Chapter 51.32 RCW
COMPENSATION—RIGHT TO AND AMOUNT

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RCW 51.32.010 Who entitled to compensation. (1) Except as provided in subsection (2) of this section, each worker injured in the course of the worker's employment, or the worker's family or dependents in case of death of the worker, shall receive compensation in accordance with this chapter, and, except as in this title otherwise provided, such payment shall be in lieu of any and all rights of action whatsoever against any person whomsoever.

(2)(a) If an injured worker, or the surviving spouse of an injured worker shall not have the legal custody of a child for, or on account of whom payments are required to be made under this title, such payment or payments shall be made to the person or persons having the legal custody of such child but only for the periods of time after the department has been notified of the fact of such legal custody, and it shall be the duty of any such person or persons receiving payments because of legal custody of any child immediately to notify the department of any change in such legal custody.

(b)(i) For claims with a date of injury or disease manifestation on or after July 1, 2026, the payment or payments to be made to the person or persons having the legal custody of a worker's child shall be two percent of the worker's wages.

(ii) For claims with a date of injury or disease manifestation on or after July 1, 2026, the payment to be made to the worker or surviving spouse under this chapter shall be reduced by the amount of the payment or payments to be made to person or persons having the legal custody of a worker's child or children under (b)(i) of this subsection (2). [2025 c 168 s 1; 1977 ex.s. c 350 s 37; 1975 1st ex.s. c 224 s 7; 1971 ex.s. c 289 s 40; 1961 c 23 s 51.32.010. Prior: 1957 c 70 s 26; prior: 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Effective date—2025 c 168: "This act takes effect July 1, 2026." [2025 c 168 s 3.]

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.015 Time and place of coverage—Lunch period. The benefits of Title 51 RCW shall be provided to each worker receiving an injury, as defined therein, during the course of his or her employment and also during his or her lunch period as established by the employer while on the jobsite. The jobsite shall consist of the premises as are occupied, used or contracted for by the employer for the business or work process in which the employer is then engaged: PROVIDED, That if a worker by reason of his or her employment leaves such jobsite under the direction, control or request of the employer and if such worker is injured during his or her lunch period while so away from the jobsite, the worker shall receive the benefits as provided herein: AND PROVIDED FURTHER, That the employer need not consider the lunch period in his or her payroll for the purpose of reporting to the department

unless the worker is actually paid for such period of time. [1977 ex.s. c 350 s 38; 1971 ex.s. c 289 s 41; 1961 c 107 s 1.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.020 Who not entitled to compensation. If injury or death results to a worker from the deliberate intention of the worker himself or herself to produce such injury or death, or while the worker is engaged in the attempt to commit, or the commission of, a felony, neither the worker nor the widow, widower, child, or dependent of the worker shall receive any payment under this title.

If injury or death results to a worker from the deliberate intention of a beneficiary of that worker to produce the injury or death, or if injury or death results to a worker as a consequence of a beneficiary of that worker engaging in the attempt to commit, or the commission of, a felony, the beneficiary shall not receive any payment under this title.

An invalid child, while being supported and cared for in a state institution, shall not receive compensation under this chapter.

No payment shall be made to or for a natural child of a deceased worker and, at the same time, as the stepchild of a deceased worker. [1995 c 160 s 2; 1977 ex.s. c 350 s 39; 1971 ex.s. c 289 s 42; 1961 c 23 s 51.32.020. Prior: 1957 c 70 s 27; prior: (i) 1927 c 310 s 5, part; 1919 c 131 s 5, part; 1911 c 74 s 6, part; RRS s 7680, part. (ii) 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Application—1995 c 160 ss 2 and 3: "Sections 2 and 3 of this act shall apply from July 23, 1995, without regard to the date of injury or the date of filing a claim." [1995 c 160 s 8.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.025 Payments for children cease at age eighteen—Exceptions. Any payments to or on account of any child or children of a deceased or temporarily or totally permanently disabled worker pursuant to any of the provisions of chapter 51.32 RCW shall terminate when any such child reaches the age of eighteen years unless such child is a dependent invalid child or is permanently enrolled at a full time course in an accredited school, in which case such payments after age eighteen shall be made directly to such child. Payments to any dependent invalid child over the age of eighteen years shall continue in the amount previously paid on account of such child until he or she shall cease to be dependent. Payments to any child over the age of eighteen years permanently enrolled at a full time course in an accredited school shall continue in the amount previously paid on account of such child until the child reaches an age over that provided for in the definition of "child" in this title or ceases to be permanently enrolled whichever occurs first. Where the worker sustains an injury or dies when any of the worker's children is over

the age of eighteen years and is either a dependent invalid child or is a child permanently enrolled at a full time course in an accredited school the payment to or on account of any such child shall be made as herein provided. [2010 c 8 s 14008; 1987 c 185 s 33; 1975 1st ex.s. c 224 s 11.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

RCW 51.32.030 When compensation payable to employer or member of corporate employer. Any sole proprietor, partner, or joint venturer who has requested coverage under this title and who shall thereafter be injured or sustain an occupational disease, shall be entitled to the benefit of this title, as and under the same circumstances and subject to the same obligations as a worker: PROVIDED, That no such person or the beneficiaries thereof shall be entitled to benefits under this title unless the department has received notice in writing of such request on such forms as the department may provide prior to the date of the injury or occupational disease as the result of which claims are made: PROVIDED, That the department shall have the power to cancel the personal coverage of any such person if any required payments or reports have not been made. [1980 c 14 s 8. Prior: 1977 ex.s. c 350 s 40; 1977 ex.s. c 323 s 14; 1961 c 23 s 51.32.030; prior: 1957 c 70 s 28; prior: 1939 c 41 s 2, part; 1929 c 132 s 1, part; 1927 c 310 s 2, part; 1921 c 182 s 2, part; 1919 c 131 s 2, part; 1917 c 120 s 1, part; 1911 c 74 s 3, part; RRS s 7675, part.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

RCW 51.32.040 Protection of awards—Payment after death—Time limitations for filing—Confinement in institution. (1) Except as provided in RCW 43.20B.720, 72.09.111, 74.20A.260, and 51.32.380, no money paid or payable under this title shall, be assigned, charged, or taken in execution, attached, garnished, or pass or be paid to any other person by operation of law, any form of voluntary assignment, or power of attorney. Any such assignment or charge is void unless the transfer is to a financial institution at the request of a worker or other beneficiary and made in accordance with RCW 51.32.045. Payments retain their exempt status even after issuance.

(2)(a) If any worker suffers (i) a permanent partial injury and dies from some other cause than the accident which produced the injury before he or she receives payment of the award for the permanent partial injury or (ii) any other injury before he or she receives payment of any monthly installment covering any period of time before his or her death, the amount of the permanent partial disability award or the monthly payment, or both, shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the award or the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or,

if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(b) If any worker suffers an injury and dies from it before he or she receives payment of any monthly installment covering time loss for any period of time before his or her death, the amount of the monthly payment shall be paid to the surviving spouse or the child or children if there is no surviving spouse. If there is no surviving spouse and no child or children, the amount of the monthly payment shall be paid by the department or self-insurer and distributed consistent with the terms of the decedent's will or, if the decedent dies intestate, consistent with the terms of RCW 11.04.015.

(c) Any application for compensation under this subsection (2) shall be filed with the department or self-insuring employer within one year of the date of death. The department or self-insurer may satisfy its responsibilities under this subsection (2) by sending any payment due in the name of the decedent and to the last known address of the decedent.

(3)(a) Any worker or beneficiary receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible for benefits under this title while confined in, any institution under conviction and sentence shall have all payments of the compensation canceled during the period of confinement. After discharge from the institution, payment of benefits due afterward shall be paid if the worker or beneficiary would, except for the provisions of this subsection (3), otherwise be entitled to them.

(b) If any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she is entitled to payments under this title, subject to the requirements of chapter 72.65 RCW, unless his or her participation in the program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence.

(c) If the confined worker has any beneficiaries during the confinement period during which benefits are canceled under (a) or (b) of this subsection, they shall be paid directly the monthly benefits which would have been paid to the worker for himself or herself and the worker's beneficiaries had the worker not been confined.

(4) Any lump sum benefits to which a worker would otherwise be entitled but for the provisions of this section shall be paid on a monthly basis to his or her beneficiaries. [2023 c 393 s 3; 2013 c 125 s 6; 2003 c 379 s 27; 1999 c 185 s 1; 1996 c 47 s 1; 1995 c 160 s 3; 1987 c 75 s 7; 1983 c 2 s 13. Prior: 1982 c 201 s 8; 1982 c 109 s 10; 1979 ex.s. c 171 s 11; 1977 ex.s. c 350 s 41; 1975 1st ex.s. c 224 s 8; 1974 ex.s. c 30 s 1; prior: 1973 1st ex.s. c 154 s 95; 1972 ex.s. c 43 s 18; 1971 ex.s. c 289 s 43; 1965 ex.s. c 165 s 2; 1961 c 23 s 51.32.040; prior: 1957 c 70 s 29; prior: 1947 c 56 s 1, part; 1927 c 310 s 7, part; 1923 c 136 s 4, part; 1921 c 182 s 6, part; 1919 c 131 s 6, part; 1911 c 74 s 10, part; Rem. Supp. 1947 s 7684, part.]

Severability—Effective dates—2003 c 379: See notes following RCW 9.94A.728.

Intent—Purpose—2003 c 379 ss 13-27: See note following RCW 9.94A.760.

Application—1995 c 160 ss 2 and 3: See note following RCW 51.32.020.

Savings—1987 c 75: See RCW 43.20B.900.

Severability—1983 c 2: See note following RCW 18.71.030.

Severability—1979 ex.s. c 171: See note following RCW 74.20.300.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 51.32.045 Direct deposit or electronic payment of benefits. Any worker or other recipient of benefits under this title may elect to have any payments due paid by debit card or other electronic means or transferred to such person's account in a financial institution for either: (1) Credit to the recipient's account in such financial institution; or (2) immediate transfer therefrom to the recipient's account in any other financial institution. The debit card or other electronic means payment option is available at the discretion of the department or self-insured employer, and the recipient must request in writing on a department-approved form or other department-approved method that the recipient's payments be made through this payment option.

A single payment may be drawn in favor of such financial institution, for the total amount due the recipients involved, and written directions provided to such financial institution of the amount to be credited to the account of a recipient or to be transferred to an account in another financial institution for such recipient. The issuance and delivery by the disbursing officer of a payment in accordance with the procedure set forth in this section and proper indorsement thereof by the financial institution shall have the same legal effect as payment directly to the recipient.

For the purposes of this section, "financial institution" shall have the meaning given in RCW 41.04.240 as now or hereafter amended. [2013 c 125 s 7; 1982 c 109 s 11.]

RCW 51.32.050 Death benefits. ***(Effective until June 30, 2029.)*** (1) Where death results from the injury the expenses of burial not to exceed two hundred percent of the average monthly wage in the state as defined in RCW 51.08.018 shall be paid.

(2)(a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker;

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker;

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker;

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker;

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker; or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker.

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

(c) Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That a monthly payment shall be made to the child or children of the deceased worker from the month following such remarriage in a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if after the death of the worker, legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children.

(d) In no event shall the monthly payments provided in subsection (2) of this section:

(i) Exceed the applicable percentage of the average monthly wage in the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(ii) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the

state as computed under RCW 51.08.018 plus an additional ten dollars per month for a surviving spouse and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (2)(d)(ii) is greater than one hundred percent of the wages of the deceased worker as determined under RCW 51.08.178, the monthly payment due to the surviving spouse shall be equal to the greater of the monthly wages of the deceased worker or the minimum benefit set forth in this section on June 30, 2008.

(e) In addition to the monthly payments provided for in subsection (2)(a) through (c) of this section, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid a sum equal to one hundred percent of the average monthly wage in the state as defined in RCW 51.08.018, any such children, or parents to share and share alike in said sum.

(f) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i)(A) Receiving, once and for all, a lump sum of twenty-four times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and subject to any modifications specified under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect;

(B) If a surviving spouse is the surviving spouse of a member of the law enforcement officers' and firefighters' retirement system under chapter 41.26 RCW or the state patrol retirement system under chapter 43.43 RCW, the surviving spouse may receive a lump sum of thirty-six times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and RCW 51.32.075(3) or fifty percent of the remaining annuity value of his or her pension provided under this chapter, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the lump sum benefit shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in subsection (2)(f)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in subsection (2)(f)(i) of this section during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in subsection (2)(f)(i) of this section, his or her estate shall be

entitled to receive the sum specified under subsection (2)(f)(i) of this section or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

(h) The effective date of resumption of payments under subsection (2)(f)(ii) of this section to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) of this section shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and

when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to July 1, 1986, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067. [2010 c 261 s 3; 2007 c 284 s 1; 1995 c 199 s 6; 1993 c 521 s 1; 1991 c 88 s 2; 1988 c 161 s 2; 1986 c 58 s 3; 1982 c 63 s 18; 1977 ex.s. c 350 s 42; 1975-'76 2nd ex.s. c 45 s 2; 1975 1st ex.s. c 179 s 1; 1973 1st ex.s. c 154 s 96; 1972 ex.s. c 43 s 19; 1971 ex.s. c 289 s 7; 1965 ex.s. c 122 s 1; 1961 c 274 s 1; 1961 c 23 s 51.32.050. Prior: 1957 c 70 s 30; 1951 c 115 s 1; prior: 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1941 c 209 s 1; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Effective date—2007 c 284: "This act takes effect July 1, 2008." [2007 c 284 s 4.]

Severability—1995 c 199: See note following RCW 51.12.120.

Effective date—1993 c 521: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 521 s 4.]

Benefit increases—Application to certain retrospective rating agreements—1988 c 161: "The increases in benefits in RCW 51.32.050, 51.32.060, 51.32.090, and 51.32.180, contained in chapter 161, Laws of 1988 do not affect a retrospective rating agreement entered into by any employer with the department before July 1, 1988." [1988 c 161 s 15.]

Effective dates—1988 c 161 ss 1, 2, 3, 4, and 6: "Section 4 of this act shall take effect on June 30, 1989. Sections 1, 2, 3, and 6 of this act shall take effect on July 1, 1988." [1988 c 161 s 17.]

Effective date—1986 c 58 ss 2 and 3: See note following RCW 51.32.080.

Effective dates—Implementation—1982 c 63: See note following RCW 51.32.095.

Legislative intent—1975 1st ex.s. c 179: "The legislative intent of chapter 179, Laws of 1975 1st ex. sess. (2nd SSB No. 2241) was in part to offer surviving spouses of eligible workmen two options upon remarriage; such options to be available to any otherwise eligible surviving spouse regardless of the date of death of the injured

workman. Accordingly this 1976 amendatory act is required to clarify that intent." [1975-'76 2nd ex.s. c 45 s 1.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 51.32.050 Death benefits. ***(Effective June 30, 2029.)*** (1) Where death results from the injury the expenses of burial not to exceed two hundred percent of the average monthly wage in the state as defined in RCW 51.08.018 shall be paid.

(2)(a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker;

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker;

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker;

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker;

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker; or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker.

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

(c) Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That a monthly payment shall be made to the child or children of the deceased worker from the month following such remarriage in a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children

shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if after the death of the worker, legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children.

(d) In no event shall the monthly payments provided in this subsection (2):

(i) Exceed the applicable percentage of the average monthly wage in the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(ii) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month for a surviving spouse and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (2)(d)(ii) is greater than one hundred percent of the wages of the deceased worker as determined under RCW 51.08.178, the monthly payment due to the surviving spouse shall be equal to the greater of the monthly wages of the deceased worker or the minimum benefit set forth in this section on June 30, 2008.

(e) In addition to the monthly payments provided for in (a) through (c) of this subsection, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid a sum equal to one hundred percent of the average monthly wage in the state as defined in RCW 51.08.018, any such children, or parents to share and share alike in said sum.

(f) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i)(A) Receiving, once and for all, a lump sum of twenty-four times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to (a)(i) of this subsection and subject to any modifications specified under (d) of this subsection and RCW 51.32.075(3) or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect;

(B) If a surviving spouse is the surviving spouse of a member of the law enforcement officers' and firefighters' retirement system under chapter 41.26 or 41.26A RCW or the state patrol retirement

system under chapter 43.43 RCW, the surviving spouse may receive a lump sum of thirty-six times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to (a)(i) of this subsection and RCW 51.32.075(3) or fifty percent of the remaining annuity value of his or her pension provided under this chapter, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the lump sum benefit shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in (f)(i) of this subsection to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in (f)(i) of this subsection during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in (f)(i) of this subsection, his or her estate shall be entitled to receive the sum specified under (f)(i) of this subsection or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

(h) The effective date of resumption of payments under (f)(ii) of this subsection to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) of this section shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each

dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to July 1, 1986, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067. [2026 c 261 s 466; 2010 c 261 s 3; 2007 c 284 s 1; 1995 c 199 s 6; 1993 c 521 s 1; 1991 c 88 s 2; 1988 c 161 s 2; 1986 c 58 s 3; 1982 c 63 s 18; 1977 ex.s. c 350 s 42; 1975-'76 2nd ex.s. c 45 s 2; 1975 1st ex.s. c 179 s 1; 1973 1st ex.s. c 154 s 96; 1972 ex.s. c 43 s 19; 1971 ex.s. c 289 s 7; 1965 ex.s. c 122 s 1; 1961 c 274 s 1; 1961 c 23 s 51.32.050. Prior: 1957 c 70 s 30; 1951 c 115 s 1; prior: 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1941 c 209 s 1; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Effective date—2026 c 261: See note following RCW 41.26A.505.

Effective date—2007 c 284: "This act takes effect July 1, 2008." [2007 c 284 s 4.]

Severability—1995 c 199: See note following RCW 51.12.120.

Effective date—1993 c 521: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 521 s 4.]

Benefit increases—Application to certain retrospective rating agreements—1988 c 161: "The increases in benefits in RCW 51.32.050, 51.32.060, 51.32.090, and 51.32.180, contained in chapter 161, Laws of 1988 do not affect a retrospective rating agreement entered into by any employer with the department before July 1, 1988." [1988 c 161 s 15.]

Effective dates—1988 c 161 ss 1, 2, 3, 4, and 6: "Section 4 of this act shall take effect on June 30, 1989. Sections 1, 2, 3, and 6 of this act shall take effect on July 1, 1988." [1988 c 161 s 17.]

Effective date—1986 c 58 ss 2 and 3: See note following RCW 51.32.080.

Effective dates—Implementation—1982 c 63: See note following RCW 51.32.095.

