



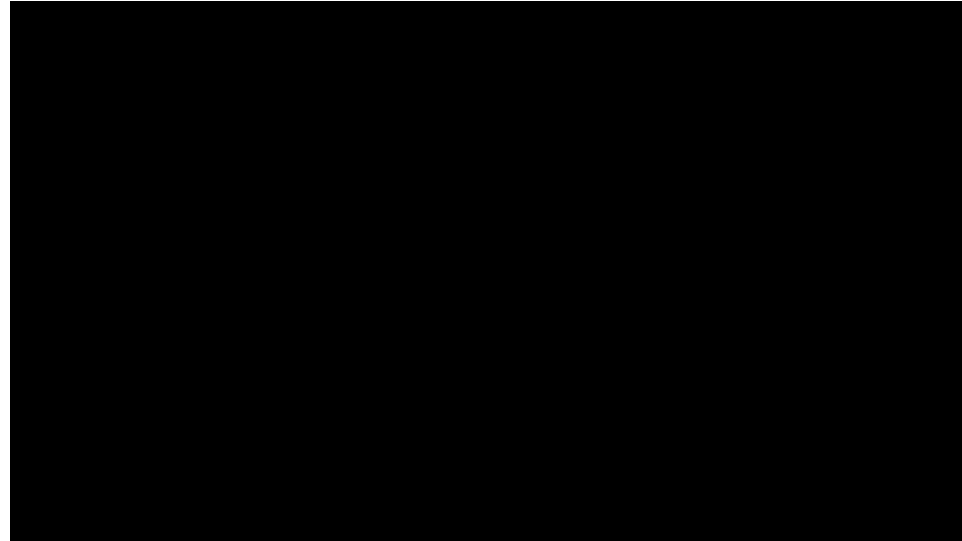
Washington State Department of
Labor & Industries



Welcome to:

Reopenings

Safety Message



Reopening Basics

- RCW 51.32.160
- Reasons workers apply for reopening:
 - Need surgery or additional treatment
 - No longer able to work
 - Believe they are eligible for disability

Reopening Basics

- Department has sole authority to determine if claims should be reopened.
- SIE/TPA must forward reopening application, and/or medical from a closed claim to the department within 5 working days of receipt.
- Aggravation or objective worsening of work-related condition must be present for claim to be reopened.

Reopening Basics

- Can be reopened for medical & disability benefits within 7 years of the date the first medically-supported closure or reopening denial became final.
 - Exception: 10 years for eye claims.
- Disability benefits include TL/LEP, Vocational benefits, PPD and Pension benefits.

Department Timeframes

- Covered by WAC 296-15-470
- A self-insured employer must forward an application to reopen a claim to the department within five working days of receipt.
- Keep in mind, the department has its own time frames, so the sooner the reopening app gets there, the better.

Department Timeframes

- Take action within 90 days of date reopening app is received by SIE/TPA or department (RCW 51.32.160).
 - If no order issued, reopening will be deemed granted.
- Decision period can be extended 60 days for good cause.

What is good cause?

- Inability to schedule medical exam within 90 days.
- Legitimate failure of the worker to appear for a medical exam.
- Lack of clear or convincing evidence to support a reopening decision without an IME.
- Exam was scheduled within 90 days, but additional time needed to get the report and make a decision.

Formal vs. Informal Applications

Informal application:

- Worker submits request to reopen claim

OR

- Medical documentation from a provider

Formal vs. Informal Applications

Formal application:

- Worker submits application to reopen claim

AND

- Medical documentation from a provider

Example

- Worker completed and submitted their portion of the Reopening Application to the self-insured employer
- The self-insured employer sends the application to the department within 5 days of receipt
- This application is informal, as the provider portion has not been completed or hasn't been received
- The provider portion is now received by the self-insured employer, who then sends it to the department. The department can proceed with the now formal application

Reopening Request without Medical

If the department receives a letter from the worker requesting reopening without a medical report, the adjudicator sends the worker:

- A reopening application.
- A letter explaining the required medical information must be returned within 60 days or the department will deny the reopening.

Reopening Request without Medical

- The 90 day clock begins to run from the date the department received the worker's letter requesting reopening.
- If the required information is not returned, an order and notice is issued denying the reopening for the reason: no medical documentation has been provided to the department as required by law.

