



# You're not the boss of me: when Washington claimants don't cooperate

By Casondra J. Albrecht and Anna M. McFaul ■ June 6, 2016

In Washington, the Department adheres to strict requirements when it comes to suspending a worker's benefits. Even experienced professionals in the industry may miss a step. This can result in a lost opportunity to limit claim expenses until the worker cooperates.

Statutorily, what can be considered non-cooperation?<sup>1</sup>

- Not attending or cooperating with medical examinations or vocational evaluations requested by the department or self-insurer
- Failure to keep scheduled appointments or evaluations with attending physicians or vocational counselors
- Engaging in unsanitary or harmful actions that jeopardize or slow recovery
- Not accepting medical and/or surgical treatment considered reasonably essential for recovery from the industrial injury or occupational disease
- Refusal of the worker to transfer care to a provider in the provider network
- Failure to follow retraining plan accountability agreement or jeopardizing plan completion

Before requesting a suspension of benefits due to non-cooperation, be sure to lay the necessary groundwork and document all of your efforts. Call the worker (or his/her counsel if represented) to discuss the expectations, the problem that is occurring and the potential consequences, followed by an informal letter confirming the conversation.

A formal non-cooperation letter must be sent to the worker, including an explanation of the expected actions for claimant to follow, a request for the worker's reason for non-cooperation, notice that benefits may be suspended or reduced citing or paraphrasing RCW 51.32.110 and a request the worker provide an explanation of good cause within 30 calendar days.<sup>2</sup>

Do not be ambiguous in your appointment letters. For example, state "a substantial no-show or late cancellation fee is charged if you do not attend this appointment." Do not use language in the letter that indicates if claimant simply notifies you that they will not attend then they do not have to attend the appointment and will not be responsible for any associated fees. It is helpful if

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***Using the checklists at the outset as a guide as you work through the process is highly recommended.***



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## Noncooperating Washington claimants (continued)

the appointment letter also contains warning language about non-cooperation and suspension of benefits.

When formally requesting a non-cooperation order with the Department, provide a Suspension Request Coversheet and No-show Fee Request Checklist if applicable. If you have properly followed the process, you should be able to check all the boxes and have necessary documentation supporting each checkmark to submit to the Department. Using the checklists at the outset as a guide as you work through the process is highly recommended.

The Reinisch Wilson Weier PC attorneys regularly advise clients about non-cooperating claimants and will be happy to discuss with you your questions about this topic. ■

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<sup>1</sup> RCW 51.32.110

<sup>2</sup> [WAC 296-14-410](#)

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