
SENATE BILL 6394

State of Washington 58th Legislature 2004 Regular Session

By Senators Honeyford and T. Sheldon

Read first time 01/19/2004. Referred to Committee on Commerce & Trade.

1 AN ACT Relating to industrial insurance final settlement
2 agreements; amending RCW 51.04.060; and adding a new section to chapter
3 51.32 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.32 RCW
6 to read as follows:

7 (1)(a) A worker and an employer may enter into a final settlement
8 agreement as provided in this section with respect to one or more
9 claims under this title. The final settlement agreement may:

10 (i) Bind the parties with regard to any or all aspects of a claim,
11 including but not limited to allowance or rejection of a claim,
12 monetary payment, provision of medical treatment, claim closure, and
13 claim reopening under RCW 51.32.160; and

14 (ii) Not subject any employer who is not a signatory to the
15 agreement to any responsibility or burden under any claim.

16 (b) A final settlement agreement entered into under this section
17 must be signed by the employer and the worker and must clearly state
18 that the parties agree to the terms of the final settlement agreement.
19 In a state fund claim, the employer or the worker must file the final

1 settlement agreement with the director. Unless the worker or the
2 employer revokes consent to the agreement, except as provided in
3 subsection (2) or (3) of this section: (i) The final settlement
4 agreement in a state fund case becomes final and binding fourteen days
5 after the agreement is filed with the director; and (ii) in a self-
6 insured case, the final settlement agreement becomes final and binding
7 fourteen days after the agreement is signed.

8 (c) A self-insured employer and a worker may enter into a final
9 settlement agreement. The agreement must be signed by the employer and
10 the worker.

11 (d) A final settlement agreement that has become final and binding
12 as provided in this section is binding on the department and on all
13 parties to the agreement as to its terms and the injuries and
14 occupational diseases to which the final settlement applies. A final
15 settlement agreement that has become final and binding is not subject
16 to appeal.

17 (2)(a) A worker or an employer in a state fund case may revoke
18 consent to the final settlement agreement by providing written notice
19 to the other party and the director within fourteen days of the date
20 the agreement is filed with the director.

21 (b) A worker or an employer in a self-insured case may revoke
22 consent to the final settlement agreement by providing written notice
23 to the other party within fourteen days of signing the settlement
24 agreement. Unless subsection (3) of this section applies, if no party
25 revokes the agreement as specified in this subsection, the self-insurer
26 must forward the agreement to the department to provide notice to the
27 department of the binding terms of the agreement and for placement of
28 the agreement in the applicable claim files.

29 (3)(a) If a worker is not represented by legal counsel at the time
30 of signing a final settlement agreement, the department or the self-
31 insurer, as the case may be, must forward a copy of the signed
32 settlement agreement to the board of industrial insurance appeals with
33 a request for a conference with a settlement officer. Unless the
34 worker or the employer requests a later date, the settlement officer
35 must convene a conference within fourteen days of receipt of the
36 request for the limited purpose of receiving the final settlement
37 agreement of the parties, explaining the benefits generally available

1 under this title, and explaining that a final settlement agreement may
2 alter the benefits payable on a claim. In no event may a settlement
3 officer render legal advice to any party.

4 (b) The settlement officer may reject a settlement agreement only
5 if the agreement constitutes a gross miscarriage of justice. Within
6 seven days after the conference, the settlement officer shall issue a
7 conference report accepting or rejecting the final settlement
8 agreement. If the settlement agreement is rejected, no further
9 proceedings with regard to the settlement agreement may take place, and
10 the settlement agreement is null and void.

11 (c) If the settlement officer accepts the agreement and no party
12 revokes the agreement as specified in subsection (2) of this section or
13 (d) of this subsection, the agreement becomes final and binding. If
14 the case involves a self-insurer, the self-insurer shall forward the
15 final and binding agreement to the department to provide notice to the
16 department of the binding terms of the agreement and for placement of
17 the agreement in the applicable claim files.

18 (d) In cases requiring a conference under this subsection:

19 (i) The worker or the employer in a state fund case may revoke
20 consent to the agreement by providing written notice to the other party
21 and the department within fourteen days after the conference with the
22 settlement officer.

23 (ii) If the case involves a self-insurer, the worker or the
24 employer may revoke consent to the agreement by providing written
25 notice to the other party within fourteen days after the conference
26 with the settlement officer.

27 (4) To the extent the worker is entitled to temporary total
28 disability or permanent total disability benefits while a final
29 settlement agreement is being negotiated, or during the revocation
30 period of an agreement, such benefits shall be paid until the agreement
31 becomes final.

32 (5)(a) If the parties have provided in a final settlement agreement
33 that a claim or claims are not subject to reopening pursuant to RCW
34 51.32.160, any application to reopen the claim or claims is of no force
35 or effect and must be denied.

36 (b)(i) If a worker subject to a final settlement agreement
37 subsequently files a new claim under this title, or an application
38 under RCW 51.32.160 to reopen a claim that is not covered by the

1 settlement agreement, for an injury or occupational disease involving
2 the same or similar diagnosis in the same region of the body or the
3 same or similar mental health diagnosis as the claim or claims covered
4 by the final settlement agreement, any monthly compensation or
5 permanent disability compensation payable to the worker under the
6 subsequent or reopened claim shall be reduced by the monetary
7 compensation paid to the worker under the final settlement agreement.

8 (ii) Proper and necessary medical treatment under RCW 51.36.010, if
9 indicated, shall be provided to the worker in a new claim or a reopened
10 claim not covered by the final settlement agreement notwithstanding the
11 existence of a prior final settlement agreement in another claim or
12 claims of the worker involving the same or similar diagnosis in the
13 same region of the body or the same or similar mental health diagnosis.

14 (c) A final settlement agreement in any claim may be used as a
15 defense by any employer if a worker subject to a final settlement
16 agreement files a subsequent new claim or an application to reopen a
17 claim for the same or similar diagnosis in the same region of the body
18 or the same or similar mental health diagnosis.

19 (d) As used in this subsection, "same or similar diagnosis in the
20 same region of the body or the same or similar mental health diagnosis"
21 shall be broadly construed to prevent excessive or duplicative benefits
22 to the worker or abuse by the worker in filing multiple or repetitious
23 claims for benefits.

24 **Sec. 2.** RCW 51.04.060 and 1977 ex.s. c 350 s 3 are each amended to
25 read as follows:

26 No employer or worker shall exempt himself or herself from the
27 burden or waive the benefits of this title by any contract, agreement,
28 rule or regulation, and any such contract, agreement, rule or
29 regulation shall be pro tanto void. However, this section does not
30 prohibit final settlement agreements authorized under section 1 of this
31 act.

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