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HOUSE BILL 1354

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State of Washington

63rd Legislature

2013 Regular Session

By Representatives Reykdal, Ormsby, Green, Sells, Moeller, and Pollet

Read first time 01/24/13. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to claims and compensation under the industrial  
2 insurance laws; amending RCW 51.48.017 and 51.52.120; and creating a  
3 new section.

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

5 **Sec. 1.** RCW 51.48.017 and 2010 c 8 s 14011 are each amended to  
6 read as follows:

7 If a self-insurer unreasonably delays or refuses to pay benefits as  
8 they become due there shall be paid by the self-insurer upon order of  
9 the director an additional amount equal to five hundred dollars or  
10 twenty-five percent of the amount then due, whichever is greater, which  
11 shall (~~accrue for the benefit of the claimant and shall~~) be paid to  
12 (~~him or her~~) the claimant along with the benefits which may be  
13 assessed under this title. For the purposes of this section, benefits  
14 means any compensation, services, payments, or entitlements due the  
15 claimant under this title, including time loss compensation and medical  
16 services. The director shall issue an order determining whether there  
17 was an unreasonable delay or refusal to pay benefits within thirty days  
18 upon the request of the claimant. Such an order shall conform to the  
19 requirements of RCW 51.52.050.

1           **Sec. 2.** RCW 51.52.120 and 2011 1st sp.s. c 37 s 304 are each  
2 amended to read as follows:

3           (1) Except for claim resolution structured settlement agreements,  
4 it shall be unlawful for an attorney engaged in the representation of  
5 any worker or beneficiary to charge for services in the department any  
6 fee in excess of a reasonable fee, of not more than thirty percent of  
7 the increase in the award secured by the attorney's services. Such  
8 reasonable fee shall be fixed by the director or the director's  
9 designee for services performed by an attorney for such worker or  
10 beneficiary, if written application therefor is made by the attorney,  
11 worker, or beneficiary within one year from the date the final decision  
12 and order of the department is communicated to the party making the  
13 application.

14           (2) If, on appeal to the board, the order, decision, or award of  
15 the department is reversed or modified and additional relief is granted  
16 to a worker or beneficiary, or in cases where a party other than the  
17 worker or beneficiary is the appealing party and the worker's or  
18 beneficiary's right to relief is sustained by the board, the board  
19 shall fix a reasonable fee for the services of his or her attorney in  
20 proceedings before the board if written application therefor is made by  
21 the attorney, worker, or beneficiary within one year from the date the  
22 final decision and order of the board is communicated to the party  
23 making the application. In fixing the amount of such attorney's fee,  
24 the board shall take into consideration the fee allowed, if any, by the  
25 director, for services before the department, and the board may review  
26 the fee fixed by the director. Any attorney's fee set by the  
27 department or the board may be reviewed by the superior court upon  
28 application of such attorney, worker, or beneficiary. The department  
29 or self-insured employer, as the case may be, shall be served a copy of  
30 the application and shall be entitled to appear and take part in the  
31 proceedings. Where the board, pursuant to this section, fixes the  
32 attorney's fee, it shall be unlawful for an attorney to charge or  
33 receive any fee for services before the board in excess of that fee  
34 fixed by the board.

35           (3) For claim resolution structured settlement agreements, fees for  
36 attorney services are limited to fifteen percent of the total amount to  
37 be paid to the worker after the agreement becomes final. The board

1 will also decide on any disputes as to attorneys' fees for services  
2 related to claim resolution structured settlement agreements consistent  
3 with the procedures in subsection (2) of this section.

4 (4) If, on appeal to the board from a decision or order of the  
5 department denying the reopening of a claim previously resolved with a  
6 structured settlement agreement, denying treatment or payment for  
7 treatment, or segregating a medical condition or conditions as  
8 unrelated to the claim, the decision is reversed or modified and the  
9 relief sought by the claimant is fully or partially awarded, a  
10 reasonable fee for the services of the worker's attorney shall be fixed  
11 by the board, and the board shall order reimbursement for all  
12 reasonable costs of litigation, including but not limited to fees of  
13 the medical and other witnesses. In cases of self-insured employers,  
14 the attorney fees fixed by the board and the costs set by the board  
15 shall be payable directly by the self-insured employer. In all other  
16 cases, the fees and costs shall be paid by the department out of the  
17 administrative fund.

18 (5) In an appeal to the board involving the presumption established  
19 under RCW 51.32.185, the attorney's fee shall be payable as set forth  
20 under RCW 51.32.185.

21 ~~((+5))~~ (6) Any person who violates this section is guilty of a  
22 misdemeanor.

23 NEW SECTION. Sec. 3. This act applies to all claims open after  
24 January 1, 2014.

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