Legislative intent—1975 1st ex.s. c 179: "The legislative intent of chapter 179, Laws of 1975 1st ex. sess. (2nd SSB No. 2241) was in part to offer surviving spouses of eligible workmen two options upon remarriage; such options to be available to any otherwise eligible surviving spouse regardless of the date of death of the injured workman. Accordingly this 1976 amendatory act is required to clarify that intent." [1975-'76 2nd ex.s. c 45 s 1.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 51.32.053 Transportation network companies—Driver death benefits. (1) In addition to the coverage provided in RCW 51.16.250, death benefits shall be payable in accordance with RCW 51.32.050 when a transportation network company driver's death results from an injury occurring while the driver is:

(a) Logged onto the transportation network company's digital network as available for work;

(b) Physically inside the transportation network company driver's vehicle or within the immediate proximity of the transportation network company driver's vehicle; and

(c) Not otherwise covered by this title.

(2) As applicable, for the purposes of this section, the definitions in RCW 49.46.300 apply.

(3) For the purposes of this section, the applicable statute of limitations begins upon the driver's death.

(4) The department may adopt rules to implement this section. [2024 c 184 s 2.]

Intent—2024 c 184: "(1) The legislature intends to extend survivor death benefits under the industrial insurance act for the surviving dependents of transportation network company drivers when certain conditions are met. The legislature recognizes the devastating impact that such a death has on the surviving family members.

(2) By the enactment of section 2 of this act, the legislature honors the memory of transportation network company drivers who have died while working in Washington in recent years, including Cherno Ceesay, who died in 2020, Mohamed Kediye, who died in 2022, Mohamadou

Kabba and Amare Geda, who died in 2023, and Abdikadir Gedi Shariif, who died in 2024." [2024 c 184 s 1.]

RCW 51.32.055 Determination of permanent disabilities—Closure of claims by self-insurers. (1) One purpose of this title is to restore the injured worker as nearly as possible to the condition of self-support as an able-bodied worker. Benefits for permanent disability shall be determined under the director's supervision, except as otherwise authorized in subsection (9) of this section, only after the injured worker's condition becomes fixed.

(2) All determinations of permanent disabilities shall be made by the department, except as otherwise authorized in subsection (9) of this section. Either the worker, employer, or self-insurer may make a request or the inquiry may be initiated by the director or, as authorized in subsection (9) of this section, by the self-insurer on the director or the self-insurer's own motion. Determinations shall be required in every instance where permanent disability is likely to be present. All medical reports and other pertinent information in the possession of or under the control of the employer or, if the self-insurer has made a request to the department, in the possession of or under the control of the self-insurer shall be forwarded to the director with the request.

(3) A request for determination of permanent disability shall be examined by the department or, if authorized in subsection (9) of this section, the self-insurer, and the department shall issue an order in accordance with RCW 51.52.050 or, in the case of a self-insured employer, the self-insurer may: (a) Enter a written order, communicated to the worker and the department self-insurance section in accordance with subsection (9) of this section, or (b) request the department to issue an order in accordance with RCW 51.52.050.

(4) The department or, in cases authorized in subsection (9) of this section, the self-insurer may require that the worker present himself or herself for a special medical examination by a physician or physicians selected by the department, and the department or, in cases authorized in subsection (9) of this section, the self-insurer may require that the worker present himself or herself for a personal interview. The costs of the examination or interview, including payment of any reasonable travel expenses, shall be paid by the department or self-insurer, as the case may be.

(5) The director may establish a medical bureau within the department to perform medical examinations under this section. Physicians hired or retained for this purpose shall be grounded in industrial medicine and in the assessment of industrial physical impairment. Self-insurers shall bear a proportionate share of the cost of the medical bureau in a manner to be determined by the department.

(6) Where a dispute arises from the handling of any claim before the condition of the injured worker becomes fixed, the worker, employer, or self-insurer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In these cases, the department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050.

(7)(a) If a claim (i) is accepted by a self-insurer after June 30, 1986, and before August 1, 1997, (ii) involves only medical treatment and the payment of temporary disability compensation under

RCW 51.32.090 or only the payment of temporary disability compensation under RCW 51.32.090, (iii) at the time medical treatment is concluded does not involve permanent disability, (iv) is one with respect to which the department has not intervened under subsection (6) of this section, and (v) the injured worker has returned to work with the self-insured employer of record, whether at the worker's previous job or at a job that has comparable wages and benefits, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW.

(b) All determinations of permanent disability for claims accepted under this subsection (7) by self-insurers shall be made by the self-insured section of the department under subsections (1) through (4) of this section.

(c) Upon closure of a claim under (a) of this subsection, the self-insurer shall enter a written order, communicated to the worker and the department self-insurance section, which contains the following statement clearly set forth in boldface type: "This order constitutes notification that your claim is being closed with medical benefits and temporary disability compensation only as provided, and with the condition you have returned to work with the self-insured employer. If for any reason you disagree with the conditions or duration of your return to work or the medical benefits or the temporary disability compensation that has been provided, you must protest in writing to the department of labor and industries, self-insurance section, within sixty days of the date you received this order."

(8)(a) If a claim (i) is accepted by a self-insurer after June 30, 1990, and before August 1, 1997, (ii) involves only medical treatment, (iii) does not involve payment of temporary disability compensation under RCW 51.32.090, and (iv) at the time medical treatment is concluded does not involve permanent disability, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW. Upon closure of a claim, the self-insurer shall enter a written order, communicated to the worker, which contains the following statement clearly set forth in boldface type: "This order constitutes notification that your claim is being closed with medical benefits only, as provided. If for any reason you disagree with this closure, you must protest in writing to the Department of Labor and Industries, Olympia, within 60 days of the date you received this order. The department will then review your claim and enter a further determinative order."

(b) All determinations of permanent disability for claims accepted under this subsection (8) by self-insurers shall be made by the self-insured section of the department under subsections (1) through (4) of this section.

(9)(a) If a claim: (i) Is accepted by a self-insurer after July 31, 1997; (ii)(A) involves only medical treatment, or medical treatment and the payment of temporary disability compensation under RCW 51.32.090, and a determination of permanent partial disability, if applicable, has been made by the self-insurer as authorized in this subsection; or (B) involves only the payment of temporary disability compensation under RCW 51.32.090 and a determination of permanent partial disability, if applicable, has been made by the self-insurer as authorized in this subsection; (iii) is one with respect to which the department has not intervened under subsection (6) of this

section; and (iv) concerns an injured worker who has returned to work with the self-insured employer of record, whether at the worker's previous job or at a job that has comparable wages and benefits, the claim may be closed by the self-insurer, subject to reporting of claims to the department in a manner prescribed by department rules adopted under chapter 34.05 RCW.

(b) If a medical report submitted to the self-insurer concludes that the worker's condition is fixed and stable and supports payment of a permanent partial disability award, and, if within fourteen days from the date the self-insurer mailed the report to the attending provider, the worker's attending provider disagrees in writing that the worker's condition is fixed and stable, the self-insurer must get a supplemental medical opinion from a provider on the department's approved examiner's list before closing the claim. In the alternative, the self-insurer may forward the claim to the department, which must review the claim and enter a final order as provided for in RCW 51.52.050.

(c) Upon closure of a claim under this subsection (9), the self-insurer shall enter a written order, communicated to the worker and the department self-insurance section, which contains the following statement clearly set forth in boldface type: "This order constitutes notification that your claim is being closed with such medical benefits and temporary disability compensation as provided to date and with such award for permanent partial disability, if any, as set forth below, and with the condition that you have returned to work with the self-insured employer. If for any reason you disagree with the conditions or duration of your return to work or the medical benefits, temporary disability compensation provided, or permanent partial disability that has been awarded, you must protest in writing to the Department of Labor and Industries, Self-Insurance Section, within sixty days of the date you received this order. If you do not protest this order to the department, this order will become final."

(d) All determinations of permanent partial disability for claims accepted by self-insurers under this subsection (9) may be made by the self-insurer or the self-insurer may request a determination by the self-insured section of the department. All determinations shall be made under subsections (1) through (4) of this section.

(10) If the department receives a protest of an order issued by a self-insurer under subsections (7) through (9) of this section, the self-insurer's closure order must be held in abeyance. The department shall review the claim closure action and enter a further determinative order as provided for in RCW 51.52.050. If no protest is timely filed, the closing order issued by the self-insurer shall become final and shall have the same force and effect as a department order that has become final under RCW 51.52.050.

(11) If within two years of claim closure under subsections (7) through (9) of this section, the department determines that the self-insurer has made payment of benefits because of clerical error, mistake of identity, or innocent misrepresentation or the department discovers a violation of the conditions of claim closure, the department may require the self-insurer to correct the benefits paid or payable. This subsection (11) does not limit in any way the application of RCW 51.32.240.

(12) For the purposes of this section, "comparable wages and benefits" means wages and benefits that are at least ninety-five percent of the wages and benefits received by the worker at the time of injury. [2023 c 171 s 6; 2004 c 65 s 8; 1997 c 416 s 1; 1994 c 97

s 1; 1988 c 161 s 13; 1986 c 55 s 1; 1981 c 326 s 1; 1977 ex.s. c 350 s 43; 1971 ex.s. c 289 s 46.]

Effective date—Retroactive application—2023 c 171: See note following RCW 51.04.050.

Report to legislature—Effective date—Severability—2004 c 65: See notes following RCW 51.04.030.

Report to the legislature—1997 c 416: "The department of labor and industries shall review the permanent partial disability claims closure activity by self-insured employers authorized under RCW 51.32.055(9) through at least June 30, 1999. The department must also review the claims closure activity by the self-insured section of the department for the same period. The review of these activities must include the number and types of claims closed, protested, reconsidered, and appealed, and the results of such activities, including the results of injured worker satisfaction surveys conducted by the department. The department must report on its review to the appropriate committees of the legislature no later than January 1, 2000." [1997 c 416 s 2.]

Effective date—Applicability—1986 c 55 s 1: "Section 1 of this act shall take effect July 1, 1986, and shall apply to claims accepted after June 30, 1986." [1986 c 55 s 4.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.060 Permanent total disability compensation—Personal attendant. (1) For claims with a date of injury or disease manifestation on or after July 1, 2026, when the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the worker shall receive monthly during the period of such disability, except as provided in RCW 51.32.010, a percentage of the worker's wages, as follows:

Worker's status	Percentage of the worker's wages
Unmarried with no children	60 percent
Unmarried with one child or married with no children	65 percent
Unmarried with two children or married with one child	67 percent
Unmarried with three children or married with two children	69 percent
Unmarried with four children or married with three children	71 percent
Unmarried with five children or married with four children	73 percent
Unmarried with six or more children or married with five or more children	75 percent

(2) For claims with a date of injury or disease manifestation before July 1, 2026, when the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the worker shall receive monthly during the period of such disability:

(a) If married at the time of injury, sixty-five percent of his or her wages.

(b) If married with one child at the time of injury, sixty-seven percent of his or her wages.

(c) If married with two children at the time of injury, sixty-nine percent of his or her wages.

(d) If married with three children at the time of injury, seventy-one percent of his or her wages.

(e) If married with four children at the time of injury, seventy-three percent of his or her wages.

(f) If married with five or more children at the time of injury, seventy-five percent of his or her wages.

(g) If unmarried at the time of the injury, sixty percent of his or her wages.

(h) If unmarried with one child at the time of injury, sixty-two percent of his or her wages.

(i) If unmarried with two children at the time of injury, sixty-four percent of his or her wages.

(j) If unmarried with three children at the time of injury, sixty-six percent of his or her wages.

(k) If unmarried with four children at the time of injury, sixty-eight percent of his or her wages.

(l) If unmarried with five or more children at the time of injury, seventy percent of his or her wages.

(3) For any period of time where both spouses are entitled to compensation as temporarily or totally disabled workers, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(4) In case of permanent total disability, if the character of the injury is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of chapter 51.36 RCW and RCW 51.04.105.

(5) Should any further accident result in the permanent total disability of an injured worker, the injured worker shall receive the pension to which the injured worker would be entitled, notwithstanding the payment of a lump sum for the injured worker's prior injury.

(6) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if a worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children for claims with a date of injury or disease manifestation before July 1, 2026, and six children for claims with a date of injury or disease manifestation on or after July 1, 2026. However, if the monthly payment computed under this subsection (6)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the

greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

The limitations under this subsection shall not apply to the payments provided for in subsection (4) of this section.

(7) In the case of new or reopened claims, if the supervisor of industrial insurance determines that, at the time of filing or reopening, the worker is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

(8) The benefits provided by this section are subject to modification under RCW 51.32.067. [2025 c 168 s 2; 2007 c 284 s 2; 1993 c 521 s 2; 1988 c 161 s 1. Prior: 1986 c 59 s 1; 1986 c 58 s 5; 1983 c 3 s 159; 1977 ex.s. c 350 s 44; 1975 1st ex.s. c 224 s 9; 1973 c 147 s 1; 1972 ex.s. c 43 s 20; 1971 ex.s. c 289 s 8; 1965 ex.s. c 122 s 2; 1961 c 274 s 2; 1961 c 23 s 51.32.060; prior: 1957 c 70 s 31; 1951 c 115 s 2; prior: 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Effective date—2025 c 168: See note following RCW 51.32.010.

Effective date—2007 c 284: See note following RCW 51.32.050.

Effective date—1993 c 521: See note following RCW 51.32.050.

Benefit increases—Application to certain retrospective rating agreements—Effective dates—1988 c 161: See notes following RCW 51.32.050.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

RCW 51.32.067 Permanent total disability—Death benefit options—Election. (1) After a worker elects one of the options in (a), (b), or (c) of this subsection, that option shall apply only if the worker dies during a period of permanent total disability from a cause unrelated to the injury, leaving a surviving spouse, child, children, or other dependent. If, after making an election under this subsection, a worker dies from a cause related to the injury during a period of permanent total disability, his or her beneficiaries shall receive benefits under RCW 51.32.050 (2) through (5).

(a) **Option I.** An injured worker selecting this option shall receive the benefits provided by RCW 51.32.060, with no benefits being paid to the worker's surviving spouse, children, or others.

(b) **Option II.** An injured worker selecting this option shall receive an actuarially reduced benefit which upon death shall be continued throughout the life of and paid to the surviving spouse, child, or other dependent as the worker has nominated by written designation duly executed and filed with the department.

(c) **Option III.** An injured worker selecting this option shall receive an actuarially reduced benefit and, upon death, one-half of the reduced benefit shall be continued throughout the life of and paid to the surviving spouse, child, or other dependent as the worker has nominated by written designation duly executed and filed with the department.

(2) The worker shall make the election in writing and the worker's spouse, if any, shall consent in writing as a prerequisite to the election of Option I.

(3) If the worker's nominated beneficiary is the worker's spouse, and the worker and spouse enter into a dissolution of marriage after the nomination has been made, the worker may apply to receive benefits as calculated under Option I. This change is effective the date of the decree of dissolution of marriage, but no more than one year prior to the date application for the change is received in the department, provided the worker submits legally certified documentation of the decree of dissolution of marriage.

(4) If the worker's nominated beneficiary dies, the worker may apply to receive benefits as calculated under Option I. This change is effective the date of death, but no more than one year prior to the date application for the change is received in the department, provided the worker submits a certified copy of the death certificate.

(5) The change in benefits authorized by subsections (3) and (4) of this section is a one-time adjustment and will be permanent for the life of the worker.

(6) The department shall adopt such rules as may be necessary to implement this section. [2006 c 154 s 1; 1986 c 58 s 4.]

RCW 51.32.072 Additional payments for prior pensioners—Children—Remarriage—Attendant. (1) Notwithstanding any other provision of law, every surviving spouse and every permanently totally disabled worker or temporarily totally disabled worker, if such worker was unmarried at the time of the worker's injury or was then married but the marriage was later terminated by judicial action, receiving a pension or compensation for temporary total disability under this title pursuant to compensation schedules in effect prior to July 1, 1971, shall after July 1, 1975, through June 30, 2011, be paid fifty percent of the average monthly wage in the state as computed under RCW 51.08.018 per month and an amount equal to five percent of such average monthly wage per month to such totally disabled worker if married at the time of the worker's injury and the marriage was not later terminated by judicial action, and an additional two percent of such average monthly wage for each child of such totally disabled worker at the time of injury in the legal custody of such totally disabled worker or such surviving spouse up to a maximum of five such children. The monthly payments such surviving spouse or totally disabled worker are receiving pursuant to compensation schedules in effect prior to July 1, 1971 shall be deducted from the monthly payments above specified.

Where such a surviving spouse has remarried, or where any such child of such worker, whether living or deceased, is not in the legal custody of such worker or such surviving spouse there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under compensation schedules in effect prior to July 1, 1971 for the benefit of and on account of each such child. In the case of any child or children of a deceased worker not leaving a surviving spouse or where the surviving spouse has later died, there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such

children in addition to any payments theretofore paid under such schedules for the benefit of and on account of each such child.

If the character of the injury or occupational disease is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of this title except for care granted at the discretion of the supervisor pursuant to RCW 51.36.010: PROVIDED, That such payments shall not be considered compensation nor shall they be subject to any limitation upon total compensation payments.

No part of such additional payments shall be payable from the accident fund.

The director shall pay monthly from the supplemental pension fund such an amount as will, when added to the compensation theretofore paid under compensation schedules in effect prior to July 1, 1971, equal the amounts hereinabove specified.

In cases where money has been or shall be advanced to any such person from the pension reserve, the additional amount to be paid under this section shall be reduced by the amount of monthly pension which was or is predicated upon such advanced portion of the pension reserve.

(2) In addition to the adjustment under subsection (1) of this section, further adjustments shall be made beginning July 1, 2012, and on each July 1st thereafter. The adjustment shall be the percentage change in the average monthly wage in the state under RCW 51.08.018 for the preceding calendar year, rounded to the nearest whole cent.

(3) Compensation due for July 1, 2011, through June 30, 2012, must be paid based on the average monthly wage in the state as computed under RCW 51.08.018 on July 1, 2010. [2011 1st sp.s. c 37 s 201; 1987 c 185 s 34; 1975 1st ex.s. c 224 s 12.]

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

RCW 51.32.073 Additional payments for prior pensioners—Premium liability of worker and employer for additional payments. (1) Except as provided in subsection (2) of this section, each employer shall retain from the earnings of each worker that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: PROVIDED, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used

exclusively for the additional payments from the supplemental pension fund prescribed in this title and for the amount of any increase payable under the provisions of RCW 51.32.075, as now or hereafter amended, and shall be no more than necessary to make such payments on a current basis. The department may require a self-insurer to make any additional payments which are payable from the supplemental pension fund and thereafter such self-insurer shall be reimbursed therefrom.