Medical Info without Reopening Request

If the department receives medical information on a final and binding closed claim without a reopening request from the worker, the adjudicator sends the worker:

- A reopening application, and
- A letter explaining, if reopening is being requested, the required information must be returned within 60 days or the department will deny the request.

Medical Info without Reopening Request

- If the required information is not returned, an order and notice is issued denying reopening for the reason: no application for reopening has been made to the department by the worker as required by law.
- If medical information is received from a provider within 60 days of a closure order, showing treatment after the closure date, it should be treated as a protest to the closure.

Aggravation

- Aggravation is objective worsening of the worker's industrial related condition since the claim was last closed or ordered remains closed (either by an affirming order or a reopening denial order).
- Criteria needed to prove aggravation:
 - A causal relationship between the accepted condition at the time of closure and the current condition.
 - Medical opinion that the condition has worsened.
 - Objective medical findings to substantiate the medical opinion.

Aggravation

Steps for determining aggravation:

- Compare the worker's current medical condition to the condition at closure by considering the provider's opinion, particularly if it is the same provider who treated the worker at the time of last closure.

If necessary, the department may:

- Provide a closing report to the provider asking for an opinion regarding objective worsening, or
- Authorize recommended diagnostic testing, or
- Obtain an independent medical examination.

Newly Contended Conditions

- A worker may file a reopening application solely for a condition not previously accepted on the claim or for a worsening of an accepted condition and contend a new condition.
- When a medical condition unrelated to the injury is contended to be related, segregation of the unrelated condition should be addressed in the order denying or reopening the claim. There must be medical opinion to support the segregation.

Reopening Effective Date

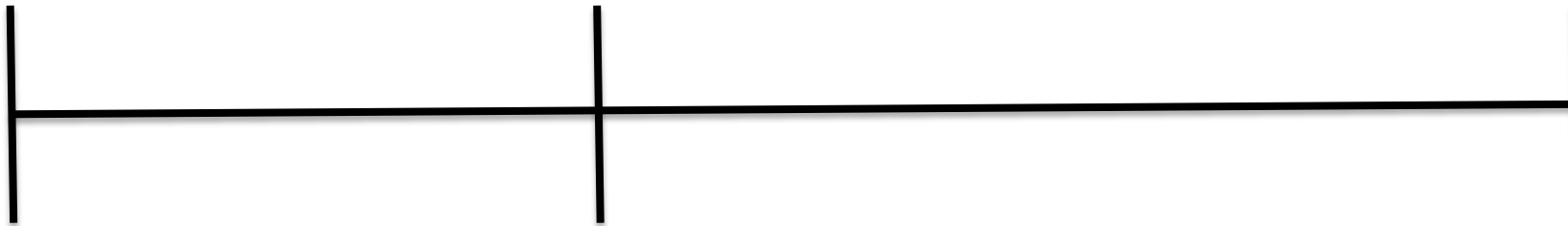
- Governed by RCW 51.28.040 and WAC 296-20-097
- The department has the authority to reopen a claim up to 60 days prior to the receipt of an application. The effective date of reopening cannot be before the date of first treatment or more than 60 days before receipt of a reopening request by the worker. Under certain circumstances, that can be extended to 120 days.

