. The study plan shall be
21 approved by the workers' compensation advisory committee and shall
22 include examination of injured worker outcomes, worker complaints,
23 litigation rates, and employer claims management problems with the
24 department. The study shall focus specifically on return-to-work
25 and long-term wage replacement outcomes for workers of the
26 employers in the study compared with workers of state fund
27 employers in similar risk classifications.

28 (7) For purposes of this section, "authorized claims
29 administrator" means a person who meets department qualifications
30 under chapter 51.14 RCW to manage industrial insurance claims.

31 (8) If, and only if, the outcome of the study under subsection
32 (6) of this section demonstrates that, as a whole, retrospective
33 rating plan employers or groups who exercise the authority

1 authorized under subsections (2) and (3) of this section are not
2 achieving better overall injured worker outcomes than their state
3 fund counterparts, this section shall expire on July 1, 2000.
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6 **Sec. 2.** RCW 51.16.140 and 1989 c 385 ú 3 are each amended to
7 read as follows:

8 (1) Every employer who is not a self-insurer shall deduct from
9 the pay of each of his or her workers one-half of the amount he or
10 she is required to pay ((~~7~~)) for medical benefits within each risk
11 classification, except that for employers participating in a
12 retrospective rating plan, the amount deducted shall not be more
13 than one-half of the basic manual premium rate established by the
14 department for the applicable risk classification. Such amount
15 shall be periodically determined by the director and reported by
16 him or her to all employers under this title: PROVIDED, That the
17 state governmental unit shall pay the entire amount into the
18 medical aid fund for volunteers, as defined in RCW 51.12.035, and
19 the state apprenticeship council shall pay the entire amount into
20 the medical aid fund for registered apprentices or trainees, for
21 the purposes of RCW 51.12.130. The deduction under this section is
22 not authorized for premiums assessed under RCW 51.16.210.

23 (2) It shall be unlawful for the employer, unless specifically
24 authorized by this title, to deduct or obtain any part of the
25 premium or other costs required to be by him or her paid from the
26 wages or earnings of any of his or her workers, and the making of
27 or attempt to make any such deduction shall be a gross
28 misdemeanor."

29
30 Correct the title accordingly.

EFFECT: The amendment makes the following changes to the
substitute bill:

(1) When participating employers schedule medical examinations, they may only schedule with providers from a rotating list of no more than three names approved by the Department of Labor and Industries.

(2) When participating employers initiate vocational rehabilitation services, they may make referrals to qualified providers if they have approval of the injured worker or worker's representative and if they select from a list of no more than three providers approved by the department.

(3) A new provision is added allowing further vocational rehabilitation services at a worker's request if, after vocational rehabilitation services, the worker returns to employment that pays less than 75 percent of the preinjury wages, or if the worker's vocational rehabilitation plan is to retrain the worker for employment that pays less than 75 percent of the preinjury wage.

(4) For the employer to exercise claims closure authority, the employer's worker must have returned to a job with the same (rather than comparable) wages and benefits. A provision is added that if the worker protests a claim that is closed prematurely, the worker's medical benefits must continue until the department resolves the protest.

(5) A provision is added that an employer who closes a valid claim when the employer knew or should have known the claim was closed inappropriately, or that interferes with the worker's right to file a claim, the employer may not participate in a retrospective rating plan for five years.

(6) A provision is added that caps the medical aid premium paid by workers whose employers participate in retrospective rating plans. These workers' premiums may not exceed one-half of the basic manual rate established for the relevant risk classification. (If the employer's rate is below the manual rate, the workers will pay the same premium as under current law. If the employer's rate is above the manual rate, then workers will pay a reduced share of premium.)

(7) The amendment changes effective date of the modified program, with the program starting on January 1, 1997, instead of January 1, 1996, and delays the agency report and conditional termination of the program by one year.