(2) None of the amount assessed for the supplemental pension fund under RCW 51.16.210 may be retained from the earnings of workers covered under RCW 51.16.210. [1989 c 385 s 4; 1980 c 14 s 9. Prior: 1977 ex.s. c 350 s 45; 1977 ex.s. c 323 s 15; 1977 ex.s. c 202 s 1; 1975-'76 2nd ex.s. c 19 s 1; prior: 1975 1st ex.s. c 286 s 1; 1975 1st ex.s. c 224 s 10; 1973 c 110 s 3; 1972 ex.s. c 43 s 24; 1971 ex.s. c 289 s 17.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

RCW 51.32.075 Adjustments in compensation or death benefits. The compensation or death benefits payable pursuant to the provisions of this chapter for temporary total disability, permanent total disability, or death arising out of injuries or occupational diseases shall be adjusted as follows:

(1) On July 1, 1982, there shall be an adjustment for those whose right to compensation was established on or after July 1, 1971, and before July 1, 1982. The adjustment shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the average monthly wage in the state under RCW 51.08.018 on July 1, 1982.

(2) In addition to the adjustment established by subsection (1) of this section, there shall be another adjustment on July 1, 1983, for those whose right to compensation was established on or after July 1, 1971, and before July 1983, which shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the average monthly wage in the state under RCW 51.08.018 on July 1, 1983.

(3) In addition to the adjustments under subsections (1) and (2) of this section, further adjustments shall be made beginning on July 1, 1984, and on each July 1st thereafter through July 1, 2010, for those whose right to compensation was established on or after July 1, 1971. The adjustment shall be determined by multiplying the amount of compensation to which they are entitled by a fraction, the denominator of which shall be the average monthly wage in the state under RCW 51.08.018 for the fiscal year in which such person's right to compensation was established, and the numerator of which shall be the average monthly wage in the state under RCW 51.08.018 on July 1st of

the year in which the adjustment is being made. The department or self-insurer shall adjust the resulting compensation rate to the nearest whole cent, not to exceed the average monthly wage in the state as computed under RCW 51.08.018.

(4) In addition to the adjustments under subsections (1), (2), and (3) of this section, further adjustments shall be made beginning July 1, 2012, and on each July 1st thereafter for those whose right to compensation was established on or after July 1, 1971. The adjustment shall be the percentage change in the average monthly wage in the state under RCW 51.08.018 for the preceding calendar year, rounded to the nearest whole cent. For claims whose right to compensation was established on or after July 1, 2011, no adjustment shall be made under this subsection until the second July 1st following the date of injury or occupational disease manifestation. [2011 1st sp.s. c 37 s 202; 1988 c 161 s 7; 1983 c 203 s 1; 1982 1st ex.s. c 20 s 1; 1979 c 108 s 1; 1977 ex.s. c 202 s 2; 1975 1st ex.s. c 286 s 2.]

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

Effective date—1982 1st ex.s. c 20: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1982." [1982 1st ex.s. c 20 s 4.]

RCW 51.32.080 Permanent partial disability—Specified—Unspecified, rules for classification—Injury after permanent partial disability. (1)(a) Until July 1, 1993, for the permanent partial disabilities here specifically described, the injured worker shall receive compensation as follows:

LOSS BY AMPUTATION

Of leg above the knee joint with short thigh stump (3" or less below the tuberosity of ischium).	$54,000.00
Of leg at or above knee joint with functional stump.	48,600.00
Of leg below knee joint.	43,200.00
Of leg at ankle (Syme).	37,800.00
Of foot at mid-metatarsals.	18,900.00
Of great toe with resection of metatarsal bone.	11,340.00
Of great toe at metatarsophalangeal joint.	6,804.00
Of great toe at interphalangeal joint.	3,600.00
Of lesser toe (2nd to 5th) with resection of metatarsal bone.	4,140.00
Of lesser toe at metatarsophalangeal joint.	2,016.00
Of lesser toe at proximal interphalangeal joint.	1,494.00
Of lesser toe at distal interphalangeal joint.	378.00
Of arm at or above the deltoid insertion or by disarticulation at the shoulder. . . .	54,000.00
Of arm at any point from below the deltoid insertion to below the elbow joint at the insertion of the biceps tendon. . . .	51,300.00

Of arm at any point from below the elbow joint distal to the insertion of the biceps tendon to and including mid-metacarpal amputation of the hand.	48,600.00
Of all fingers except the thumb at metacarpophalangeal joints.	29,160.00
Of thumb at metacarpophalangeal joint or with resection of carpometacarpal bone.	19,440.00
Of thumb at interphalangeal joint.	9,720.00
Of index finger at metacarpophalangeal joint or with resection of metacarpal bone.	12,150.00
Of index finger at proximal interphalangeal joint.	9,720.00
Of index finger at distal interphalangeal joint.	5,346.00
Of middle finger at metacarpophalangeal joint or with resection of metacarpal bone.	9,720.00
Of middle finger at proximal interphalangeal joint.	7,776.00
Of middle finger at distal interphalangeal joint.	4,374.00
Of ring finger at metacarpophalangeal joint or with resection of metacarpal bone.	4,860.00
Of ring finger at proximal interphalangeal joint.	3,888.00
Of ring finger at distal interphalangeal joint.	2,430.00
Of little finger at metacarpophalangeal joint or with resection of metacarpal bone.	2,430.00
Of little finger at proximal interphalangeal joint.	1,944.00
Of little finger at distal interphalangeal joint.	972.00

MISCELLANEOUS

Loss of one eye by enucleation.	21,600.00
Loss of central visual acuity in one eye. . .	18,000.00
Complete loss of hearing in both ears. . . .	43,200.00
Complete loss of hearing in one ear.	7,200.00

(b) Beginning on July 1, 1993, compensation under this subsection shall be computed as follows:

(i) Beginning on July 1, 1993, the compensation amounts for the specified disabilities listed in (a) of this subsection shall be increased by thirty-two percent; and

(ii) Beginning on July 1, 1994, and each July 1 thereafter, the compensation amounts for the specified disabilities listed in (a) of this subsection, as adjusted under (b)(i) of this subsection, shall be readjusted to reflect the percentage change in the consumer price index, calculated as follows: The index for the calendar year preceding the year in which the July calculation is made, to be known as "calendar year A," is divided by the index for the calendar year preceding calendar year A, and the resulting ratio is multiplied by the compensation amount in effect on June 30 immediately preceding the July 1st on which the respective calculation is made. For the purposes of this subsection, "index" means the same as the definition in RCW 2.12.037(1).

(2) Compensation for amputation of a member or part thereof at a site other than those specified in subsection (1) of this section, and for loss of central visual acuity and loss of hearing other than complete, shall be in proportion to that which such other amputation or partial loss of visual acuity or hearing most closely resembles and approximates. Compensation shall be calculated based on the adjusted schedule of compensation in effect for the respective time period as prescribed in subsection (1) of this section.

(3)(a) Compensation for any other permanent partial disability not involving amputation shall be in the proportion which the extent of such other disability, called unspecified disability, shall bear to the disabilities specified in subsection (1) of this section, which most closely resembles and approximates in degree of disability such other disability, and compensation for any other unspecified permanent partial disability shall be in an amount as measured and compared to total bodily impairment. To reduce litigation and establish more certainty and uniformity in the rating of unspecified permanent partial disabilities, the department shall enact rules having the force of law classifying such disabilities in the proportion which the department shall determine such disabilities reasonably bear to total bodily impairment. In enacting such rules, the department shall give consideration to, but need not necessarily adopt, any nationally recognized medical standards or guides for determining various bodily impairments.

(b) Until July 1, 1993, for purposes of calculating monetary benefits under (a) of this subsection, the amount payable for total bodily impairment shall be deemed to be ninety thousand dollars. Beginning on July 1, 1993, for purposes of calculating monetary benefits under (a) of this subsection, the amount payable for total bodily impairment shall be adjusted as follows:

(i) Beginning on July 1, 1993, the amount payable for total bodily impairment under this section shall be increased to one hundred eighteen thousand eight hundred dollars; and

(ii) Beginning on July 1, 1994, and each July 1 thereafter, the amount payable for total bodily impairment prescribed in (b)(i) of this subsection shall be adjusted as provided in subsection (1)(b)(ii) of this section.

(c) Until July 1, 1993, the total compensation for all unspecified permanent partial disabilities resulting from the same injury shall not exceed the sum of ninety thousand dollars. Beginning on July 1, 1993, total compensation for all unspecified permanent partial disabilities resulting from the same injury shall not exceed a sum calculated as follows:

(i) Beginning on July 1, 1993, the sum shall be increased to one hundred eighteen thousand eight hundred dollars; and

(ii) Beginning on July 1, 1994, and each July 1 thereafter, the sum prescribed in (b)(i) of this subsection shall be adjusted as provided in subsection (1)(b)(ii) of this section.

(4) If permanent partial disability compensation is followed by permanent total disability compensation, all permanent partial disability compensation paid to the worker under the claim or claims for which total permanent disability compensation is awarded shall be, at the choosing of the injured worker, either: (a) Deducted from the worker's monthly pension benefits until the total award or awards paid are recovered; or (b) deducted from the pension reserve of such injured worker and his or her monthly compensation payments shall be reduced accordingly. Any interest paid on any permanent partial

disability compensation may not be deducted from the pension benefits or pension reserve. The provisions of this subsection apply to all permanent total disability determinations issued on or after July 1, 2011.

(5) Should a worker receive an injury to a member or part of his or her body already, from whatever cause, permanently partially disabled, resulting in the amputation thereof or in an aggravation or increase in such permanent partial disability but not resulting in the permanent total disability of such worker, his or her compensation for such partial disability shall be adjudged with regard to the previous disability of the injured member or part and the degree or extent of the aggravation or increase of disability thereof.

(6) When the compensation provided for in subsections (1) through (3) of this section exceeds three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, payment shall be made in monthly payments in accordance with the schedule of temporary total disability payments set forth in RCW 51.32.090 until such compensation is paid to the injured worker in full, except that the first monthly payment shall be in an amount equal to three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018. Upon application of the injured worker or survivor the monthly payment may be converted, in whole or in part, into a lump sum payment, in which event the monthly payment shall cease in whole or in part. Such conversion may be made only upon written application of the injured worker or survivor to the department and shall rest in the discretion of the department depending upon the merits of each individual application. Upon the death of a worker all unpaid installments accrued shall be paid according to the payment schedule established prior to the death of the worker to the widow or widower, or if there is no widow or widower surviving, to the dependent children of such claimant, and if there are no such dependent children, then to such other dependents as defined by this title.

(7) Awards payable under this section are governed by the schedule in effect on the date of injury. [2011 1st sp.s. c 37 s 401; 2007 c 172 s 1; 1993 c 520 s 1; 1988 c 161 s 6; 1986 c 58 s 2; 1982 1st ex.s. c 20 s 2; 1979 c 104 s 1; 1977 ex.s. c 350 s 46; 1972 ex.s. c 43 s 21; 1971 ex.s. c 289 s 10; 1965 ex.s. c 165 s 1; 1961 c 274 s 3; 1961 c 23 s 51.32.080. Prior: 1957 c 70 s 32; prior: 1951 c 115 s 4; 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

Application—2007 c 172: "This act applies to all pension orders issued on or after July 22, 2007." [2007 c 172 s 2.]

Effective date—1993 c 520: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 18, 1993]." [1993 c 520 s 2.]

Effective dates—1988 c 161: See note following RCW 51.32.050.

Effective date—1986 c 58 ss 2 and 3: "Sections 2 and 3 of this act shall take effect on July 1, 1986." [1986 c 58 s 7.]

Effective date—1982 1st ex.s. c 20: See note following RCW 51.32.075.

RCW 51.32.090 Temporary total disability—Partial restoration of earning power—Return to available work—When employer continues wages—Limitations—Finding—Rules. (1) When the total disability is only temporary, the schedule of payments contained in *RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal 80 percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed 150 percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed 100 percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(c) The prior closure of the claim or the receipt of permanent partial disability benefits shall not affect the rate at which loss of earning power benefits are calculated upon reopening the claim.

(4)(a) The legislature finds that long-term disability and the cost of injuries is significantly reduced when injured workers remain at work following their injury. To encourage employers at the time of injury to provide light duty or transitional work for their workers, wage subsidies and other incentives are made available to employers insured with the department.

(b) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by the attending provider as able to perform available work other than his or her usual work, the employer shall furnish to the attending provider, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the attending provider to relate the activities of the job to the worker's disability. The attending provider shall then determine whether the worker is able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her attending provider for the work, and begins the work

with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her attending provider to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her attending provider he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(c) To further encourage employers to maintain the employment of their injured workers, an employer insured with the department and that offers work to a worker pursuant to this subsection (4) shall be eligible for reimbursement of the injured worker's wages for light duty or transitional work equal to 50 percent of the basic, gross wages paid for that work, for a maximum of 120 workdays within a consecutive 24-month period. In no event may the wage subsidies paid to an employer on a claim exceed $25,000. Wage subsidies shall be calculated using the worker's basic hourly wages or basic salary, and no subsidy shall be paid for any other form of compensation or payment to the worker such as tips, commissions, bonuses, board, housing, fuel, health care, dental care, vision care, per diem, reimbursements for work-related expenses, or any other payments. An employer may not, under any circumstances, receive a wage subsidy for a day in which the worker did not actually perform any work, regardless of whether or not the employer paid the worker wages for that day.

(d) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with training or instruction to be qualified to perform the offered work, the employer shall be eligible for a reimbursement from the department for any tuition, books, fees, and materials required for that training or instruction, up to a maximum of $2,000. Reimbursing an employer for the costs of such training or instruction does not constitute a determination by the department that the worker is eligible for vocational services authorized by RCW 51.32.095.

(e) If an employer insured with the department offers a worker work pursuant to this subsection (4), and the employer provides the worker with clothing that is necessary to allow the worker to perform the offered work, the employer shall be eligible for reimbursement for such clothing from the department, up to a maximum of $1,000. However, an employer shall not receive reimbursement for any clothing it provided to the worker that it normally provides to its workers. The clothing purchased for the worker shall become the worker's property once the work comes to an end.

(f) If an employer insured with the department offers a worker work pursuant to this subsection (4) and the worker must be provided with tools or equipment to perform the offered work, the employer shall be eligible for a reimbursement from the department for such tools and equipment and related costs as determined by department rule, up to a maximum of $5,000. An employer shall not be reimbursed for any tools or equipment purchased prior to offering the work to the worker pursuant to this subsection (4). An employer shall not be reimbursed for any tools or equipment that it normally provides to its workers. The tools and equipment shall be the property of the employer.

(g) An employer may offer work to a worker pursuant to this subsection (4) more than once, but in no event may the employer

receive wage subsidies for more than 120 days of work in a consecutive 24-month period under one claim. An employer may continue to offer work pursuant to this subsection (4) after the worker has performed 120 days of work, but the employer shall not be eligible to receive wage subsidies for such work.

(h) An employer shall not receive any wage subsidies or reimbursement of any expenses pursuant to this subsection (4) unless the employer has completed and submitted the reimbursement request on forms developed by the department, along with all related information required by department rules. No wage subsidy or reimbursement shall be paid to an employer who fails to submit a form for such payment within one year of the date the work was performed. In no event shall an employer receive wage subsidy payments or reimbursements of any expenses pursuant to this subsection (4) unless the worker's attending provider has restricted him or her from performing his or her usual work and the worker's attending provider has released him or her to perform the work offered.

(i) Payments made under (b) through (g) of this subsection are subject to penalties under RCW 51.32.240(5) in cases where the funds were obtained through willful misrepresentation.

(j) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's attending provider. An employer who directs a claimant to perform work other than that approved by the attending provider and without the approval of the worker's attending provider shall not receive any wage subsidy or other reimbursements for such work.

(k) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(l) In the event of any dispute as to the validity of the work offered or as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination pursuant to an order that contains the notice required by RCW 51.52.060 and that is subject to appeal subject to RCW 51.52.050.

(5) An employer's experience rating shall not be affected by the employer's request for or receipt of wage subsidies.

(6) The department shall create a Washington stay-at-work account which shall be funded by assessments of employers insured through the state fund for the costs of the payments authorized by subsection (4) of this section, for the cost of creating a reserve for anticipated liabilities, and for costs authorized in RCW 51.32.095(2). Employers may collect up to one-half the fund assessment from workers.

(7) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of seven consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first seven days following the injury shall not serve to break the continuity of the period of disability if the disability continues seven days after the injury occurs.

(8) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages: PROVIDED, That holiday pay, vacation pay, sick leave, or other similar benefits shall not be deemed to be payments by the employer for the purposes of this subsection.

(9) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than 15 percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional $10 per month if the worker is married and an additional $10 per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (9)(b) is greater than 100 percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

(10) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the workforce, benefits shall not be paid under this section.

(11) The department shall adopt rules as necessary to implement this section. [2024 c 144 s 2; (2024 c 144 s 1 expired July 1, 2025); 2024 c 90 s 1; 2023 c 171 s 7; 2011 1st sp.s. c 37 s 101. Prior: 2007 c 284 s 3; 2007 c 190 s 1; 2004 c 65 s 9; prior: 1993 c 521 s 3; 1993 c 299 s 1; 1993 c 271 s 1; 1988 c 161 s 4; prior: 1988 c 161 s 3; 1986 c 59 s 3; (1986 c 59 s 2 expired June 30, 1989); prior: 1985 c 462 s 6; 1980 c 129 s 1; 1977 ex.s. c 350 s 47; 1975 1st ex.s. c 235 s 1; 1972 ex.s. c 43 s 22; 1971 ex.s. c 289 s 11; 1965 ex.s. c 122 s 3; 1961 c 274 s 4; 1961 c 23 s 51.32.090; prior: 1957 c 70 s 33; 1955 c 74 s 8; prior: 1951 c 115 s 3; 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Reviser's note: *(1) RCW 51.32.060 was amended by 2025 c 168 s 2, changing subsections (1) and (2) to subsections (2) and (3), respectively, effective July 1, 2026.

(2) This section was amended by 2024 c 90 s 1 and by 2024 c 144 s 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2024 c 144 s 2: "Section 2 of this act takes effect July 1, 2025." [2024 c 144 s 3.]

Expiration date—2024 c 144 s 1: "Section 1 of this act expires July 1, 2025." [2024 c 144 s 4.]

Effective date—2024 c 90: "This act takes effect January 1, 2025." [2024 c 90 s 5.]

Effective date—Retroactive application—2023 c 171: See note following RCW 51.04.050.

