

(Effective July 1, 2024)

WAC 296-15-270 Violation of the duty of good faith and fair dealing. (1) If a self-insured employer (SIE) or third-party administrator (TPA) subject to the good faith and fair dealing duty manages the workers' compensation claim in a manner which demonstrates a greater concern for the self-insured employer's interest than the worker's interest, the SIE/TPA will be in violation of its duty to engage in good faith and fair dealing. Additionally, violation of the SIE/TPA duty to engage in good faith and fair dealing includes repeatedly engaging in any of the following actions with such frequency as to indicate a general business practice:

(a) When requesting an interlocutory order pursuant to WAC 296-15-420(2): Fails to provide a reasonable explanation for an interlocutory order, fails to exercise due diligence while investigating claim determination, and/or fails to provide provisional benefits as entitled during the interlocutory period.

(b) Unreasonably delays or refuses to pay wage replacement benefits without a factual, legal, vocational, or medical basis.

(c) Fails to ensure appropriate handling of claims pursuant to WAC 296-15-350.

(d) Fails to request claim denial or interlocutory order pursuant to WAC 296-15-420 within 60 days.

(e) Fails to authorize medical care pursuant to WAC 296-15-330 or without factual, legal, or medical basis.

(f) Fails to pay compensation pursuant to WAC 296-15-340.

(g) Fails to adhere to duties and performance requirements pursuant to WAC 296-15-550.

(h) Fails to provide a copy of the claim file in a timely manner pursuant to RCW 51.14.120.

(i) Fails to communicate with injured workers using department-developed templates pursuant to WAC 296-15-425, including use of the templates in the workers preferred language.

(j) Fails to notify the worker or beneficiary of their rights and obligations pursuant to WAC 296-15-400, RCW 51.28.010 or 51.28.030.

(k) Requests the department issue an order denying the claim without a factual, legal, or medical basis.

(l) Fails to provide a worker or beneficiary a SIF-2 or ability to file a claim pursuant to WAC 296-15-320 and 296-15-405.

(m) Fails to have claims managed by a certified claims administrator or trainee in accordance with WAC 296-15-350(2).

(n) Fails to forward an application to reopen a claim within five working days of receipt pursuant to WAC 296-15-470.

(o) Fails to forward a protest or appeal to the department within five working days of receipt pursuant to RCW 51.14.120(2) and WAC 296-15-480.

(2) Errors or delays that are inadvertent or minor are not a violation of the duty of good faith and fair dealing.

[Statutory Authority: RCW 51.14.090, 51.14.095, and 51.14.180. WSR 24-11-121, § 296-15-270, filed 5/21/24, effective 7/1/24.]