



Collecting an overpayment of benefits in Washington

By Michael H. Weier • February 17, 2014

Overpayments of benefits are a common occurrence in the administration of workers' compensation claims in Washington. Claimants and/or their beneficiaries may receive benefits through various means: provisional payment during the initial review and investigation for claim validity and compensability¹; due to clerical error or innocent misstatement²; through willful misrepresentation (formerly fraud)³; and/or payment pending the final determination of benefits entitlement on appeal.⁴ A subsequent determination may establish the claimant or beneficiary was not entitled to benefits and reveal an overpayment.

A self-insured employer is certainly entitled to waive an overpayment of benefits. In general, however, overpayments of workers' compensation benefits are debts that should be repaid. Unfortunately, it is the rare claimant that voluntarily agrees or has the immediate means to voluntarily repay the debt.

Collection of overpayment of benefits is a complex process. Proper debt collection demands an understanding of the interplay of various federal and state statutes.⁵ Promissory Notes, Garnishments of Wages, Liens on Personal or Real Property, and other means of enforcing Warrants and Judgments can be cumbersome. Moreover, violation of the strict demands and requirements under the Federal Fair Debt Collections Act may subject the debt collector to significant penalties. Accordingly, the self-insured employer should consider seeking legal advice when contemplating a demand for reimbursement of an overpayment of workers' compensation benefits. ■



Michael H. Weier is firm President and Managing Partner at Reinisch Wilson Weier PC. He may be reached at 503.452.7268 or michaelw@rwwcomplaw.com.

Do not hesitate to contact Michael H. Weier or any member of the Washington practice group for legal advice or assistance to obtain reimbursement of an overpayment of Washington workers' compensation benefits.

¹ RCW 51.32.190; WAC 296-15-420

² RCW 51.32.230

³ RCW 51.32.240

⁴ RCW 51.52.050(2)

⁵ E.G. - Fair Labor Standards Act, 29 U.S.C., Ch. 8; Fair Debt Collections Act, 15 U.S.C. § 1692; and Federal Bankruptcy, U.S.C., Title 11, Ch. 7 (Liquidation), Ch. 11 (Reorganization), and Ch. 13 (Adjustment of Debts); Recovery of Overpayments, RCW 51.32.230; Garnishments and Wage Assignments, Ch 6.27 and 25.60 RCW; Conveyance of Real Property, Ch 6.26; Personal Property Liens, Ch 60.10 RCW; and Enforcement of Judgments, Title 6 RCW.