Finding—2011 1st sp.s. c 37: "The legislature finds that Washington state's workers' compensation system should be designed to focus on achieving the best outcomes for injured workers. The state must ensure that the workers' compensation system remains financially healthy in order to provide needed resources for injured workers. Further, the legislature recognizes that reducing the number and cost of long-term disability and pension claims, while strengthening safety programs; addressing workers' compensation system fraud by employers, workers, and providers; finding ways to improve claims management processes; studying occupational disease claims in the workers' compensation system; and establishing a fund for purposes of maintaining low, stable, and predictable premium rate increases are all key to ensuring productive worker outcomes and a financially sound system for Washington workers and employers." [2011 1st sp.s. c 37 s 1.]

Effective date—2011 1st sp.s. c 37: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 15, 2011]." [2011 1st sp.s. c 37 s 1101.]

Effective date—2007 c 284: See note following RCW 51.32.050.

Report to legislature—Effective date—Severability—2004 c 65: See notes following RCW 51.04.030.

Effective date—1993 c 521: See note following RCW 51.32.050.

Effective date—1993 c 299: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 299 s 2.]

Effective date—1993 c 271: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 7, 1993]." [1993 c 271 s 2.]

Benefit increases—Application to certain retrospective rating agreements—Effective dates—1988 c 161: See notes following RCW 51.32.050.

Expiration date—1986 c 59 s 2; Effective dates—1986 c 59 ss 3, 5: "Section 2 of this act shall expire on June 30, 1989. Section 3 of this act shall take effect on June 30, 1989. Section 5 of this act shall take effect on July 1, 1986." [1986 c 59 s 6.]

Program and fiscal review—1985 c 462: See note following RCW 41.04.500.

RCW 51.32.095 Vocational rehabilitation services—Benefits—Priorities—Allowable costs—Performance criteria. (1) One of the primary purposes of this title is to enable the injured worker to become employable at gainful employment. To this end, the department or self-insurers must utilize the services of individuals and organizations, public or private, whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation as may be reasonable to make the worker employable consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals or organizations and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor or supervisor's designee, whether or not medical treatment has been concluded, vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment, the supervisor or supervisor's designee may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost as provided in subsection (6) of this section as appropriate. An injured worker may not participate in vocational rehabilitation under this section if such participation would result in a payment of benefits as described in RCW 51.32.240(5), and any benefits so paid must be recovered according to the terms of that section.

(2)(a) To help injured workers maintain and build labor market readiness skills during vocational services in the sole discretion of the supervisor or supervisor's designee, funds may be payable to a department-approved training provider as defined by department rule, so that courses may be available for basic skills development.

(b) Participation in basic skills development is optional for the worker.

(c) Funds may pay for but are not limited to:

(i) English language training;

(ii) Basic computer literacy;

(iii) General education development or high school equivalency training;

(iv) Technology or software needed to effectively participate in basic skills development;

(v) Tutoring for approved basic skills training;

(vi) Other skills that prepare an injured worker for gainful employment.

(d) Travel and accommodation expenses are not payable under (c) of this subsection.

(e) These funds are available once per claim equal to 25 percent of the maximum funding available for vocational retraining defined in RCW 51.32.096(4)(d). Use of these funds for basic skills development does not reduce funds that are available for a formal retraining plan.

(i) Funds must be paid directly to training providers or to vendors to procure necessary equipment or assistance, and may not be paid directly to the worker.

(ii) Self-insured employers must pay for the costs of basic skills development for their injured workers independently from this fund.

(f) Eligibility of training for this funding is based upon a recommendation from the assigned vocational rehabilitation counselor, and approval at the sole discretion of the supervisor of industrial insurance or their designee to ensure the proposed training is consistent with basic skills development as used in this section.

(g) The injured worker's knowledge and skills gained through basic skills development may not be construed as acquisition of transferable skills under subsection (3)(f) of this section, and does not disqualify the injured worker from being found eligible for continued vocational rehabilitation services or retraining programs available under this title. Payment for the costs of basic skills training or instruction does not constitute a determination by the department that the worker is eligible for vocational services authorized by this section.

(h) Injured workers may finish specific courses that were approved and paid in full prior to vocational referral closure or claim closure. Otherwise funding for this type of skills development ends when the vocational referral closes or the claim closes.

(i) This funding is not associated in any way with eligibility for temporary total disability benefits or any vocational services.

(j) A worker's eligibility for or participation in basic skills development does not preclude the employer of injury's right to offer work under RCW 51.32.090(4) or to offer work consistent with the priorities identified in subsection (3) of this section.

(3) Vocational rehabilitation services may be provided to an injured worker when in the sole discretion of the supervisor or the supervisor's designee vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment. In determining whether to provide vocational services and at what level, the following list must be used, in order of priority with the highest priority given to returning a worker to employment:

(a) Return to the previous job with the same employer;

(b) Modification of the previous job with the same employer including transitional return to work;

(c) A new job with the same employer in keeping with any limitations or restrictions;

(d) Modification of a new job with the same employer including transitional return to work;

(e) Modification of the previous job with a new employer;

(f) A new job with a new employer or self-employment based upon transferable skills;

(g) Modification of a new job with a new employer;

(h) A new job with a new employer or self-employment involving on-the-job training;

(i) Short-term retraining.

(4) Notwithstanding subsection (3) of this section, vocational services may be provided to an injured worker who has suffered the loss or complete use of both legs, or arms, or one leg and one arm, or total eyesight when, in the sole discretion of the supervisor or the supervisor's designee, these services will either substantially improve the worker's quality of life or substantially improve the worker's ability to function in an employment setting, regardless of whether or not these services are either necessary or reasonably likely to make the worker employable at any gainful employment.

Vocational services must be completed prior to the commencement of the worker's entitlement to benefits under RCW 51.32.060. However, workers who are eligible for vocational services under this subsection are not eligible for option 2 benefits, as provided in RCW 51.32.096.

(5) To encourage the employment of individuals who have suffered an injury or occupational disease resulting in permanent disability which may be a substantial obstacle to employment, the supervisor or supervisor's designee, in his or her sole discretion, may provide assistance including job placement services for eligible injured workers who are receiving vocational services under the return-to-work priorities listed in subsection (3)(b) through (i) of this section, except for self-employment, and to employers that employ them. The assistance listed in (a) through (f) of this subsection is only available in cases where the worker is employed:

(a) Reduction or elimination of premiums or assessments owed by employers for such workers;

(b) Reduction or elimination of charges against the employers in the event of further injury to such workers in their employ;

(c) Reimbursement of the injured worker's wages for light duty or transitional work consistent with the limitations in RCW 51.32.090(4)(c);

(d) Reimbursement for the costs of clothing that is necessary to allow the worker to perform the offered work consistent with the limitations in RCW 51.32.090(4)(e);

(e) Reimbursement for the costs of tools or equipment to allow the worker to perform the work consistent with the limitations in RCW 51.32.090(4)(f);

(f) A one-time payment of $25,000 for continuous employment without reduction in base wages for at least 12 months. The 12 months begin the first date of employment and the one-time payment is available at the sole discretion of the supervisor of industrial insurance;

(g) The benefits described in this section are available to a state fund employer without regard to whether the worker was employed by the state fund employer at the time of injury. The benefits are available to a self-insured employer only in cases where the worker was employed by a state fund employer at the time of injury or occupational disease manifestation;

(h) The benefits described in (a) through (f) of this subsection (5) are only available in instances where a department-employed vocational rehabilitation professional has determined that the worker has returned to work that is reasonably consistent with the worker's restrictions.

(6)(a) Except as provided in (b) of this subsection, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, transportation, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed $3,000 in any 52 week period, and the cost of continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation.

(b) Beginning with vocational rehabilitation plans approved on or after July 1, 1999, through December 31, 2007, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, child or dependent care,

and other necessary expenses for any such worker in an amount not to exceed $4,000 in any 52 week period, and the cost of transportation and continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation.

(c) The expenses allowed under (a) or (b) of this subsection may include training fees for on-the-job training and the cost of furnishing tools and other equipment necessary for self-employment or reemployment. However, compensation or payment of retraining with job placement expenses under (a) or (b) of this subsection may not be authorized for a period of more than 52 weeks, except that such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional 52 weeks or portion thereof by written order of the supervisor.

(d) In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging must also be paid.

(e) Costs paid under this subsection must be chargeable to the employer's cost experience or must be paid by the self-insurer as the case may be.

(7) In addition to the vocational rehabilitation expenditures provided for under subsection (6) of this section, an additional $10,000 may, upon authorization of the supervisor or the supervisor's designee, be expended for: (a) Accommodations for an injured worker that are medically necessary for the worker to participate in an approved retraining plan; and (b) accommodations necessary to perform the essential functions of an occupation in which an injured worker is seeking employment, consistent with the retraining plan or the recommendations of a vocational evaluation. The injured worker's attending provider must verify the necessity of the modifications or accommodations. The total expenditures authorized in this subsection and the expenditures authorized under RCW 51.32.250 may not exceed $10,000.

(8) When the department has approved a vocational plan for a worker prior to January 1, 2008, regardless of whether the worker has begun participating in the approved plan, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section are limited to those provided under subsections (6) and (7) of this section.

(9) The department must establish criteria to monitor the quality and effectiveness of rehabilitation services provided by the individuals and organizations. The state fund must make referrals for vocational rehabilitation services based on these performance criteria.

(10) The department must engage in, where feasible and cost-effective, a cooperative program with the state employment security department to provide job placement services under this section including participation by the department as a partner with WorkSource and with the private vocational rehabilitation community to refer workers to these vocational professionals for job search and job placement assistance. As a partner, the department must place vocational professional full-time employees at selected WorkSource locations who will work with employers to market the benefits of on-the-job training programs and preferred worker financial incentives as described in subsection (5) of this section. For the purposes of this subsection, "WorkSource" means the established state system that administers the federal workforce investment act of 1998.

(11) The benefits in this section and RCW 51.32.096 must be provided for the injured workers of self-insured employers. Self-insurers must report both benefits provided and benefits denied in the manner prescribed by the department by rule adopted under chapter 34.05 RCW. The director may, in his or her sole discretion and upon his or her own initiative or at any time that a dispute arises under this section or RCW 51.32.096, promptly make such inquiries as circumstances require and take such other action as he or she considers will properly determine the matter and protect the rights of the parties.

(12) Except as otherwise provided, the benefits provided for in this section and RCW 51.32.096 are available to any otherwise eligible worker regardless of the date of industrial injury. However, claims may not be reopened solely for vocational rehabilitation purposes. [2024 c 90 s 2; 2023 c 171 s 8; 2018 c 22 s 13. Prior: 2015 c 137 s 2; 2013 c 331 s 1; 2011 c 291 s 1; (2007 c 72 s 1 expired June 30, 2016); 2004 c 65 s 10; 1999 c 110 s 1; prior: 1996 c 151 s 1; 1996 c 59 s 1; 1988 c 161 s 9; 1985 c 339 s 2; 1983 c 70 s 2; 1982 c 63 s 11; 1980 c 14 s 10; prior: 1977 ex.s. c 350 s 48; 1977 ex.s. c 323 s 16; 1972 ex.s. c 43 s 23; 1971 ex.s. c 289 s 12.]

Effective date—2024 c 90: See note following RCW 51.32.090.

Effective date—Retroactive application—2023 c 171: See note following RCW 51.04.050.

Explanatory statement—2018 c 22: See note following RCW 1.20.051.

Application—2015 c 137 ss 1, 2, and 6: See note following RCW 51.16.120.

Rules—2015 c 137: See note following RCW 51.32.096.

Effective date—2013 c 331: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 21, 2013]." [2013 c 331 s 8.]

Implementation—2007 c 72: "The department of labor and industries shall adopt rules necessary to implement this act." [2007 c 72 s 4.]

Effective date—2007 c 72: "This act takes effect January 1, 2008." [2007 c 72 s 5.]

Expiration date—2013 c 331; 2007 c 72: "This act expires June 30, 2016." [2013 c 331 s 5; 2007 c 72 s 6.]

Report to legislature—Effective date—Severability—2004 c 65: See notes following RCW 51.04.030.

Effective date—1999 c 110 s 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 1999." [1999 c 110 s 3.]

Legislative finding—1985 c 339: "The legislature finds that the vocational rehabilitation program created by chapter 63, Laws of 1982, has failed to assist injured workers to return to suitable gainful employment without undue loss of time from work and has increased costs of industrial insurance for employers and employees alike. The legislature further finds that the administrative structure established within the industrial insurance division of the department of labor and industries to develop and oversee the provision of vocational rehabilitation services has not provided efficient delivery of vocational rehabilitation services. The legislature finds that restructuring the state's vocational rehabilitation program under the department of labor and industries is necessary." [1985 c 339 s 1.]

Severability—1985 c 339: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 339 s 6.]

Severability—1983 c 70: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 70 s 5.]

Effective dates—Implementation—1982 c 63: "Section 4 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [March 26, 1982]. All other sections of this act shall take effect on January 1, 1983. The director of the department of labor and industries is authorized to immediately take such steps as are necessary to insure that this act is implemented on its effective dates." [1982 c 63 s 26.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

RCW 51.32.096 Vocational rehabilitation benefits and options—Advisory committee—Procedures—Requirements—Definitions—Costs. (1) To continue the partnership of business and labor with regard to best practices in the provision of vocational services and to identify further improvements to Washington's vocational rehabilitation system and benefits, the director must appoint a vocational rehabilitation advisory committee to consist of at least one member representing employers insured by the state fund, one member representing self-insured employers, and two members representing workers. The appointments must be made from lists of nominations provided by statewide business, self-insured employers, and labor organizations.

(2) Prior to or during plan development, the department may authorize payment for workers who choose to pursue basic skills development training, such as English as a second language and general equivalency degree courses.

(3)(a) For the purposes of this section, the day the worker commences vocational plan development means the date the department or self-insurer notifies the worker of his or her eligibility for plan

development services or of an eligibility determination in response to a dispute of a vocational decision.

(b) When the supervisor or supervisor's designee has decided that vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment, he or she must be provided with services necessary to develop a vocational plan that, if completed, would render the worker employable. The vocational professional assigned to the claim must, at the initial meeting with the worker, fully inform the worker of the return-to-work priorities set forth in RCW 51.32.095(3) and of his or her rights and responsibilities under the workers' compensation vocational system. The department must provide tools to the vocational professional for communicating this and other information required by RCW 51.32.095 and this section to the worker.

(c) On the date the worker commences vocational plan development, the department must also inform the employer in writing of the employer's right to make a valid return-to-work offer during the first 15 days following the commencement of vocational plan development. However, at the sole discretion of the supervisor or the supervisor's designee, an employer may be granted an extension of time of up to 10 additional days to make a valid return-to-work offer. The additional days may be allowed by the department with or without a request from the employer. The extension may only be granted if the employer made a return-to-work offer to the worker within 15 days of the date the worker commenced vocational plan development that met some but not all of the requirements in this section. To be valid, the offer must be for bona fide employment with the employer of injury, consistent with the worker's documented physical and mental restrictions as provided by the worker's health care provider. When the employer makes a valid return-to-work offer, the vocational plan development services and temporary total disability compensation must be terminated effective on the starting date for the job without regard to whether the worker accepts the return-to-work offer.

(d) Following the time period described in (c) of this subsection, the employer may still provide, and the worker may accept, any valid return-to-work offer. The worker's acceptance of such an offer must result in the termination of vocational plan development or implementation services and temporary total disability compensation effective the day the employment begins.

(4)(a) All vocational plans must contain an accountability agreement signed by the worker detailing expectations regarding progress, attendance, and other factors influencing successful participation in the plan. Failure to abide by the agreed expectations must result in suspension of vocational benefits pursuant to RCW 51.32.110, including the opportunity for the worker to demonstrate good cause.

(b) Any formal education included as part of the vocational plan must be for an accredited or licensed program or other program approved by the department. The department must develop rules that provide criteria for the approval of nonaccredited or unlicensed programs.

(c) The vocational plan for an individual worker must be completed and submitted to the department within 90 days of the day the worker commences vocational plan development. The department may extend the 90 days for good cause. Criteria for good cause must be provided in rule.

(d) Costs for the vocational plan may include books, tuition, fees, supplies, equipment, child or dependent care, training fees for on-the-job training, the cost of furnishing tools and other equipment necessary for self-employment or reemployment, and other necessary expenses in an amount not to exceed $17,500. This amount must be adjusted effective July 1st of each year for vocational plans or retraining benefits available under subsection (5)(b) of this section approved on or after this date but before June 30th of the next year based on the average percentage change in tuition for the next fall quarter for all Washington state community colleges. Effective July 1, 2016, and each July 1st thereafter, the increase cannot exceed two percent per year, unless the amount available would be less than 150 percent of the average cost of a two-year community college training plan. Effective July 1st following the calendar year in which the amount available is less than 150 percent of the average cost of a two-year community college plan, costs for newly approved plans can be up to 150 percent of this community college plan average. The average cost of two-year community college training plans will be calculated by the department based on plans completed during the preceding calendar year.

(e) The duration of the vocational plan may not exceed two years from the date the plan is implemented. The worker must receive temporary total disability compensation under RCW 51.32.090 and the cost of transportation while he or she is actively and successfully participating in a vocational plan.

(f) If the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging must also be paid.

(5) Except as provided in RCW 51.32.095(4), during vocational plan development the worker must, with the assistance of a vocational professional, participate in vocational counseling and occupational exploration to include, but not be limited to, identifying possible job goals, training needs, resources, and expenses, consistent with the worker's physical and mental status. A vocational rehabilitation plan must be developed by the worker and the vocational professional and submitted to the department or self-insurer. Following this submission, the worker must elect one of the following options:

(a) Option 1: The department or self-insurer implements and the worker participates in the vocational plan developed by the vocational professional and approved by the worker and the department or self-insurer. For state fund claims, the department must review and approve the vocational plan before implementation may begin. If the department takes no action within 15 days, the plan is deemed approved. Beginning the date the department approves the plan, or the date of a determination that the plan is valid following a dispute, through completion of the first academic quarter or three months' training, the worker may elect option 2. However, in the sole discretion of the supervisor or supervisor's designee, the department may approve an election for option 2 benefits that was submitted in writing within 25 days of the end of the first academic quarter or three months' training if the worker provides a written explanation establishing that he or she was unable to submit his or her election of option 2 benefits within 15 days. In no circumstance may the department approve of an election for option 2 benefits that was submitted more than 25 days after the end of the first academic quarter or three months' training.

(i) Following successful completion of the vocational plan, any subsequent assessment of whether vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1) must include consideration of transferable skills obtained in the vocational plan.