Reopening Effective Date

60 Days
7/3/2022

DOFT
7/28/2022

RO Received
9/1/2022

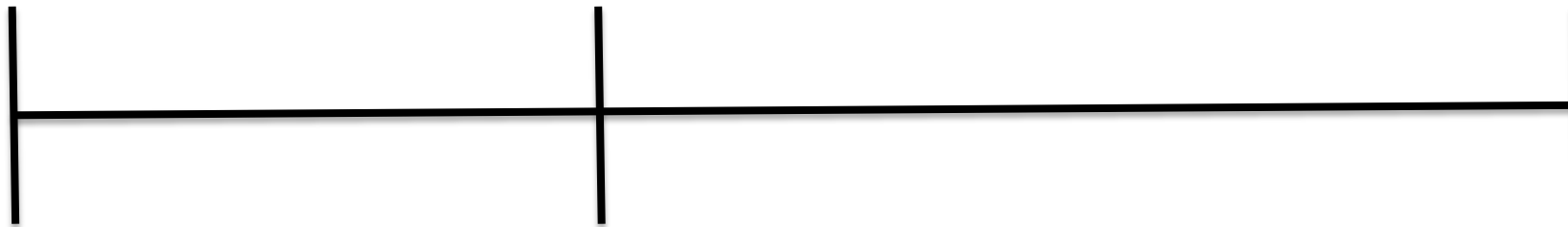


Reopening Effective Date

DOFT
6/4/2022

60 Days
7/3/2022

RO Received
9/1/2022



RCW 51.28.040

- Benefits will be allowed for periods up to 60 days prior to the receipt of application, or 120 days if:
 - The application was not received by the department or self-insurer within 60 days of medical services, due to a failure of the treating provider to timely complete or submit the provider information section of the application; **AND**
 - The worker demonstrates that their information section was completed and submitted via certified mail or electronic verification of receipt to the department, self-insurer, or the treating provider within 30 days of medical services.

Example

- Worker completed and submitted their portion of the Reopening Application to the Attending Provider on 4/7/2022 and saw the Attending Provider 4/10/2022.
- Provider submits their portion, and the worker's request, on 7/6/2022.
- Setting Effective date at 4/10/2022 would be appropriate, as the worker submitted their required information, but the provider did not submit their information timely.

Effective Date

- RCW 51.28.040 became effective 6/9/2022.
- WAC 296-20-097 is currently being worked on and an announcement will go out when it is updated.

Reopening Effective Date Practice!

The department received Suzy's completed reopening application on 1/15/2014. Her claim was closed on 5/6/2001 based on an IME. The medical reports show that the date of first treatment for the aggravation was 12/4/2013. You have determined that the claim should be reopened.

What is the reopening effective date?

12/4/2013

Reopening Effective Date Practice!

Rose's claim closed 2/4/11 with medical documentation. She signed the reopening application on 11/2/15, and her doctor signed it on 11/10/15. Her date of first treatment for the aggravation was 5/27/15. We received the application 12/1/15, and you decide to reopen the claim.

What is the reopening effective date?

10/2/15

Aggravation or New Injury

- It is not uncommon for a worker to apply for reopening of a claim after suffering an aggravation resulting from some activity or new injury.
- The adjudicator considers the opinion of the attending or examining provider regarding causal relationship, together with the reasonableness of the sequence of events described.

Non Work-Related Aggravation on PPD Claims

- When an award for permanent partial disability has been made on a claim, an additional test is applied.
- An off the job injury could constitute reopening of the claim.
- The test to be applied, is whether the activity which caused the aggravation is something the claimant might reasonably be expected to be doing, or whether it is something that one with their disability would not reasonably be expected to be doing.

New Exposure Occupational Disease Claims

- When a reopening application is filed on an occupational disease claim, the department must determine if the original exposure is responsible for the aggravation or there has been new exposure.
- In general, if the worker has returned to work and the repetition of job duties caused the aggravation a new claim should be filed.

Payment of Benefits

Medical Services:

- WAC 296-20-097 requires payment for the provider who examined worker & completed reopening application.
- Necessary exams and diagnostic tests are covered whether or not claim is reopened.
- Treatment not covered unless claim is reopened.

Payment of Benefits

Provisional Time-Loss/LEP

- Provisional benefits must be paid if certification received.
- Guidelines for provisional benefits:
 - SIE/TPA must pay within 14 days of receipt of certification.
 - Benefits not paid prior to receipt date of application.
 - Only paid for accepted conditions.
- If reopening is denied and provisional benefits were paid, overpayment can be assessed.

Over 7 (10) reopenings

- Claims closed over 7 years can only be reopened for medical benefits.
- Same criteria for reopening aggravation applies.
- 7-year clock doesn't start if closure or reopening denial was not medically-supported.
- For claims closed between 7/1/81 and 7/1/85, first closure date is considered 7/1/85 per RCW 51.32.160(1).

Medical Benefits

- Claims closed over 7 years (10 years for eye claims) can be reopened any time for medical benefits using the same criteria that applies to claims closed under 7 years.
- If the claim does not meet the criteria for reopening, the department will issue an order and notice denying the reopening.
- If the claim can be reopened and time-loss is not an issue, the department will issue an over 7 reopening order and notice for medical benefits.

