
SENATE BILL 6395

State of Washington

58th Legislature

2004 Regular Session

By Senator Honeyford

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

1 AN ACT Relating to applications for compensation under the
2 industrial insurance system; and amending RCW 51.28.010, 51.28.055,
3 51.28.040, and 51.32.160.

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

5 **Sec. 1.** RCW 51.28.010 and 2001 c 231 s 1 are each amended to read
6 as follows:

7 (1) Whenever any accident occurs to any worker it (~~shall be~~) is
8 the duty of (~~such~~) the worker or someone (~~in~~) on his or her behalf
9 to (~~forthwith~~) report (~~such~~) the accident to his or her employer,
10 superintendent, or supervisor in charge of the work(~~, and~~) within
11 fourteen days after the accident. A claim for an injury due to an
12 accident that was not timely reported may be allowed only for medical
13 aid benefits under chapter 51.36 RCW.

14 (2) When an employer receives a notice of an accident as required
15 under subsection (1) of this section, it is the duty of the employer to
16 at once report such accident and the injury resulting therefrom to the
17 department pursuant to RCW 51.28.025 where the worker has received
18 treatment from a physician, has been hospitalized, disabled from work,
19 or has died as the apparent result of such accident and injury.

1 (b) A claim for hearing loss due to occupational noise exposure
2 that is not timely filed under (a) of this subsection (~~(can only)~~) may
3 be allowed only for medical aid benefits under chapter 51.36 RCW.

4 (~~(3)~~) (4) The department may adopt rules to implement this
5 section.

6 **Sec. 3.** RCW 51.28.040 and 1977 ex.s. c 199 s 1 are each amended to
7 read as follows:

8 (~~(If change of circumstances warrants an increase or rearrangement~~
9 ~~of compensation, like application shall be made therefor.)~~) Where the
10 worker's application to reopen a claim has been granted under RCW
11 51.32.160, compensation and other benefits, if in order, shall be
12 allowed for periods of time up to sixty days prior to the receipt of
13 such application.

14 **Sec. 4.** RCW 51.32.160 and 1995 c 253 s 2 are each amended to read
15 as follows:

16 (1)(a) If aggravation, diminution, or termination of disability
17 takes place, the director may, upon the application of the beneficiary,
18 made within seven years from the date the first closing order becomes
19 final, or at any time upon his or her own motion, readjust the rate of
20 compensation in accordance with the rules in this section provided for
21 the same, or in a proper case terminate the payment: PROVIDED, That
22 the director may, upon application of the worker made at any time,
23 provide proper and necessary medical and surgical services as
24 authorized under RCW 51.36.010. The department shall promptly mail a
25 copy of the application to the employer at the employer's last known
26 address as shown by the records of the department.

27 (b) "Closing order" as used in this section means an order based on
28 factors which include medical recommendation, advice, or examination.

29 (c) Applications for benefits where the claim has been closed
30 without medical recommendation, advice, or examination are not subject
31 to the seven year limitation of this section. The preceding sentence
32 shall not apply to any closing order issued prior to July 1, 1981.
33 First closing orders issued between July 1, 1981, and July 1, 1985,
34 shall, for the purposes of this section only, be deemed issued on July
35 1, 1985. The time limitation of this section shall be ten years in
36 claims involving loss of vision or function of the eyes.

1 (d)(i) With respect to an application to reopen a claim filed on or
2 after July 1, 1988, but before the effective date of this section, if
3 an order denying ((an)) the application to reopen ((filed on or after
4 July 1, 1988,)) is not issued within ninety days of receipt of such
5 application by the self-insured employer or the department, such
6 application shall be deemed granted. ((However,))

7 (ii) With respect to an application to reopen a claim filed on or
8 after the effective date of this section:

9 (A) The self-insured employer or department, as applicable, must
10 notify the worker by mail at the worker's last known address as shown
11 by department records that the application has been received.

12 (B) If an order denying or granting the application is not issued
13 within ninety days of mailing notice to the worker of receipt of the
14 application, such application shall be deemed granted.

15 (iii) For good cause, the department or self-insurer may extend the
16 time for making the final determination on the application filed under
17 (d)(i) or (ii) of this subsection for an additional sixty days.

18 (2) If a worker receiving a pension for total disability returns to
19 gainful employment for wages, the director may suspend or terminate the
20 rate of compensation established for the disability without producing
21 medical evidence that shows that a diminution of the disability has
22 occurred.

23 (3) No act done or ordered to be done by the director, or the
24 department prior to the signing and filing in the matter of a written
25 order for such readjustment shall be grounds for such readjustment.

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