(ii) If a vocational plan is successfully completed on a claim which is thereafter reopened as provided in RCW 51.32.160, the cost and duration available for any subsequent vocational plan is limited to that in subsection (4)(d) and (e) of this section, less that previously expended.

(b) Option 2: The worker declines further vocational services under the claim and receives an amount equal to nine months of temporary total disability compensation under RCW 51.32.090. The award must be reduced by the amount of any temporary total disability compensation paid for days starting with the first day of the academic quarter or three months' training and for any days through the date the department received the worker's written election of option 2. The award is payable in biweekly payments in accordance with the schedule of temporary total disability payments, until such award is paid in full. These payments may not include interest on the unpaid balance. However, upon application by the worker, and at the discretion of the department, the compensation may be converted to a lump sum payment. The vocational costs defined in subsection (4)(d) of this section must remain available to the worker less any amount expended for the worker's participation in the first academic quarter or three months' training, upon application to the department or self-insurer, for a period of five years. The vocational costs must, if expended, be available for programs or courses at any accredited or licensed institution or program from a list of those approved by the department for tuition, books, fees, supplies, equipment, and tools, without department or self-insurer oversight. Up to 10 percent of the total funds available to the worker can be used for vocational counseling and job placement services. The department must issue an order as provided in RCW 51.52.050 confirming the option 2 election, setting a payment schedule, and terminating temporary total disability benefits effective the date of the order confirming that election. The department must thereafter close the claim. A worker who elects option 2 benefits is not entitled to further temporary total, or to permanent total, disability benefits except upon a showing of a worsening in the condition or conditions accepted under the claim such that claim closure is not appropriate, in which case the option 2 selection must be rescinded and the amount paid to the worker must be assessed as an overpayment. A claim that was closed based on the worker's election of option 2 benefits may be reopened as provided in RCW 51.32.160, but cannot be reopened for the sole purpose of allowing the worker to seek vocational assistance.

(i) If, within five years from the date the option 2 order becomes final, the worker is subsequently injured or suffers an occupational disease or reopens the claim as provided in RCW 51.32.160, and vocational rehabilitation is found both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1), the duration of any vocational plan under subsection (4)(e) of this section may not exceed 15 months.

(ii) If the available vocational costs are utilized by the worker, any subsequent assessment of whether vocational rehabilitation is both necessary and likely to enable the injured worker to become

employable at gainful employment under RCW 51.32.095(1) must include consideration of the transferable skills obtained.

(iii) If the available vocational costs are utilized by the worker and the claim is thereafter reopened as provided in RCW 51.32.160, the cost available for any vocational plan is limited to that in subsection (4)(d) of this section less that previously expended.

(iv) Option 2 may only be elected once per worker.

(c) The director, in his or her sole discretion, may provide the worker vocational assistance not to exceed that in subsection (4) of this section, without regard to the worker's prior option selection or benefits expended, where vocational assistance would prevent permanent total disability under RCW 51.32.060.

(6)(a) "Vocational plan interruption" for the purposes of this section means an occurrence which disrupts the plan to the extent the employability goal is no longer attainable. "Vocational plan interruption" does not include institutionally scheduled breaks in educational programs, occasional absence due to illness, or modifications to the plan which will allow it to be completed within the cost and time provisions of subsection (4)(d) and (e) of this section.

(b) When a vocational plan interruption is beyond the control of the worker, the department or self-insurer must recommence plan development. If necessary to complete vocational services, the cost and duration of the plan may include credit for that expended prior to the interruption. A vocational plan interruption is considered outside the control of the worker when it is due to the closure of the accredited institution, when it is due to a death in the worker's immediate family, or when documented changes in the worker's accepted medical conditions prevent further participation in the vocational plan.

(c) When a vocational plan interruption is the result of the worker's actions, the worker's entitlement to benefits must be suspended in accordance with RCW 51.32.110, including the opportunity for the worker to demonstrate good cause. If plan development or implementation is recommenced, the cost and duration of the plan may not include credit for that expended prior to the interruption. A vocational plan interruption is considered a result of the worker's actions when it is due to the failure to meet attendance expectations set by the training or educational institution, failure to achieve passing grades or acceptable performance review, unaccepted or postinjury conditions that prevent further participation in the vocational plan, or the worker's failure to abide by the accountability agreement in subsection (4)(a) of this section.

(7) Costs paid for vocational services and plans must be chargeable to the employer's cost experience or must be paid by the self-insurer, as the case may be. For state fund vocational plans implemented on or after January 1, 2008, the costs may be paid from the medical aid fund at the sole discretion of the director under the following circumstances:

(a) The worker previously participated in a vocational plan or selected a worker option as described in subsection (5) of this section;

(b) The worker's prior vocational plan or selected option was based on an approved plan or option on or after January 1, 2008;

(c) For state fund employers, the date of injury or disease manifestation of the subsequent claim is within the period of time used to calculate their experience factor;

(d) The subsequent claim is for an injury or occupational disease that resulted from employment and work-related activities beyond the worker's documented restrictions.

(8) The vocational plan costs payable from the medical aid fund must include the costs of temporary total disability benefits, except those payable from the supplemental pension fund, from the date the vocational plan is implemented to the date the worker completes the plan or ceases participation. The vocational costs paid from the medical aid fund may not be charged to the state fund employer's cost experience. [2024 c 90 s 3; 2015 c 137 s 5.]

Effective date—2024 c 90: See note following RCW 51.32.090.

Application—2015 c 137 s 5: "Section 5 of this act applies to all claims commencing vocational plan development on or after July 31, 2015, without regard to the date of injury or occupational disease manifestation." [2015 c 137 s 10.]

Rules—2015 c 137: "The department of labor and industries is authorized to establish and adopt rules governing the eligibility for and administration of benefits available under RCW 51.16.120, 51.32.095, *51.32.099, 51.44.040, and 51.32.096." [2015 c 137 s 7.]

***Reviser's note:** RCW 51.32.099 expired June 30, 2016, pursuant to 2023 c 470 s 3001.

RCW 51.32.098 Vocational rehabilitation services—Applicability. Nothing in RCW 51.32.095 or in the repeal of chapter 51.41 RCW by section 5, chapter 339, Laws of 1985 shall be construed as prohibiting the completion of vocational rehabilitation plans approved under this title prior to May 16, 1985. Injured workers referred for vocational rehabilitation services under this title, but for whom vocational rehabilitation plans have not been approved by the department under this title before May 16, 1985, may only be provided vocational rehabilitation services, if applicable, by the department according to the provisions of RCW 51.32.095. [1985 c 339 s 4.]

Legislative finding—Severability—1985 c 339: See notes following RCW 51.32.095.

RCW 51.32.100 Preexisting disease. If it is determined that an injured worker had, at the time of his or her injury, a preexisting disease and that such disease delays or prevents complete recovery from such injury, it shall be ascertained, as nearly as possible, the period over which the injury would have caused disability were it not for the diseased condition and the extent of permanent partial disability which the injury would have caused were it not for the disease, and compensation shall be awarded only therefor. [1977 ex.s. c 350 s 49; 1971 ex.s. c 289 s 44; 1961 c 23 s 51.32.100. Prior: 1957 c 70 s 34; prior: 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131

s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.110 Medical examination—Refusal to submit—Traveling expenses—Pay for time lost. (1) As required under RCW 51.36.070, any worker entitled to receive any benefits or claiming such under this title shall, if requested by the department or self-insurer, submit himself or herself for medical examination, at a place reasonably convenient for the worker. An injured worker, whether a noncitizen or other injured worker, who is not residing in the United States at the time that a medical examination is requested may be required to submit to an examination at any location in the United States determined by the department or self-insurer.

(2) If the worker refuses to submit to medical examination, or obstructs the same, or, if any injured worker shall persist in unsanitary or injurious practices which tend to imperil or delay his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery or refuse or obstruct evaluation or examination for the purpose of vocational rehabilitation or does not cooperate in reasonable efforts at such rehabilitation, the department or the self-insurer upon approval by the department, with notice to the worker may suspend any further action on any claim of such worker so long as such refusal, obstruction, noncooperation, or practice continues and reduce, suspend, or deny any compensation for such period: PROVIDED, That (a) the department or the self-insurer shall not suspend any further action on any claim of a worker or reduce, suspend, or deny any compensation if a worker has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment or practice requested by the department or required under this section and (b) the department may not assess a no-show fee against the worker if the worker gives at least five business days' notice of the worker's intent not to attend the examination.

(3) If the worker necessarily incurs traveling expenses in attending the examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her out of the accident fund upon proper voucher and audit or shall be repaid by the self-insurer, as the case may be.

(4)(a) If the medical examination required by this section causes the worker to be absent from his or her work without pay:

(i) In the case of a worker insured by the department, the worker shall be paid compensation out of the accident fund in an amount equal to his or her usual wages for the time lost from work while attending the medical examination; or

(ii) In the case of a worker of a self-insurer, the self-insurer shall pay the worker an amount equal to his or her usual wages for the time lost from work while attending the medical examination.

(b) This subsection (4) shall apply prospectively to all claims regardless of the date of injury. [2026 c 36 s 31; 2020 c 213 s 2; 1997 c 325 s 3; 1993 c 375 s 1; 1980 c 14 s 11. Prior: 1977 ex.s. c 350 s 50; 1977 ex.s. c 323 s 17; 1971 ex.s. c 289 s 13; 1961 c 23 s

51.32.110; prior: 1917 c 28 s 18; 1915 c 188 s 5; 1911 c 74 s 13; RRS s 7688.]

Effective date—2020 c 213 ss 1-3: See note following RCW 51.08.121.

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.112 Medical examination—Standards and criteria—Special examinations by chiropractors—Compensation guidelines and reporting criteria. (1) The department shall develop standards for the conduct of special medical examinations to determine permanent disabilities, including, but not limited to:

(a) The qualifications of persons conducting the examinations;

(b) The criteria for conducting the examinations, including guidelines for the appropriate treatment of injured workers during the examination; and

(c) The content of examination reports.

(2) Within the appropriate scope of practice, chiropractors licensed under chapter 18.25 RCW may conduct special medical examinations to determine permanent disabilities in consultation with physicians licensed under chapter 18.57 or 18.71 RCW. The department, in its discretion, may request that a special medical examination be conducted by a single chiropractor if the department determines that the sole issues involved in the examination are within the scope of practice under chapter 18.25 RCW. However, nothing in this section authorizes the use as evidence before the board of a chiropractor's determination of the extent of a worker's permanent disability if the determination is not requested by the department.

(3) The department shall investigate the amount of examination fees received by persons conducting special medical examinations to determine permanent disabilities, including total compensation received for examinations of department and self-insured claimants, and establish compensation guidelines and compensation reporting criteria.

(4) The department shall investigate the level of compliance of self-insurers with the requirement of full reporting of claims information to the department, particularly with respect to medical examinations, and develop effective enforcement procedures or recommendations for legislation if needed. [1993 c 515 s 4; 1988 c 114 s 2.]

Intent—1988 c 114: "It is the intent of the legislature that medical examinations for determining permanent disabilities be conducted fairly and objectively by qualified examiners and with respect for the dignity of the injured worker." [1988 c 114 s 1.]

RCW 51.32.114 Medical examination—Department to monitor quality and objectivity. The department shall examine the credentials of persons conducting special medical examinations and shall monitor the

quality and objectivity of examinations and reports for the department and self-insured claimants. The department shall adopt rules to ensure that examinations are performed only by qualified persons meeting department standards. [1988 c 114 s 3.]

Intent—1988 c 114: See note following RCW 51.32.112.

RCW 51.32.120 Further accident after lump sum payment. Should a further accident occur to a worker who has been previously the recipient of a lump sum payment under this title, his or her future compensation shall be adjusted according to the other provisions of this chapter and with regard to the combined effect of his or her injuries and his or her past receipt of money under this title. [1977 ex.s. c 350 s 51; 1961 c 23 s 51.32.120. Prior: 1957 c 70 s 35; prior: 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

RCW 51.32.130 Lump sum for death or permanent total disability. In case of death or permanent total disability, the monthly payment provided may be converted, in whole or in part, into a lump sum payment, not in any case to exceed eight thousand five hundred dollars, equal or proportionate, as the case may be, to the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made only upon written application (in case of minor children the application may be by either parent) to the department and shall rest in the discretion of the department. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the department and applicant. In the event any payment shall be due to a noncitizen residing in a foreign country, the department may settle the same by making a lump sum payment in such amount as may be agreed to by such noncitizen, not to exceed fifty percent of the value of the annuity then remaining.

Nothing herein shall preclude the department from making, and authority is hereby given it to make, on its own motion, lump sum payments equal or proportionate, as the case may be, to the value of the annuity then remaining, in full satisfaction of claims due to dependents. [2026 c 36 s 32; 1961 c 23 s 51.32.130. Prior: 1957 c 70 s 45; prior: 1941 c 209 s 2; 1929 c 132 s 3; 1927 c 310 s 6(i); 1917 c 29 s 22; 1911 c 74 s 7; Rem. Supp. 1941 s 7681.]

RCW 51.32.135 Closing of claim in pension cases—Consent of spouse. In pension cases when a worker or beneficiary closes his or her claim by full conversion to a lump sum or in any other manner as provided in RCW 51.32.130 and 51.32.150, such action shall be conclusive and effective to bar any subsequent application or claim relative thereto by the worker or any beneficiary which would otherwise exist had such person not elected to close the claim: PROVIDED, The director may require the spouse of such worker to consent in writing as a prerequisite to conversion and/or the closing

of such claim. [1977 ex.s. c 350 s 52; 1973 1st ex.s. c 154 s 98; 1961 c 23 s 51.32.135. Prior: 1953 c 143 s 1.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 51.32.140 Nonresident individual who is not a citizen or national of the United States beneficiary. Except as otherwise provided by treaty or this title, whenever compensation is payable to a beneficiary who is a noncitizen not residing in the United States, the department or self-insurer, as the case may be, shall pay the compensation to which a resident beneficiary is entitled under this title. But if a nonresident noncitizen beneficiary is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefit of such law in as favorable a degree as herein extended to nonresident noncitizens, he or she shall receive no compensation. No payment shall be made to any beneficiary residing in any country with which the United States does not maintain diplomatic relations when such payment is due. [2026 c 36 s 33; 1997 c 325 s 5; 1971 ex.s. c 289 s 45; 1961 c 23 s 51.32.140. Prior: 1957 c 70 s 36; prior: 1947 c 56 s 1, part; 1927 c 310 s 7, part; 1923 c 136 s 4, part; 1921 c 182 s 6, part; 1919 c 131 s 6, part; 1911 c 74 s 10, part; Rem. Supp. 1947 s 7684, part.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.150 Lump sum to beneficiary outside state. If a beneficiary shall reside or move out of the state, the department may, with the written consent of the beneficiary, convert any monthly payments provided for such cases into a lump sum payment (not in any case to exceed the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, but in no case to exceed the sum provided in RCW 51.32.130 as now or hereafter amended). [1977 ex.s. c 323 s 18; 1961 c 23 s 51.32.150. Prior: 1959 c 308 s 5; 1957 c 70 s 37; prior: 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

RCW 51.32.160 Aggravation, diminution, or termination. (1)(a) If aggravation, diminution, or termination of disability takes place, the director may, upon the application of the beneficiary, made within seven years from the date the first closing order becomes final, or at any time upon his or her own motion, readjust the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment: PROVIDED, That the director may, upon application of the worker made at any time, provide proper and necessary medical and surgical services as authorized under RCW

51.36.010. The department shall promptly mail a copy of the application to the employer at the employer's last known address as shown by the records of the department.

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

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

(d) If an order denying an application to reopen filed on or after July 1, 1988, is not issued within ninety days of receipt of such application by the self-insured employer or the department, such application shall be deemed granted. However, for good cause, the department may extend the time for making the final determination on the application for an additional sixty days.

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

(3) No act done or ordered to be done by the director, or the department prior to the signing and filing in the matter of a written order for such readjustment shall be grounds for such readjustment. [1995 c 253 s 2; 1988 c 161 s 11; 1986 c 59 s 4; 1973 1st ex.s. c 192 s 1; 1961 c 23 s 51.32.160. Prior: 1957 c 70 s 38; prior: 1951 c 115 s 5; 1949 c 219 s 1, part; 1947 c 246 s 1, part; 1929 c 132 s 2, part; 1927 c 310 s 4, part; 1923 c 136 s 2, part; 1919 c 131 s 4, part; 1917 c 28 s 1, part; 1913 c 148 s 1, part; 1911 c 74 s 5, part; Rem. Supp. 1949 s 7679, part.]

RCW 51.32.180 Occupational diseases—Limitation. Every worker who suffers disability from an occupational disease in the course of employment under the mandatory or elective adoption provisions of this title, or his or her family and dependents in case of death of the worker from such disease or infection, shall receive the same compensation benefits and medical, surgical and hospital care and treatment as would be paid and provided for a worker injured or killed in employment under this title, except as follows: (a) [(1)] This section and RCW 51.16.040 shall not apply where the last exposure to the hazards of the disease or infection occurred prior to January 1, 1937; and (b) [(2)] for claims filed on or after July 1, 1988, the rate of compensation for occupational diseases shall be established as of the date the disease requires medical treatment or becomes totally or partially disabling, whichever occurs first, and without regard to the date of the contraction of the disease or the date of filing the claim. [1988 c 161 s 5; 1977 ex.s. c 350 s 53; 1971 ex.s. c 289 s 49; 1961 c 23 s 51.32.180. Prior: 1959 c 308 s 19; prior: 1941 c 235 s 1, part; 1939 c 135 s 1, part; 1937 c 212 s 1, part; Rem. Supp. 1941 s 7679-1, part.]

Benefit increases—Application to certain retrospective rating agreements—1988 c 161: See notes following RCW 51.32.050.

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.181 Occupational diseases—Public health emergencies—Infectious or contagious diseases. (1) For frontline employees who are covered under this title, there exists a prima facie presumption that any infectious or contagious diseases that are transmitted through respiratory droplets or aerosols, or through contact with contaminated surfaces and are the subject of a public health emergency are occupational diseases under RCW 51.08.140 during a public health emergency.

(2) The frontline employee must provide verification, as required by the department by rule, to the department and the self-insured employer that the employee has contracted the infectious or contagious disease that is the subject of the public health emergency.

(3) This presumption of occupational disease may be rebutted by a preponderance of the evidence that:

(a) The exposure to the infectious or contagious disease which is the subject of the public health emergency occurred from other employment or nonemployment activities; or

(b) The employee was working from the employee's home, on leave from the employee's employment, or some combination thereof, for the period of quarantine consistent with recommended guidance from state and federal health officials for the disease immediately prior to the employee's injury, occupational disease, or period of incapacity that resulted from exposure to the disease which is the subject of the public health emergency.