Disability benefits

- Provisional time-loss or LEP is not payable on an over 7 reopening.
- The director has discretion to grant disability benefits (time-loss, LEP, vocational services, PPD and total permanent disability) on over 7 year reopenings.
- Disability benefits can be contended at any time during the reopening process or after the claim has been reopened.

Determining 7 Year Time Limit

- The department must determine if reopening was received more than 7 years after the first medically documented closure or reopening denial became final.
- The 7 year time limit begins with a medically recommended closure or reopening denial.

Determining 7 Year Time Limit

The date the order became final is determined by:

- Counting 7 years plus 60 days from the closing order if no protest or appeal was filed; or
- Counting 7 years plus 60 days from the affirm order if no appeal was filed; or
- Counting 7 years from the date of the last Board or court decision or judgment if the closing was appealed.

Is it an over seven?

First claim closure: 6/7/1979 Without medical

Claim reopened: 5/1/2007

Is this an over seven? **YES**

Because the first closure was prior to 7/1/1981, it does not matter that the claim was closed without medical documentation.

Is it an over seven?

First claim closure: 9/1/2005 With medical (protested)
Closure affirmed: 12/2/2005 (Appealed)
BIIA upheld closure: 4/7/2006
Claim reopened: 4/14/2013

Is this an over 7? **YES**

The 7-year clock began to run on the date of the BIIA order, because no additional time is counted for a protest or appeal.

Is it an over seven?

First claim closure:	5/2/2007	Without medical
Reopening denied:	8/4/2012	With medical
Claim reopened:	7/12/2016	

Is this an over seven? **NO**

The 7-year clock did not start until 8/4/2012 + 60 days because the first closure was not medically-supported.



Washington State Department of
Labor & Industries

Quiz

What RCW governs reopenings?

RCW 51.32.160

Can a self-insured employer reopen a claim?

No. The department has sole authority to determine if claims should be reopened.

How long after notification does a self-insurer have to send a reopening application to the department?

The SIE/TPA must forward reopening application to department within 5 working days of receipt.

How many days does the department have to make a determination on a reopening application?

90 days. The time may be extended another 60 days with good cause.

Betty injured her low back lifting a computer at work on 10/3/07. She received chiropractic treatment and based on an IME with AP concurrence, her claim closed 11/25/08 with no PPD. On 2/2/09 she tripped on a computer cable at work. Betty went to the doctor two days later. Her chiropractor completed a reopening application stating she aggravated her low back, and provided objective findings for a worsening of her low back condition.

Reopening

New Claim

Why? **Tripping on 2/2/09 is a new incident and a new claim needs to be filed.**

Gary fell at work and broke his right ankle on 1/5/06. He had surgery and they put pins in the ankle. His physician released him to work, and his claim closed 5/10/07 with a 10% PPD to the right ankle. He went back to his physician on 10/12/07 because of increased pain from standing and walking. After his examination and further testing, it was determined that the pins were loose and needed to be removed. His physician filed an application to reopen his claim.

Reopening

New Claim

Why? **Worsening of his condition, no new incident.**

Rebecca was injured at work on 4/15/08 when she slipped on the bathroom floor and sprained her left ankle. She had physical therapy and was determined to be at MMI by her physician. Her claim closed 9/10/08 with no PPD. On 10/25/08, her self-insured employer received a reopening application and sent it to the department. Her physician requested her claim be reopened, stating she had increased swelling and further testing found a small fracture.

Reopening

New Claim

Why?

Neither, the reopening application was received within 60 days of the 9/10/08 closing order and should be considered a protest to the closure.

Resources

- L&I self-insured section – self-insured main-page
<https://lni.wa.gov/insurance/self-insurance/about-self-insurance/>
- Claims Adjudication Guidelines (CAG) – Reopenings
https://lni.wa.gov/insurance/_docs/CAGReopenings.pdf
- Forms and Templates – Reopening Application
<https://lni.wa.gov/forms-publications/F242-079-000.pdf>

Questions?

- Claim-specific questions: Call 360-902-6901 and ask for the claim adjudicator assigned to the claim.
- General claim questions: email us at SITrainerquestions@lni.wa.gov