

WAC 296-14-600 Payment of benefits on asbestos-related disease claims. The department shall furnish the benefits provided under Title 51 RCW to any worker or beneficiary who may have a right or claim for benefits under the maritime laws of the United States resulting from an asbestos-related disease if there are objective clinical findings to substantiate that the worker has an asbestos-related claim for occupational disease; and the worker's employment history has a prima facie indicia of injurious exposure to asbestos fibers while employed in the state of Washington in employment covered under Title 51 RCW.

(1) A worker's employment history will be deemed to have a prima facie indicia of injurious exposure to asbestos fibers if the employment history as contained in the department's file permits a reasonable conclusion that the worker was exposed to asbestos fibers and that such exposure was of sufficient duration to be injurious. "Injurious" means impairing to either a partial or total extent, and may be either permanent or temporary.

(2) Whenever the department has determined to pay benefits pursuant to chapter 271, Laws of 1988, the department shall render a decision as to the liable insurer and shall continue to pay benefits until the liable insurer initiates payments or benefits are otherwise properly terminated.

The department shall render its decision in a final order as provided in RCW 51.52.050.

Initiation of payments by a liable insurer shall be deemed to occur on the date such insurer issues a check or warrant or otherwise remits to the worker, beneficiary, or any provider any payment of any benefits owed by such insurer on the claim for asbestos.

(3) Benefits shall be paid on all pending asbestos-related claims as of July 1, 1988. Pending claims are those which have not been finally adjudicated by order of the department or the board of industrial insurance appeals or by the entry of a judgment of a superior court or decision of the court of appeals or the supreme court.

If any order of the department granting such benefits is appealed, benefits shall continue, if otherwise available, until a final determination is made by the board of industrial insurance appeals or the courts, or upon initiation of payments by a liable insurer.

(4) If benefits are paid by the department from the medical aid fund on an asbestos-related claim, and it is determined by the department that such benefits are owed to the worker or beneficiary by an insurer under the maritime laws of the United States or by another federal program other than the Federal Social Security, Old Age Survivors and Disability Insurance Act, 42 U.S.C., the department shall pursue such insurer or program to recover such benefits as may have been paid by the department.

The determination by the department shall be expressed in a final order as provided by RCW 51.52.050.

(5) Whenever a self-insured employer is determined to be liable, the self-insured employer shall reimburse benefits to the department within ten days after the department order becomes final and binding. Failure to do so shall subject the employer to a penalty as authorized in RCW 51.48.080.

(6) The director's discretion to waive recovery of the benefits paid to the claimant or beneficiary shall be exercised in accordance with WAC 296-14-200 (3)(c).

(7) No information obtained under this section is subject to release by subpoena or other legal process. The department will release

information only to those persons authorized access to claim files by RCW 51.28.070.

[Statutory Authority: Chapters 51.08 and 51.32 RCW. WSR 88-14-011 (Order 88-13), § 296-14-600, filed 6/24/88.]