(4)(a) RCW 51.32.090(7) does not apply to an occupational disease under this section except that no worker shall receive compensation for or during the day on which the occupational disease was contracted. For the purposes of this subsection (4), the day on which the occupational disease was contracted is whichever date occurs first of the following:

(i) The date that the worker first missed work due to symptoms of the infectious or contagious disease;

(ii) The date the worker was quarantined by a medical provider or public health official; or

(iii) The date the worker received a positive test result confirming contraction of the infectious or contagious disease.

(b) If leave or similar benefits are paid to the frontline employee as part of a federal or state program for these employees during the public health emergency, temporary total disability benefits are not payable for the same period of time covered by the federal or state program.

(5) When calculating assessments due to the department for which total claim costs are the basis, self-insured employers and self-insurance hospital groups formed under RCW 51.14.150 and 51.14.160 may deduct the cost of payments made under this section from the total of all claim costs reported.

(6) Costs of the payments under this section shall not affect the experience rating of employers insured by the state fund.

(7) As used in this section:

(a) "Assisted living facility" has the same meaning as in RCW 18.20.020.

(b) "Farm work" means work performed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment. For the purposes of this subsection, "farm work" includes floriculture.

(c) "Food distribution work" means work where the primary duties include transporting food from food producers or manufacturers to food warehouses or food service operators and retailers.

(d) "Food manufacturing work" means work performed for an employer whose North American industry classification code is within "311."

(e) "Food processing work" means work handling or processing of any food in any manner of preparation for sale for an employer required to be licensed by the department of agriculture under chapter 69.07 RCW.

(f) "Frontline employee" includes the following employees:

(i) First responders, including law enforcement officers, firefighters, emergency medical service providers, paramedics, ambulance drivers, and other members of first response teams engaged in co-response, as defined in RCW 71.24.025. "Firefighters" includes wildland firefighters when performing wildfire suppression or other emergency duties under the incident command system if the firefighter has in-person interaction with the general public or other firefighters as part of their job duties;

(ii) Employees performing food processing, food manufacturing, food distribution, farm, and meat packing work;

(iii) Maintenance, janitorial, and food service workers at any facility treating patients diagnosed with the infectious or contagious disease that is the subject of the public health emergency;

(iv) Drivers and operators employed by a transit agency or any other public entity authorized under state law to provide mass transportation services to the general public;

(v) Employees working at a child care facility licensed by the department of children, youth, and families under chapter 43.216 RCW, if the employee has in-person interaction with children or other members of the general public as part of their job duties;

(vi) Employees employed by a retail store that remains open to the general public during the public health emergency, if the employee has in-person interaction with the general public as part of their job duties or has in-person interaction with other employees. For the purposes of this subsection, "retail store" means a business whose North American industry classification code is within "44-45";

(vii) Employees employed by a hotel, motel, or other transient accommodation licensed under chapter 70.62 RCW that remains open to the general public during the public health emergency, if the employee has in-person interaction with the general public as part of their job duties or has in-person interaction with other employees;

(viii) Employees employed by a restaurant, if the employee has in-person interaction with the general public as part of their job duties or works in the kitchen of the restaurant and has in-person

interaction with other employees. For the purposes of this subsection, "restaurant" has the same meaning as in RCW 66.04.010;

(ix) Home care aides certified under chapter 18.88B RCW and home health aides that provide services under chapter 70.126 RCW that primarily work in the home of the individual receiving care;

(x)(A) Corrections officers and correctional support employees working at a correctional institution.

(B) For the purposes of this subsection (7)(f)(x):

(I) "Correctional institution" has the same meaning as in RCW 9.94.049.

(II) "Corrections officer" means any corrections agency employee whose primary job function is to provide custody, safety, and security of prisoners in jails and detention facilities.

(III) "Correctional support employee" means any employee who provides food services or janitorial services in a correctional institution;

(xi) Educational employees, including classroom teachers, paraeducators, principals, librarians, school bus drivers, and other educational support staff, of any school district, or a contractor of a school district, that are required to be physically present at a school or on the grounds of a school where classes are being taught in person, in a transportation vehicle necessary for school operations, or in the home of a student as part of their job duties, if the employee has in-person interaction with students, a student's family members, or other employees as part of their job duties;

(xii) Employees of institutions of higher education that are required to be physically present on campus when classes are being taught in person, if the employee has in-person interaction with students or the general public as part of their job duties. For the purposes of this subsection, "institution of higher education" has the same meaning as in RCW 28B.10.016;

(xiii) Employees employed by a public library that remains open to the general public during the public health emergency, if the employee has in-person interaction with the general public as part of their job duties or has in-person interaction with other employees. For the purposes of this subsection, "public library" means a library covered by chapter 27.12 RCW;

(xiv) Employees employed by the department of licensing who are assigned to review, process, approve, and issue driver licenses to the general public, if the employee has in-person interaction with the general public as part of their job duties or has in-person interaction with other employees.

(g) "Meat packing work" means work slaughtering animals and processing and packaging meat products for sale and the rendering of animal by-products.

(h) "Nursing home" means a nursing home licensed under chapter 18.51 RCW.

(i) "Public health emergency" means a declaration or order concerning any infectious or contagious diseases, including a pandemic and is issued as follows:

(i) The president of the United States has declared a national or regional emergency that covers every county in the state of Washington; or

(ii) The governor of Washington has declared a state of emergency under RCW 43.06.010(12) in every county in the state.

(j) "School" has the same meaning as in RCW 28A.210.070. [2025 c 346 s 4; 2022 c 290 s 1; 2021 c 252 s 1.]

Findings—2025 c 346: See note following RCW 71.24.025.

Short title—2021 c 252: "This act may be known and cited as the health emergency labor standards act." [2021 c 252 s 4.]

Effective date—2021 c 252: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 11, 2021]." [2021 c 252 s 5.]

RCW 51.32.185 Occupational diseases—Presumption of occupational disease for firefighters and fire investigators—Limitations—Exception—Rules—Advisory committee on occupational disease presumptions. *(Effective until June 30, 2029.)* (1)(a) In the case of firefighters as defined in RCW 41.26.030(17) (a), (b), (c), and (h) who are covered under this title and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and public employee fire investigators, there shall exist a prima facie presumption that: (i) Respiratory disease; (ii) any heart problems, experienced within seventy-two hours of exposure to smoke, fumes, or toxic substances, or experienced within twenty-four hours of strenuous physical exertion due to firefighting activities; (iii) cancer; and (iv) infectious diseases are occupational diseases under RCW 51.08.140.

(b) In the case of firefighters as defined in RCW 41.26.030(17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(19) (b), (c), and (e), who are covered under this title, there shall exist a prima facie presumption that posttraumatic stress disorder is an occupational disease under RCW 51.08.140.

(c) In the case of law enforcement officers as defined in RCW 41.26.030(19) (b), (c), and (e) who are covered under Title 51 RCW, there shall exist a prima facie presumption that: (i) Any heart problems, experienced within seventy-two hours of exposure to smoke, fumes, or toxic substances, or experienced within twenty-four hours of strenuous physical exertion in the line of duty; and (ii) infectious diseases are occupational diseases under RCW 51.08.140.

(d) This presumption of occupational disease established in (a), (b), and (c) of this subsection may be rebutted by a preponderance of the evidence. Such evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

(2) The presumptions established in subsection (1) of this section shall be extended to an applicable member following termination of service for a period of three calendar months for each year of requisite service, but may not extend more than sixty months following the last date of employment.

(3)(a) The presumption established in subsection (1)(a)(iii) of this section shall only apply to any active or former firefighter or fire investigator who:

(i) Has cancer that develops or manifests itself after the firefighter or fire investigator has served at least ten years; and

(ii)(A) Was given a qualifying medical examination upon becoming a firefighter or fire investigator that showed no evidence of cancer; or

(B)(I) For a firefighter or fire investigator who became a firefighter or fire investigator on or after July 28, 2019, the employer did not provide a qualifying medical examination upon becoming a firefighter or fire investigator; or

(II) For a firefighter or fire investigator who became a firefighter or fire investigator before July 28, 2019, the employer did not provide a qualifying medical examination upon becoming a firefighter or fire investigator and the employer provides a qualifying medical examination on or before July 1, 2020. If a firefighter or fire investigator described in this subsection (3)(a)(ii)(B)(II) did not receive a qualifying medical examination before July 1, 2020, or is diagnosed with a cancer listed in (b) of this subsection at the time of the qualifying medical examination under this subsection (3)(a)(ii)(B)(II) and otherwise meets the requirements of this section, the presumption established in subsection (1)(a)(iii) of this section applies.

(b) The presumption established in subsection (1)(a)(iii) of this section shall only apply to the following cancers: Prostate cancer diagnosed prior to the age of fifty, primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter cancer, colorectal cancer, multiple myeloma, testicular cancer, kidney cancer, mesothelioma, stomach cancer, nonmelanoma skin cancer, breast cancer in women, and cervical cancer.

(4) The presumption established in subsection (1)(a)(iv) and (c)(ii) of this section shall be extended to any firefighter, fire investigator, or law enforcement officer who has contracted any of the following infectious diseases: Human immunodeficiency virus/acquired immunodeficiency syndrome, all strains of hepatitis, meningococcal meningitis, or mycobacterium tuberculosis.

(5) The presumption established in subsection (1)(b) of this section only applies to active or former firefighters as defined in RCW 41.26.030(17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(19) (b), (c), and (e) who have posttraumatic stress disorder that develops or manifests itself after the individual has served at least ten years.

(6) If the employer does not provide the psychological exam as specified in RCW 51.08.142 and the employee otherwise meets the requirements for the presumption established in subsection (1)(b) of this section, the presumption applies.

(7) Beginning July 1, 2003, this section does not apply to a firefighter, fire investigator, or law enforcement officer who develops a heart or lung condition and who is a regular user of tobacco products or who has a history of tobacco use. The department, using existing medical research, shall define in rule the extent of tobacco use that shall exclude a firefighter, fire investigator, or law enforcement officer from the provisions of this section.

(8) For purposes of this section, "firefighting activities" means fire suppression, fire prevention, fire investigation, emergency medical services, rescue operations, hazardous materials response,

aircraft rescue, and training and other assigned duties related to emergency response.

(9)(a) When a determination involving the presumption established in this section is appealed to the board of industrial insurance appeals and the final decision allows the claim for benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorney fees and witness fees, be paid to the firefighter, fire investigator, or law enforcement officer, or his or her beneficiary by the opposing party.

(b) When a determination involving the presumption established in this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of the appeal, including attorney fees and witness fees, be paid to the firefighter, fire investigator, or law enforcement officer, or his or her beneficiary by the opposing party.

(c) When reasonable costs of the appeal must be paid by the department under this section in a state fund case, the costs shall be paid from the accident fund and charged to the costs of the claim.

(10)(a) The director must create an advisory committee on occupational disease presumptions. The purposes of the advisory committee are to review scientific evidence and to make recommendations to the legislature on additional diseases or disorders for inclusion under this section.

(b)(i) The advisory committee shall be composed of five voting members, appointed by the director as follows:

(A) Two epidemiologists;

(B) Two preventive medicine physicians; and

(C) One industrial hygienist.

(ii) The research director of the department's safety and health assessment and research for prevention program shall serve as the advisory committee nonvoting chair.

(iii) Members serve for a term of four years and may be reappointed. Members shall not be compensated for their work on the advisory committee. As a condition of appointment, voting members and the chair must have no past or current financial or personal conflicts of interest related to the advisory committee activities. Voting members of the advisory committee may not be current employees of the department.

(c) The chair or ranking member of the appropriate committee or committees of the legislature may initiate a request for the advisory committee to review scientific evidence and to make recommendations to the legislature on specific disorders or diseases, or specific occupations, for inclusion under this section by notifying the director.

(d) The process of developing an advisory committee recommendation must include a thorough review of the scientific literature on the disease or disorder, relevant exposures, and strength of the association between the specific occupations and the disease or disorder proposed for inclusion in this section. The advisory committee must give consideration to the relevance, quality, and quantity of the literature and data. The advisory committee may consult nationally recognized experts or subject matter experts in developing its recommendations. The advisory committee must provide a recommendation to the legislature within the earlier of one hundred eighty days of the request or when the advisory committee reaches a consensus recommendation.

(e) Each recommendation must include a written description of the scientific evidence and supporting information relied upon to assess the causal relationship between the occupation and health condition proposed for inclusion under this section. Estimates of the number of Washington workers at risk, the prevalence of the disease or disorder, and the medical treatment and disability costs should, if available, be included with the recommendation.

(f) The recommendation must be made by a majority of advisory committee's voting members. Any member of the advisory committee may provide a written dissent as an appendix to the committee's recommendation.

(g) The department's safety and health assessment and research for prevention program shall provide organizational and scientific support to the advisory committee. Scientific support must include for consideration of the advisory committee preliminary written reviews of the scientific literature on the disease and disorder, relevant exposures, and strength of the association between the specific occupations and the health condition or disorders proposed for inclusion in this section. [2019 c 133 s 1; 2018 c 264 s 3; 2007 c 490 s 2; 2002 c 337 s 2; 1987 c 515 s 2.]

Legislative findings—1987 c 515: "The legislature finds that the employment of firefighters exposes them to smoke, fumes, and toxic or chemical substances. The legislature recognizes that firefighters as a class have a higher rate of respiratory disease than the general public. The legislature therefore finds that respiratory disease should be presumed to be occupationally related for industrial insurance purposes for firefighters." [1987 c 515 s 1.]

RCW 51.32.185 Occupational diseases—Presumption of occupational disease for firefighters and fire investigators—Limitations—Exception—Rules—Advisory committee on occupational disease presumptions. *(Effective June 30, 2029.)* (1)(a) In the case of firefighters as defined in RCW 41.26.030(14) (a), (b), (c), and (e) or 41.26A.030(17) (a), (b), (c), and (h) who are covered under this title and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and public employee fire investigators, there shall exist a prima facie presumption that: (i) Respiratory disease; (ii) any heart problems, experienced within seventy-two hours of exposure to smoke, fumes, or toxic substances, or experienced within twenty-four hours of strenuous physical exertion due to firefighting activities; (iii) cancer; and (iv) infectious diseases are occupational diseases under RCW 51.08.140.

(b) In the case of firefighters as defined in RCW 41.26.030(14) (a), (b), (c), and (e) or 41.26A.030(17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(16) (b), (c), and (d) or 41.26A.030(19) (b), (c), and (e), who are covered under this title, there shall exist a prima facie presumption that posttraumatic stress disorder is an occupational disease under RCW 51.08.140.

(c) In the case of law enforcement officers as defined in RCW 41.26.030(16) (b), (c), and (d) or 41.26A.030(19) (b), (c), and (e) who are covered under Title 51 RCW, there shall exist a prima facie presumption that: (i) Any heart problems, experienced within seventy-two hours of exposure to smoke, fumes, or toxic substances, or experienced within twenty-four hours of strenuous physical exertion in the line of duty; and (ii) infectious diseases are occupational diseases under RCW 51.08.140.

(d) This presumption of occupational disease established in (a), (b), and (c) of this subsection may be rebutted by a preponderance of the evidence. Such evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

(2) The presumptions established in subsection (1) of this section shall be extended to an applicable member following termination of service for a period of three calendar months for each year of requisite service, but may not extend more than sixty months following the last date of employment.

(3)(a) The presumption established in subsection (1)(a)(iii) of this section shall only apply to any active or former firefighter or fire investigator who:

(i) Has cancer that develops or manifests itself after the firefighter or fire investigator has served at least ten years; and

(ii)(A) Was given a qualifying medical examination upon becoming a firefighter or fire investigator that showed no evidence of cancer; or

(B)(I) For a firefighter or fire investigator who became a firefighter or fire investigator on or after July 28, 2019, the employer did not provide a qualifying medical examination upon becoming a firefighter or fire investigator; or

(II) For a firefighter or fire investigator who became a firefighter or fire investigator before July 28, 2019, the employer did not provide a qualifying medical examination upon becoming a firefighter or fire investigator and the employer provides a qualifying medical examination on or before July 1, 2020. If a firefighter or fire investigator described in this subsection (3)(a)(ii)(B)(II) did not receive a qualifying medical examination before July 1, 2020, or is diagnosed with a cancer listed in (b) of this subsection at the time of the qualifying medical examination under this subsection (3)(a)(ii)(B)(II) and otherwise meets the requirements of this section, the presumption established in subsection (1)(a)(iii) of this section applies.

(b) The presumption established in subsection (1)(a)(iii) of this section shall only apply to the following cancers: Prostate cancer diagnosed prior to the age of fifty, primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter cancer, colorectal cancer, multiple myeloma, testicular cancer, kidney cancer, mesothelioma, stomach cancer, nonmelanoma skin cancer, breast cancer in women, and cervical cancer.

(4) The presumption established in subsection (1)(a)(iv) and (c)(ii) of this section shall be extended to any firefighter, fire investigator, or law enforcement officer who has contracted any of the following infectious diseases: Human immunodeficiency virus/acquired immunodeficiency syndrome, all strains of hepatitis, meningococcal meningitis, or mycobacterium tuberculosis.

(5) The presumption established in subsection (1)(b) of this section only applies to active or former firefighters as defined in RCW 41.26.030(14) (a), (b), (c), and (e) or 41.26A.030(17) (a), (b), (c), and (h) and firefighters, including supervisors, employed on a full-time, fully compensated basis as a firefighter of a private sector employer's fire department that includes over fifty such firefighters, and law enforcement officers as defined in RCW 41.26.030(16) (b), (c), and (d) or 41.26A.030(19) (b), (c), and (e) who have posttraumatic stress disorder that develops or manifests itself after the individual has served at least ten years.

(6) If the employer does not provide the psychological exam as specified in RCW 51.08.142 and the employee otherwise meets the requirements for the presumption established in subsection (1)(b) of this section, the presumption applies.

(7) Beginning July 1, 2003, this section does not apply to a firefighter, fire investigator, or law enforcement officer who develops a heart or lung condition and who is a regular user of tobacco products or who has a history of tobacco use. The department, using existing medical research, shall define in rule the extent of tobacco use that shall exclude a firefighter, fire investigator, or law enforcement officer from the provisions of this section.

(8) For purposes of this section, "firefighting activities" means fire suppression, fire prevention, fire investigation, emergency medical services, rescue operations, hazardous materials response, aircraft rescue, and training and other assigned duties related to emergency response.

