

HB 3114

SUBJECT: Allows injured worker one year from date health benefit plan rejects claim for benefits to file workers' compensation claim. Requires health benefit plan to pay benefits in accordance with provisions of plan if workers' compensation claim is denied.

SPONSOR: Committee on Business and Labor

Existing Law:

- Requires a worker or dependent to immediately notify the employer of a work-related accident resulting in injury or death, but allows such notice up to 90 days after the accident.
- Bars a worker's compensation claim for failure to provide timely notice.
- Provides exceptions if notice of the claim is provided within one year after the accident date and:
 - The employer had knowledge of the injury or death,
 - The worker died within 180 days of the accident, or
 - The worker or beneficiaries establish good cause for failing to provide notice of the claim within 90 days.
- Requires insurers and self-insured employers to accept or deny an injured worker's claim within 60 days of the employer's notice or knowledge of the claim.
- If the worker is also covered by a health benefit plan, requires the health plan to expedite medical service pre-authorizations and guarantee payment for services provided prior to acceptance or denial of the workers' compensation claim, subject to the plan's terms.
- If the workers' compensation claim is accepted, requires the insurer or self-insured employer to pay for medical services for accepted conditions and to reimburse the worker and health plan for any amounts previously paid, subject to fee schedule limitations.
- If the workers' compensation claim is denied, requires the health plan to pay for preauthorized medical services, subject to the plan's terms and conditions.
- Prohibits health benefit plans from excluding work-related injuries or diseases if the worker is covered by both workers' compensation and the health plan and the worker has submitted a workers' compensation claim that has not yet been accepted or denied.

This bill:

- Allows an injured worker who has not yet filed a workers' compensation claim, but has submitted a related health plan claim that is subsequently rejected as work-related, to file the workers' compensation claim within one year of the health plan's claim denial.
- Requires the workers' compensation insurer or self-insured employer that denies a claim filed in this circumstance to notify the health plan of the denial, and requires the health plan to process the claim for payment subject to its plan's terms and conditions.

- Clarifies that a worker's beneficiary, rather than a dependent, may provide the notice of an accident resulting in the worker's injury or death.

Analysis:

1. Current workers' compensation law imposes a 90-day timeframe for claim filing to facilitate timely and accurate claims processing and benefit provision. While most claims are filed immediately, the law acknowledges situations where a worker's claim shouldn't be barred by allowing limited exceptions and providing an additional nine months for providing claim notice. The extended claim filing period can make subsequent claims processing more difficult and cause delays. The length of the post-accident period before claim notice may also affect the benefits the worker receives because temporary disability (time loss) benefits may only be retroactively authorized for the 14 days prior to the authorization's issuance date.
2. During the 60-day timeframe for making its claim acceptance or denial decision, the insurer or self-insured employer must pay the worker any "interim" time loss benefits due. However, laws regarding interim medical services have changed over the last decade to address continuing problems about provision of timely medical treatment while insurers make their claim decisions. Workers' compensation insurers don't always accept or deny claims within 60 days and health plan insurers may deny medical expenses related to work injuries prior to that compensability decision. Workers may postpone needed treatment they cannot afford if their workers' compensation claim is eventually denied and some medical providers are reluctant to provide services for which payment might be denied. To address this "limbo" regarding interim treatment and payment, HB 4104 in the 2014 legislative session required health plan insurers to guarantee payment of interim medical services (subject to the plan's terms and conditions) where a workers' compensation claim has been filed and the acceptance decision is pending, in the event the claim is subsequently denied.
3. This bill provides an additional exception to the 90-day time frame for providing notice of a workers' compensation claim, in situations where the worker first submits the claim to the health plan insurer and it denies the claim as being work-related. The bill then provides the worker a year from the health plan's denial to file a workers' compensation claim. Because this time frame is tied to the date of the health plan's denial decision and not the date of the worker's accident, the bill will extend the filing deadline for some workers' compensation claims well beyond the one-year period that is the current maximum timeframe allowed for limited, specified situations. For example, a worker might tell their doctor that on-going leg problems followed a work accident two years earlier. The worker may not have filed a workers' compensation claim because the earlier symptoms weren't serious, they didn't miss work, they feared a claim would put their job at risk, or other reasons. The health plan would deny the claim as work-related, and under the bill's provisions, the worker would have another year to file a workers' compensation claim. The workers' compensation insurer would then begin processing a claim for an accident that occurred three years prior. The

number of such claims affected by the bill's provisions, though, should be small since the majority of work-related claims are filed within the initial 90-day period.

4. Current law requires notice of an accident resulting in injury or death to be given by the worker or a dependent. However, the worker or beneficiaries are allowed to establish good cause for not meeting the notice timeframe. Beneficiaries include a worker's spouse, children, or dependents, while the latter term references a list of other specified relatives. When a worker is seriously injured or dies in a work injury, the spouse will most often provide notice of the accident claim, and they are excluded from doing so (presumably, inadvertently) by the law's current reference to "dependent." HB 3114 changes the notice requirement to reference the more inclusive "beneficiary" to be consistent with the term used in the second requirement for exceptions.

Questions and/or suggested amendments:

1. Existing law allows workers a year to provide notice of a claim by establishing good cause for failing to meet the 90-day requirement. For the small number of cases where this extended filing period isn't sufficient time for a worker to file a workers' compensation claim after the health plan has denied a claim as work-related, would a shorter filing period (such as 30 to 90 days) still meet the bill's objectives?

Fiscal Impact to DCBS: The bill will not affect the department's regulatory or enforcement functions or activities, and no fiscal impact is anticipated.

Other Economic Impact: The bill is not expected to affect a large number of claims. While claims filed long after the accident date may complicate claims processing for workers' compensation insurers and self-insured employers, it is difficult to identify what, if any, additional related costs may be incurred by these parties. A small number of injured workers filing their work-related claims up to a year after denials by the health plan will receive less time loss benefits due to the prohibition on retroactive authorization for benefits. The degree that this differs from current situations will be determined by the nature of the specific claims and how many workers delay providing claim notices.

Support: Unknown

Opposition: Unknown

Prepared by: Mary Schwabe, Performance Policy Analyst, (503)947-7512