(9)(a) When a determination involving the presumption established in this section is appealed to the board of industrial insurance appeals and the final decision allows the claim for benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorney fees and witness fees, be paid to the firefighter, fire investigator, or law enforcement officer, or his or her beneficiary by the opposing party.

(b) When a determination involving the presumption established in this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of the appeal, including attorney fees and witness fees, be paid to the firefighter, fire investigator, or law enforcement officer, or his or her beneficiary by the opposing party.

(c) When reasonable costs of the appeal must be paid by the department under this section in a state fund case, the costs shall be paid from the accident fund and charged to the costs of the claim.

(10)(a) The director must create an advisory committee on occupational disease presumptions. The purposes of the advisory committee are to review scientific evidence and to make recommendations to the legislature on additional diseases or disorders for inclusion under this section.

(b)(i) The advisory committee shall be composed of five voting members, appointed by the director as follows:

(A) Two epidemiologists;

(B) Two preventive medicine physicians; and

(C) One industrial hygienist.

(ii) The research director of the department's safety and health assessment and research for prevention program shall serve as the advisory committee nonvoting chair.

(iii) Members serve for a term of four years and may be reappointed. Members shall not be compensated for their work on the

advisory committee. As a condition of appointment, voting members and the chair must have no past or current financial or personal conflicts of interest related to the advisory committee activities. Voting members of the advisory committee may not be current employees of the department.

(c) The chair or ranking member of the appropriate committee or committees of the legislature may initiate a request for the advisory committee to review scientific evidence and to make recommendations to the legislature on specific disorders or diseases, or specific occupations, for inclusion under this section by notifying the director.

(d) The process of developing an advisory committee recommendation must include a thorough review of the scientific literature on the disease or disorder, relevant exposures, and strength of the association between the specific occupations and the disease or disorder proposed for inclusion in this section. The advisory committee must give consideration to the relevance, quality, and quantity of the literature and data. The advisory committee may consult nationally recognized experts or subject matter experts in developing its recommendations. The advisory committee must provide a recommendation to the legislature within the earlier of one hundred eighty days of the request or when the advisory committee reaches a consensus recommendation.

(e) Each recommendation must include a written description of the scientific evidence and supporting information relied upon to assess the causal relationship between the occupation and health condition proposed for inclusion under this section. Estimates of the number of Washington workers at risk, the prevalence of the disease or disorder, and the medical treatment and disability costs should, if available, be included with the recommendation.

(f) The recommendation must be made by a majority of advisory committee's voting members. Any member of the advisory committee may provide a written dissent as an appendix to the committee's recommendation.

(g) The department's safety and health assessment and research for prevention program shall provide organizational and scientific support to the advisory committee. Scientific support must include for consideration of the advisory committee preliminary written reviews of the scientific literature on the disease and disorder, relevant exposures, and strength of the association between the specific occupations and the health condition or disorders proposed for inclusion in this section. [2026 c 261 s 467; 2019 c 133 s 1; 2018 c 264 s 3; 2007 c 490 s 2; 2002 c 337 s 2; 1987 c 515 s 2.]

Effective date—2026 c 261: See note following RCW 41.26A.505.

Legislative findings—1987 c 515: "The legislature finds that the employment of firefighters exposes them to smoke, fumes, and toxic or chemical substances. The legislature recognizes that firefighters as a class have a higher rate of respiratory disease than the general public. The legislature therefore finds that respiratory disease should be presumed to be occupationally related for industrial insurance purposes for firefighters." [1987 c 515 s 1.]

RCW 51.32.187 Exposed workers—Prima facie presumption of certain occupational diseases—Rebuttal—Definitions. (1) The definitions in this section apply throughout this section.

(a) "Exposed worker(s)" means a worker working at a radiological hazardous waste facility for at least an eight hour shift covered under this title, including conducting an inspection of the facility.

(b) "Radiological hazardous waste facility" means any structure and its lands where high-level radioactive waste as defined by 33 U.S.C. Sec. 1402 or mixed waste as defined by WAC 173-303-040 is stored or disposed of, except for military installations as defined in 31 C.F.R. Part 802.227 and listed in Appendix A to 31 C.F.R. Part 802.

(2)(a) For exposed workers who are covered under this title, there exists a prima facie presumption that the diseases and conditions listed in subsection (3) of this section are occupational diseases under RCW 51.08.140.

(b) This presumption of occupational disease may be rebutted by clear and convincing evidence. Such evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

(3) The prima facie presumption applies to the following:

(a) Respiratory disease, except communicable diseases;

(b) Any heart problems, experienced within seventy-two hours of exposure to fumes, toxic substances, or chemicals at the site;

(c) Cancer, subject to subsection (4) of this section;

(d) Beryllium sensitization, and acute and chronic beryllium disease; and

(e) Neurological disease, except communicable diseases.

(4)(a) The presumption established for cancer only applies to any active or former exposed worker who has cancer that develops or manifests itself and who either was given a qualifying medical examination upon becoming such a worker that showed no evidence of cancer or was not given a qualifying medical examination because a qualifying medical examination was not required.

(b) The presumption applies to the following cancers:

(i) Leukemia;

(ii) Primary or secondary lung cancer, including bronchi and trachea, sarcoma of the lung, other than in situ lung cancer that is discovered during or after a postmortem examination, but not including mesothelioma or pleura cancer;

(iii) Primary or secondary bone cancer, including the bone form of solitary plasmacytoma, myelodysplastic syndrome, myelofibrosis with myeloid metaplasia, essential thrombocytosis or essential thrombocythemia, primary polycythemia vera (also called polycythemia rubra vera, P. vera, primary polycythemia, proliferative polycythemia, spent-phase polycythemia, or primary erythremia);

(iv) Primary or secondary renal (kidney) cancer;

(v) Lymphomas, other than Hodgkin's disease;

(vi) Waldenstrom's macroglobulinemia and mycosis fungoides; and

(vii) Primary cancer of the: (A) Thyroid; (B) male or female breast; (C) esophagus; (D) stomach; (E) pharynx, including all three areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The oropharynx includes base of tongue, soft palate and tonsils (the hypopharynx includes the pyriform sinus); (F) small intestine; (G) pancreas; (H) bile ducts, including ampulla of vater; (I) gall bladder; (J) salivary gland; (K) urinary bladder; (L) brain

(malignancies only and not including intracranial endocrine glands and other parts of the central nervous system or borderline astrocytomas); (M) colon, including rectum and appendix; (N) ovary, including fallopian tubes if both organs are involved; and (O) liver, except if cirrhosis or hepatitis B is indicated.

(5)(a) The presumption established in this section extends to an exposed worker following termination of service for the lifetime of that individual.

(b) A worker or the survivor of a worker who has died as a result of one of the conditions or diseases listed in subsection (3) of this section, and whose claim was denied by order of the department, the board of industrial insurance appeals, or a court, can file a new claim for the same exposure and contended condition or disease.

(c) This section applies to decisions made after June 7, 2018, without regard to the date of last injurious exposure or claim filing.

(6)(a) When a determination involving the presumption established in this section is appealed to the board of industrial insurance appeals and the final decision allows the claim of benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the worker or his or her beneficiary by the opposing party.

(b) When a determination involving the presumption established in this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of appeal, including attorneys' fees and witness fees, be paid to the worker or his or her beneficiary by the opposing party. [2022 c 62 s 1; 2019 c 108 s 1; 2018 c 9 s 1.]

Effective date—2022 c 62: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 11, 2022]." [2022 c 62 s 2.]

RCW 51.32.190 Self-insurers—Notice of denial of claim, reasons—Procedure—Powers and duties of director. (1) If the self-insurer denies a claim for compensation, written notice of such denial, clearly informing the claimant of the reasons therefor and that the director will rule on the matter shall be mailed or given to the claimant and the director within thirty days after the self-insurer has notice of the claim.

(2) Until such time as the department has entered an order in a disputed case acceptance of compensation by the claimant shall not be considered a binding determination of his or her rights under this title. Likewise the payment of compensation shall not be considered a binding determination of the obligations of the self-insurer as to future compensation payments.

(3) Upon making the first payment of income benefits, the self-insurer shall immediately notify the director in accordance with a form to be prescribed by the director. Upon request of the department on a form prescribed by the department, the self-insurer shall submit a record of the payment of income benefits including initial, termination or terminations, and change or changes to the benefits. Where temporary disability compensation is payable, the first payment thereof shall be made within fourteen days after notice of claim and shall continue at regular semimonthly or biweekly intervals.

(4) If, after the payment of compensation without an award, the self-insurer elects to controvert the right to compensation, the payment of compensation shall not be considered a binding determination of the obligations of the self-insurer as to future compensation payments. The acceptance of compensation by the worker or his or her beneficiaries shall not be considered a binding determination of their rights under this title.

(5) The director: (a) May, upon his or her own initiative at any time in a case in which payments are being made without an award; and (b) shall, upon receipt of information from any person claiming to be entitled to compensation, from the self-insurer, or otherwise that the right to compensation is controverted, or that payment of compensation has been opposed, stopped or changed, whether or not claim has been filed, promptly make such inquiry as circumstances require, cause such medical examinations to be made, hold such hearings, require the submission of further information, make such orders, decisions or awards, and take such further action as he or she considers will properly determine the matter and protect the rights of all parties.

(6) The director, upon his or her own initiative, may make such inquiry as circumstances require or is necessary to protect the rights of all the parties and he or she may enact rules and regulations providing for procedures to ensure fair and prompt handling by self-insurers of the claims of workers and beneficiaries. [1996 c 58 s 2; 1982 1st ex.s. c 20 s 3; 1977 ex.s. c 350 s 54; 1972 ex.s. c 43 s 25; 1971 ex.s. c 289 s 47.]

Effective date—1982 1st ex.s. c 20: See note following RCW 51.32.075.

RCW 51.32.195 Self-insurers—Information to department. On any industrial injury claim where the self-insured employer or injured worker has requested a determination by the department, the self-insurer must submit all medical reports and any other specified information not previously submitted to the department. When the department requests information from a self-insurer by certified mail, the self-insurer shall submit all information in its possession concerning a claim within ten working days from the date of receipt of such certified notice. [1987 c 290 s 1.]

RCW 51.32.200 Self-insurers—Enforcement of compensation order against. (1) If a self-insurer fails, refuses, or neglects to comply with a compensation order which has become final and is not subject to review or appeal, the director or any person entitled to compensation under the order may institute proceedings for injunctive or other appropriate relief for enforcement of the order. These proceedings may be instituted in the superior court for the county in which the claimant resides, or, if the claimant is not then a resident of this state, in the superior court for the county in which the self-insurer may be served with process.

(2) The court shall enforce obedience to the order by proper means, enjoining compliance upon the person obligated to comply with the compensation order. The court may issue such writs and processes as are necessary to carry out its orders.

(3) A proceeding under this section does not preclude other methods of enforcement provided for in this title. [1971 ex.s. c 289 s 48.]

Effective dates—Severability—1971 ex.s. c 289: See RCW 51.98.060 and 51.98.070.

RCW 51.32.210 Claims of injured workers, prompt action—Payment—Acceptance—Effect. Claims of injured workers of employers who have secured the payment of compensation by insuring with the department shall be promptly acted upon by the department. Where temporary disability compensation is payable, the first payment thereof shall be sent within 14 days after receipt of the claim at the department's offices in Olympia and shall continue at regular semimonthly intervals. The payment of this or any other benefits under this title, prior to the entry of an order by the department in accordance with RCW 51.52.050 as now or hereafter amended, shall be not considered a binding determination of the obligations of the department under this title. The acceptance of compensation by the worker or his or her beneficiaries prior to such order shall likewise not be considered a binding determination of their rights under this title. [2026 c 77 s 31; 1977 ex.s. c 350 s 55; 1972 ex.s. c 43 s 26.]

RCW 51.32.215 Payment of compensation after appeal—Enforcement of order—Penalty. (1)(a) If the worker or beneficiary in a state fund claim prevails in an appeal by any party to the board or the court, the department shall comply with the board or court's order with respect to the payment of compensation within the later of the following time periods:

(i) Sixty days after the compensation order has become final and is not subject to review or appeal; or

(ii) If the order has become final and is not subject to review or appeal and the department has, within the period specified in (a)(i) of this subsection, requested the filing by the worker or beneficiary of documents necessary to make payment of compensation, sixty days after all requested documents are filed with the department.

The department may extend the sixty-day time period for an additional thirty days for good cause.

(b) If the department fails to comply with (a) of this subsection, any person entitled to compensation under the order may institute proceedings for injunctive or other appropriate relief for enforcement of the order. These proceedings may be instituted in the superior court for the county in which the claimant resides, or, if the claimant is not then a resident of this state, in the superior court for Thurston county.

(2) In a proceeding under this section, the court shall enforce obedience to the order by proper means, enjoining compliance upon the person obligated to comply with the compensation order. The court may issue such writs and processes as are necessary to carry out its orders and may award a penalty of up to one thousand dollars to the person entitled to compensation under the order.

(3) A proceeding under this section does not preclude other methods of enforcement provided for in this title. [1995 c 276 s 1.]

Application—1995 c 276: "This act applies to all appeals in state fund claims determined under Title 51 RCW on or after July 23, 1995, regardless of the date of filing of the claim." [1995 c 276 s 2.]

RCW 51.32.220 Reduction in total disability compensation—Limitations—Notice—Waiver—Adjustment for retroactive reduction in federal social security disability benefit—Restrictions. (1) For persons receiving compensation for temporary or permanent total disability pursuant to the provisions of this chapter, such compensation shall be reduced by an amount equal to the benefits payable under the federal old-age, survivors, and disability insurance act as now or hereafter amended not to exceed the amount of the reduction established pursuant to 42 U.S.C. Sec. 424a. However, such reduction shall not apply when the combined compensation provided pursuant to this chapter and the federal old-age, survivors, and disability insurance act is less than the total benefits to which the federal reduction would apply, pursuant to 42 U.S.C. 424a. Where any person described in this section refuses to authorize the release of information concerning the amount of benefits payable under said federal act the department's estimate of said amount shall be deemed to be correct unless and until the actual amount is established and no adjustment shall be made for any period of time covered by any such refusal.

(2) Any reduction under subsection (1) of this section shall be effective the month following the month in which the department or self-insurer is notified by the federal social security administration that the person is receiving disability benefits under the federal old-age, survivors, and disability insurance act: PROVIDED, That in the event of an overpayment of benefits the department or self-insurer may not recover more than the overpayments for the six months immediately preceding the date the department or self-insurer notifies the worker that an overpayment has occurred: PROVIDED FURTHER, That upon determining that there has been an overpayment, the department or self-insurer shall immediately notify the person who received the overpayment that he or she shall be required to make repayment pursuant to this section and RCW 51.32.230.

(3) Recovery of any overpayment must be taken from future temporary or permanent total disability benefits or permanent partial disability benefits provided by this title. In the case of temporary or permanent total disability benefits, the recovery shall not exceed twenty-five percent of the monthly amount due from the department or self-insurer or one-sixth of the total overpayment, whichever is the lesser.

(4) No reduction may be made unless the worker receives notice of the reduction prior to the month in which the reduction is made.

(5) In no event shall the reduction reduce total benefits to less than the greater amount the worker may be entitled to under this title or the federal old-age, survivors, and disability insurance act.

(6) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any overpayment where the recovery would be against equity and good conscience.

(7) Subsection (1) of this section applies to:

(a) Workers under the age of sixty-two whose effective entitlement to total disability compensation begins before January 2, 1983;

(b) Workers under the age of sixty-five whose effective entitlement to total disability compensation begins after January 1, 1983; and

(c) Workers who will become sixty-five years of age on or after June 10, 2004.

(8)(a) If the federal social security administration makes a retroactive reduction in the federal social security disability benefit entitlement of a worker for periods of temporary total, temporary partial, or total permanent disability for which the department or self-insurer also reduced the worker's benefit amounts under this section, the department or self-insurer, as the case may be, shall make adjustments in the calculation of benefits and pay the additional benefits to the worker as appropriate. However, the department or self-insurer shall not make changes in the calculation or pay additional benefits unless the worker submits a written request, along with documentation satisfactory to the director of an overpayment assessment by the social security administration, to the department or self-insurer, as the case may be.

(b) Additional benefits paid under this subsection:

(i) Are paid without interest and without regard to whether the worker's claim under this title is closed; and

(ii) Do not affect the status or the date of the claim's closure.

(c) This subsection does not apply to requests on claims for which a determination on the request has been made and is not subject to further appeal. [2007 c 255 s 1; 2005 c 198 s 1; 2004 c 92 s 1; 1982 c 63 s 19; 1979 ex.s. c 231 s 1; 1979 ex.s. c 151 s 1; 1977 ex.s. c 323 s 19; 1975 1st ex.s. c 286 s 3.]

Effective dates—Implementation—1982 c 63: See note following RCW 51.32.095.

Applicability—1979 ex.s. c 231: "This 1979 act applies to all cases in which notification of the first reduction in compensation pursuant to RCW 51.32.220 is mailed after June 15, 1979, regardless of when the basis, authority, or cause for such reduction may have arisen. To such extent, this 1979 act applies retrospectively, but in all other respects it applies prospectively." [1979 ex.s. c 231 s 2.]

Severability—1979 ex.s. c 231: "If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 231 s 3.]

Applicability—1979 ex.s. c 151: "This 1979 act applies to all cases in which notification of the first reduction in compensation pursuant to RCW 51.32.220 is mailed after May 10, 1979, regardless of when the basis, authority, or cause for such reduction may have arisen. To such extent, this 1979 act applies retrospectively, but in all other respects it applies prospectively." [1979 ex.s. c 151 s 3.]

Severability—1979 ex.s. c 151: "If any provision of this 1979 act or its application to any person or circumstance is held invalid,

the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 151 s 4.]

Severability—Effective date—1977 ex.s. c 323: See notes following RCW 51.04.040.

RCW 51.32.225 Reduction in total disability compensation—Offset for social security retirement benefits. (1) For persons receiving compensation for temporary or permanent total disability under this title, the compensation shall be reduced by the department to allow an offset for social security retirement benefits payable under the federal social security, old age survivors, and disability insurance act, 42 U.S.C. This reduction shall not apply to any worker who is receiving permanent total disability benefits prior to July 1, 1986. This reduction does not apply to workers who had applied to receive social security retirement benefits prior to the date of their injury or to workers who were receiving social security benefits prior to their injury.

(2) Reductions for social security retirement benefits under this section shall comply with the procedures in RCW 51.32.220 (1) through (6) and with any other procedures established by the department to administer this section. For any worker whose entitlement to social security retirement benefits is immediately preceded by an entitlement to social security disability benefits, the offset shall be based on the formulas provided under 42 U.S.C. Sec. 424a. For all other workers entitled to social security retirement benefits, the offset shall be based on procedures established and determined by the department to most closely follow the intent of RCW 51.32.220.

(3) Any reduction in compensation made under chapter 58, Laws of 1986, shall be made before the reduction established in this section. [2018 c 163 s 1; 2006 c 163 s 1; 1986 c 59 s 5.]

Application—2018 c 163: "This act applies to claims with dates of injury on or after June 7, 2018." [2018 c 163 s 2.]

Effective date—1986 c 59 s 5: See note following RCW 51.32.090.

RCW 51.32.230 Recovery of overpayments. Notwithstanding any other provisions of law, any overpayments previously recovered under the provisions of RCW 51.32.220 as now or hereafter amended shall be limited to six months' overpayments. Where greater recovery has already been made, the director, in his or her discretion, may make restitution in those cases where an extraordinary hardship has been created. [2010 c 8 s 14009; 1979 ex.s. c 151 s 2.]

Applicability—Severability—1979 ex.s. c 151: See notes following RCW 51.32.220.

RCW 51.32.240 Erroneous payments—Payments induced by willful misrepresentation—Adjustment for self-insurer's failure to pay benefits—Recoupment of overpayments by self-insurer—Penalty—Appeal—Enforcement of orders. (1)(a) Whenever any payment of benefits under this title is made because of clerical error, mistake of identity,

innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by willful misrepresentation, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The department or self-insurer, as the case may be, must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed any claim therefor has been waived.

(b) Except as provided in subsections (3), (4), and (5) of this section, the department may only assess an overpayment of benefits because of adjudicator error when the order upon which the overpayment is based is not yet final as provided in RCW 51.52.050 and 51.52.060. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(c) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise his or her discretion to waive, in whole or in part, the amount of any such timely claim where the recovery would be against equity and good conscience.

(2) Whenever the department or self-insurer fails to pay benefits because of clerical error, mistake of identity, or innocent misrepresentation, all not induced by recipient willful misrepresentation, the recipient may request an adjustment of benefits to be paid from the state fund or by the self-insurer, as the case may be, subject to the following:

(a) The recipient must request an adjustment in benefits within one year from the date of the incorrect payment or it will be deemed any claim therefore has been waived.

(b) The recipient may not seek an adjustment of benefits because of adjudicator error. Adjustments due to adjudicator error are addressed by the filing of a written request for reconsideration with the department of labor and industries or an appeal with the board of industrial insurance appeals within sixty days from the date the order is communicated as provided in RCW 51.52.050. "Adjudicator error" includes the failure to consider information in the claim file, failure to secure adequate information, or an error in judgment.

(3) Whenever the department issues an order rejecting a claim for benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for temporary disability benefits has been paid by a self-insurer pursuant to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the recipient thereof shall repay such benefits and recoupment may be made from any future payments due to the recipient on any claim with the state fund or self-insurer, as the case may be. The director, under rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience.

(4) Whenever any payment of benefits under this title has been made pursuant to an adjudication by the department or by order of the board or any court and timely appeal therefrom has been made where the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient on any claim whether state fund or self-insured.

(a) The director, pursuant to rules adopted in accordance with the procedures provided in the administrative procedure act, chapter 34.05 RCW, may exercise discretion to waive, in whole or in part, the amount of any such payments where the recovery would be against equity and good conscience. However, if the director waives in whole or in part any such payments due a self-insurer, the self-insurer shall be reimbursed the amount waived from the self-insured employer overpayment reimbursement fund.

(b) The department shall collect information regarding self-insured claim overpayments resulting from final decisions of the board and the courts, and recoup such overpayments on behalf of the self-insurer from any open, new, or reopened state fund or self-insured claims. The department shall forward the amounts collected to the self-insurer to whom the payment is owed. The department may provide information as needed to any self-insurers from whom payments may be collected on behalf of the department or another self-insurer. Notwithstanding RCW 51.32.040, any self-insurer requested by the department to forward payments to the department pursuant to this subsection shall pay the department directly. The department shall credit the amounts recovered to the appropriate fund, or forward amounts collected to the appropriate self-insurer, as the case may be.

(c) If a self-insurer is not fully reimbursed within twenty-four months of the first attempt at recovery through the collection process pursuant to this subsection and by means of processes pursuant to subsection (6) of this section, the self-insurer shall be reimbursed for the remainder of the amount due from the self-insured employer overpayment reimbursement fund.

(d) For purposes of this subsection, "recipient" does not include health service providers whose treatment or services were authorized by the department or self-insurer.

(e) The department or self-insurer shall first attempt recovery of overpayments for health services from any entity that provided health insurance to the worker to the extent that the health insurance entity would have provided health insurance benefits but for workers' compensation coverage.

(5)(a) Whenever any payment of benefits under this title has been induced by willful misrepresentation the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient on any claim with the state fund or self-insurer against whom the willful misrepresentation was committed, as the case may be, and the amount of such penalty shall be placed in the supplemental pension fund. Such repayment or recoupment must be demanded or ordered within three years of the discovery of the willful misrepresentation.

(b) For purposes of this subsection (5), it is willful misrepresentation for a person to obtain payments or other benefits under this title in an amount greater than that to which the person otherwise would be entitled. Willful misrepresentation includes:

(i) Willful false statement; or

(ii) Willful misrepresentation, omission, or concealment of any material fact.

(c) For purposes of this subsection (5), "willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits under this title.

(d) For purposes of this subsection (5), failure to disclose a work-type activity must be willful in order for a misrepresentation to have occurred.

(e) For purposes of this subsection (5), a material fact is one which would result in additional, increased, or continued benefits, including but not limited to facts about physical restrictions, or work-type activities which either result in wages or income or would be reasonably expected to do so. Wages or income include the receipt of any goods or services. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. For those activities that would reasonably be expected to result in wages or produce income, but for which actual wage or income information cannot be reasonably determined, the department shall impute wages pursuant to RCW 51.08.178(4).

(6) The worker, beneficiary, or other person affected thereby shall have the right to contest an order assessing an overpayment pursuant to this section in the same manner and to the same extent as provided under RCW 51.52.050 and 51.52.060. In the event such an order becomes final under chapter 51.52 RCW and notwithstanding the provisions of subsections (1) through (5) of this section, the director, director's designee, or self-insurer may file with the clerk in any county within the state a warrant in the amount of the sum representing the unpaid overpayment and/or penalty plus interest accruing from the date the order became final. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for such warrant and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the worker, beneficiary, or other person mentioned in the warrant, the amount of the unpaid overpayment and/or penalty plus interest accrued, and the date the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to and interest in all real and personal property of the worker, beneficiary, or other person against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of such clerk. The sheriff shall then proceed in the same manner and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in the superior court. Such warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the department or self-insurer in the manner provided by law in the case of judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee under RCW 36.18.012(10), which shall be added to the amount of the warrant. A copy of such warrant shall be mailed to the worker, beneficiary, or other person within three days of filing with the clerk.

The director, director's designee, or self-insurer may issue to any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, a notice to withhold and deliver property of any kind if there is reason to believe that there is in the possession of such person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is due, owing, or belonging to any worker, beneficiary, or other person upon whom a warrant has been served for payments due the department or self-insurer. The notice and order to withhold and deliver shall be served by a method for which receipt can be confirmed or tracked accompanied by an affidavit of service by mailing or served by the

sheriff of the county, or by the sheriff's deputy, or by any authorized representative of the director, director's designee, or self-insurer. Any person, firm, corporation, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired or in the notice and order to withhold and deliver. In the event there is in the possession of the party named and served with such notice and order, any property that may be subject to the claim of the department or self-insurer, such property shall be delivered forthwith to the director, the director's authorized representative, or self-insurer upon demand. If the party served and named in the notice and order fails to answer the notice and order within the time prescribed in this section, the court may, after the time to answer such order has expired, render judgment by default against the party named in the notice for the full amount, plus costs, claimed by the director, director's designee, or self-insurer in the notice. In the event that a notice to withhold and deliver is served upon an employer and the property found to be subject thereto is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner may be entitled.

This subsection shall only apply to orders assessing an overpayment which are issued on or after July 28, 1991: PROVIDED, That this subsection shall apply retroactively to all orders assessing an overpayment resulting from fraud, civil or criminal.

(7) Orders assessing an overpayment which are issued on or after July 28, 1991, shall include a conspicuous notice of the collection methods available to the department or self-insurer. [2011 c 290 s 6; 2008 c 280 s 2; 2004 c 243 s 7; 2001 c 146 s 10. Prior: 1999 c 396 s 1; 1999 c 119 s 1; 1991 c 88 s 1; 1986 c 54 s 1; 1975 1st ex.s. c 224 s 13.]

Effective date—2008 c 280: "Section 2 of this act takes effect January 1, 2009." [2008 c 280 s 6.]

Application—2008 c 280: See note following RCW 51.52.050.

Application—2004 c 243 s 7: "Section 7 of this act applies to willful misrepresentation determinations issued on or after July 1, 2004." [2004 c 243 s 9.]

Adoption of rules—2004 c 243: See note following RCW 51.08.177.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.

RCW 51.32.242 Self-insured employer overpayment reimbursement fund—Withholding from worker earnings—Use of funds—Exception. (1) Except as provided in subsection (2) of this section, each self-insured employer shall retain from the earnings of each of its workers that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. These moneys shall only be retained from employees and remitted to the department in such manner and at such intervals as the department

directs and shall be placed in the self-insured employer overpayment reimbursement fund. The moneys so collected shall be used exclusively for reimbursement to the self-insurance reserve fund and to self-insured employers for benefits overpaid during the pendency of board or court appeals in which the self-insured employer prevails and has not recovered, and shall be no more than necessary to make such payments on a current basis.

(2) None of the amount assessed for the employer overpayment reimbursement fund under this section may be retained from the earnings of workers covered under RCW 51.16.210. [2023 c 110 s 5; 2008 c 280 s 3.]

Effective date—2023 c 110 ss 1 and 4-13: See note following RCW 51.44.155.

Application—2008 c 280: See note following RCW 51.52.050.

RCW 51.32.250 Payment of job modification costs. Modification of the injured worker's previous job or modification of a new job is recognized as a desirable method of returning the injured worker to gainful employment. In order to assist employers in meeting the costs of job modification, and to encourage employers to modify jobs to accommodate retaining or hiring workers with disabilities resulting from work-related injury, the supervisor or the supervisor's designee, in his or her discretion, may pay job modification costs in an amount not to exceed $10,000 per worker per job modification. This payment is intended to be a cooperative participation with the employer and funds shall be taken from the appropriate account within the second injury fund.

The benefits provided for in this section are available to any otherwise eligible worker regardless of the date of industrial injury. [2024 c 90 s 4; 1988 c 161 s 10; 1983 c 70 s 3; 1982 c 63 s 13.]

Effective date—2024 c 90: See note following RCW 51.32.090.

Severability—1983 c 70: See note following RCW 51.32.095.

Effective dates—Implementation—1982 c 63: See note following RCW 51.32.095.

RCW 51.32.260 Compensation for loss or damage to personal effects. Workers otherwise entitled to compensation under this title may also claim compensation for loss of or damage to the worker's personal clothing, footwear or protective equipment resulting from the industrial accident or incurred in the course of emergency medical treatment for injuries. [1983 c 111 s 1.]

RCW 51.32.300 State employee vocational rehabilitation coordinator. The director shall appoint a state employee vocational rehabilitation coordinator who shall provide technical assistance and coordination of claims management to state agencies and institutions of higher education under the state return-to-work programs created by RCW 41.06.490 and *28B.16.300. [1990 c 204 s 5.]

***Reviser's note:** RCW 28B.16.300 was repealed by 1993 c 281 s 68, effective July 1, 1993.

Findings—Purpose—1990 c 204: See note following RCW 51.44.170.

RCW 51.32.350 Chemically related illness—Criteria and procedures for claims—Claims management. (1) By July 1, 1994, the department shall establish interim criteria and procedures for management of claims involving chemically related illness to ensure consistency and fairness in the adjudication of these claims. The criteria and procedures shall apply to employees covered by the state fund and employees of self-insured employers. The department shall adopt final criteria and procedures by December 31, 1994, and report the criteria and procedures as required under section 5, chapter 265, Laws of 1994.

(2) The special procedures developed by the department shall include procedures to determine which claims involving chemically related illness require expert management. The department shall assign claims managers with special training or expertise to manage these claims. [1994 c 265 s 1.]

RCW 51.32.360 Chemically related illness—Centers for research and clinical assessment. The department shall work with the department of health to establish one or more centers for research and clinical assessment of chemically related illness. [1994 c 265 s 3.]

RCW 51.32.370 Chemically related illness—Research projects—Implementation plan—Funding—Deductions from employees' pay. (1) The department shall conduct research on chemically related illnesses, which shall include contracting with recognized medical research institutions. The department shall develop an implementation plan for research based on sound scientific research criteria, such as double blind studies, and shall include adequate provisions for peer review, and submit the plan to the worker's [workers'] compensation advisory committee for review and approval. Following approval of the plan, all specific proposals for projects under the plan shall be submitted for review to a scientific advisory committee, established to provide scientific oversight of research projects, and to the workers' compensation advisory committee. The department shall include a research project that encourages regional cooperation in addressing chemically related illness.

(2) Expenditures for research projects shall be within legislative appropriations from the medical aid fund, with self-insured employers and the state fund each paying a pro rata share, based on the number of worker hours, of the authorized expenditures. For the purposes of this subsection only, self-insured employers may deduct from the pay of each of their employees one-half of the share charged to the employer for the expenditures from the medical aid fund. [1994 c 265 s 4.]

RCW 51.32.380 Injured offenders—Benefits sent in the care of the department of corrections—Exception—Liability. If the department of labor and industries has received notice that an injured worker entitled to benefits payable under this chapter is in the custody of the department of corrections pursuant to a conviction and sentence, the department shall send all such benefits to the worker in care of the department of corrections, except those benefits payable to a beneficiary as provided in RCW 51.32.040 (3)(c) and (4). Failure of the department to send such benefits to the department of corrections shall not result in liability to any party for either department. [2003 c 379 s 26.]

Severability—Effective dates—2003 c 379: See notes following RCW 9.94A.728.

Intent—Purpose—2003 c 379 ss 13-27: See note following RCW 9.94A.760.

RCW 51.32.390 Health care employees—Presumption of occupational disease for infectious or contagious diseases which are the subject of a public health emergency—Rebuttal—Limitations—Costs. (1) For health care employees who are covered under this title, there exists a prima facie presumption that any infectious or contagious diseases which are the subject of a public health emergency are occupational diseases under RCW 51.08.140 during a public health emergency.

(2) The health care employee must provide verification, as required by the department by rule, to the department or the self-insurer that the employee is in quarantine or has contracted the disease after exposure to the infectious or contagious disease that is the subject of the public health emergency.

(3) This presumption of occupational disease may be rebutted by clear and convincing evidence that:

(a) The exposure to the infectious or contagious disease which is the subject of the public health emergency occurred from other employment or nonemployment activities; or

(b) The employee was working from the employee's home or other location not under the employer's control, on leave from the employee's employment, or some combination thereof, for the period of quarantine outlined for the disease immediately prior to the employee's date of disease contraction or period of incapacity resulting from exposure to the disease which is the subject of the public health emergency.

(4)(a) RCW 51.32.090(7) does not apply to an occupational disease under this section except that no worker shall receive compensation for or during the day on which the occupational disease was contracted. For the purposes of this subsection (4), the day on which the occupational disease was contracted is whichever date occurs first of the following:

(i) The date that the worker first missed work due to symptoms of the infectious or contagious disease;

(ii) The date the worker was quarantined by a medical provider or public health official; or

(iii) The date the worker received a positive test result confirming contraction of the infectious or contagious disease.

(b) If leave or similar benefits are paid to the worker as part of a federal or state program for these employees during the public health emergency, total temporary disability benefits are not payable for the same period of time covered by this federal or state program.

(5) Costs of claims allowed under this section shall not affect the experience rating of employers insured by the state fund. When calculating assessments due to the department for which total claim costs are the basis, self-insured employers and self-insurance hospital groups formed under RCW 51.14.150 and 51.14.160 may deduct the cost of payments made under this section from the total of all claim costs reported.

(6) For purposes of this section:

(a) "Health care employee" means an employee of any health care facility or other organization that provides emergency or medical services who has or likely has had direct contact with any person who has been exposed to or tested positive for any infectious or contagious diseases which are the subject of a public health emergency.

(b) "Health care facility" has the same meaning as in RCW 9A.50.010.

(c) "Public health emergency" means a declaration or order that covers the jurisdiction where the employee was working on the date of exposure concerning any dangerous, contagious, or infectious diseases, including a pandemic, and is issued as follows:

(i) The president of the United States has declared a national or regional emergency; or

(ii) The governor of Washington declared a state of emergency under RCW 43.06.010(12).

(7) The presumption in subsection (1) of this section takes effect on the day the national, regional, or state emergency is declared and continues until this declaration is revoked.

(8) The provisions of RCW 51.28.055 concerning time limits for filing claims for occupational disease apply to claims covered under this section. [2021 c 251 s 6.]

Effective date—2021 c 251: See note following RCW 50.04.294.

RCW 51.32.395 Direct care registered nurses—Presumption of occupational disease for posttraumatic stress disorder. (1) In the case of direct care registered nurses covered under this title who are employed on a fully compensated basis, there exists a prima facie presumption that posttraumatic stress disorder is an occupational disease under RCW 51.08.140. This section applies only to a direct care registered nurse who has posttraumatic stress disorder that develops or manifests itself after the individual has been employed on a fully compensated basis as a direct care registered nurse in Washington state for at least 90 consecutive days.

(2) The presumption may be rebutted by a preponderance of the evidence.

(3) The presumption extends to a claimant following termination of employment for a period of three calendar months for each year the claimant was a direct care registered nurse employed on a fully compensated basis, but may not extend more than 60 months following the last date of employment.

(4)(a) When a determination involving the presumption established under this section is appealed to the board of industrial insurance appeals and the final decision allows the claim for benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the claimant or his or her beneficiary by the opposing party.

(b) When determination involving the presumption established under this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the claimant or his or her beneficiary by the opposing party.

(c) When reasonable costs of the appeal must be paid by the department under this section in a state fund case, the costs shall be paid from the accident fund and charged to the costs of the claim.

(5) For purposes of this section, "direct care registered nurse" means an individual licensed as a nurse under chapter 18.79 RCW who provides direct care to patients. [2023 c 370 s 2.]

Effective date—2023 c 370: "This act takes effect January 1, 2024." [2023 c 370 s 3.]