

## Hanford Presumption Law – RCW 51.32.187

### **What is the Hanford Presumption and who does this affect?**

The Hanford Presumption bill was passed in March 2018 and was effective on June 7, 2018. For Department of Energy (DOE) Hanford site workers, including contractors or subcontractors, who worked on the site for at least one eight-hour shift while covered under the state's industrial insurance laws, there is a presumption that the specific diseases and conditions listed below are related to that exposure. The presumption only applies to workers who worked directly or indirectly for the United States, regarding projects and contracts at the Hanford nuclear site, and who worked at one of the following regions: the two hundred east, two hundred west, three hundred area, environmental restoration disposal facility site, central plateau, or a river corridor location. The presumption will be given to current workers, past workers and survivors of workers who have died from the conditions included in the bill.

### **What are the conditions covered by the law?**

- Respiratory disease
- Any heart problems, experienced within 72 hours of exposure to fumes, toxic substances, or chemicals at this site
- Beryllium sensitization, and acute and chronic beryllium disease
- Neurological disease

If a worker showed no evidence of cancer when given a qualifying medical examination upon becoming a Hanford site worker, the presumption also applies to certain cancers. The cancers are:

- Leukemia
- 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
- 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)
- Primary or secondary renal (kidney) cancer
- Lymphomas, other than Hodgkin's disease
- Waldenstrom's macroglobulinemia and mycosis fungoides

- Primary cancer of the:
  - Thyroid
  - Male or female breast
  - Esophagus
  - Stomach
  - Pharynx, including all three areas, oropharynx, nasopharynx, and hypopharynx and the larynx. The oropharynx includes base of the tongue, soft palate and tonsils (the hypopharynx includes the pyriform sinus).
  - Small intestine
  - Pancreas
  - Bile ducts, including ampulla of Vater
  - Gall bladder
  - Salivary gland
  - Urinary bladder
  - Brain (malignancies only; not including intracranial endocrine glands and other parts of the central nervous system or borderline astrocytomas)
  - Colon, including rectum, and appendix
  - Ovary, including fallopian tubes if both organs are involved
  - Liver, except if cirrhosis or hepatitis B is indicated

**What is the definition of a qualifying medical examination?**

A qualifying medical examination is a medical exam done at the request of an employer to determine if the worker qualifies for a position with the employer at the time of hire. For the cancer presumption to apply, the worker must have been given a qualifying medical examination. The examination does not have to specifically screen for cancers covered under the presumption.

**Could these conditions be excluded from coverage?**

Claims that meet the criteria for presumption and have no extenuating circumstances (cancer that pre-existed employment, etc.) should be reviewed for allowance as soon as possible. If evidence is later identified that supports rebuttal, the allowance order can be protested within the 60-day time frame.

The Hanford Presumption Law requires “clear and convincing” evidence for rebuttal. Since the law requires such a high threshold, L&I believes rebuttal to presumptive claims will be the exception in most cases.

**What if a claim was previously denied for one of these conditions?**

A worker or the survivor of a worker who has died from one of the conditions or diseases, whose claim was denied by Labor & Industries, the Board of Industrial Insurance Appeals, or a court, may file a new claim for the same exposure and contended condition or disease.

**When do benefits start for claims allowed under this presumption?**

Workers are eligible for benefits retroactive to the date of manifestation of the occupational disease condition. The date of manifestation is determined by the date the condition was first treated or became disabling, whichever occurred first. Workers, or other parties affected, are not required to ask for benefits

back to the date of manifestation, however if retroactive benefits are requested, they must be paid, if the worker is otherwise entitled.

### **What If I already received benefits from another payer?**

Workers who have received medical, time-loss or other benefits from a payer during a period that they contend and receive benefits from L&I or a self-insurer should be aware that in some cases an offset of benefits may result.

For time-loss benefits, this means that if L&I or a self-insurer pays retroactive benefits for a period that a worker has already received other wage replacement benefits such as private long-term disability (LTD), Social Security benefits, or Federal benefits, the worker may be required to repay a portion or all of previously paid benefits. To determine whether an offset of those benefits may occur and if so what the offset will be, the worker should determine what benefits they received during the period they are contending back time-loss and who paid those benefits. They should then contact that payer and ask if there would be an offset, and if so, for how much.

For medical bills, this means that a private medical insurance or other insurer that has paid for medical bills relating to a condition that is now covered by the industrial insurance may request their payments to be reimbursed by the provider they paid. The department or self-insurer is responsible for paying for medical treatment relating to conditions on an allowed claim.

Although we are unable to list contact information for all payers on each individual claim, the contact information for a couple of the common payers is listed below.

For information about federal benefits and the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) claims and questions you may contact:

Hanford Resource Center  
303 Bradley Blvd Ste 104  
Richland, WA 99352  
888-654-0014

For information about offsets regarding Social Security benefits, you may contact:

Social Security Offset  
360-902-5119

### **Are both Self-Insured and State Fund employers impacted by this presumption?**

A worker is entitled to benefits whether the employer is self-insured or insured under the State Fund. The assignment of the insurer responsible for the payment of benefits will be made based on who the worker's employer was on the date of manifestation, if the presumption is met with that employer. If the presumption is not met with that employer, the assignment of the insurer will be made based on the last employer where the worker met the presumption prior to the date of manifestation.

### **How do I file a claim?**

**If your employer was self-insured:** contact the employer/contractor who employed you during the time you worked at the Hanford site. You may also call DOE's representative, Penser North America Inc., at (509) 420-7290. They will supply you with a Self-Insurer Accident Report (SIF-2) and can discuss the process in detail with you. Please complete the SIF-2 and return it to them as soon as possible.

**If your employer was State Fund:** you can file the accident report at your doctor's office, on our website 24 hours a day (filefast.lni.wa.gov), or by calling L&I Monday through Friday 8:00 am to 5:00 pm at 1-877-561-3453. If you complete the accident report at your doctor's office, the doctor files the form for you.

### **How do beneficiaries/survivors file for benefits?**

Survivors should complete the Beneficiary Application for Claim Benefits form and return it to L&I. The form can be found at:

<https://www.lni.wa.gov/Forms/pdf/F242-056-000.pdf>

### **What do I do to prove I qualify under the new law?**

- Provide or work with your employer to provide documentation that you worked at least one eight-hour shift in one of the following areas:
  - two hundred east
  - two hundred west
  - three hundred area
  - environmental restoration disposal facility site
  - central plateau
  - river corridor location
- Have a diagnosis from a medical provider for one of the conditions listed in the section "What are the conditions included in the law" above
- If your diagnosis is for cancer, you must also provide a copy of a qualifying medical exam report

If you have additional questions, contact Starla Treznoski from the Department of Labor & Industries Self-Insurance program at (360) 902-5668.

### **For details read the complete law at:**

<http://app.leg.wa.gov/RCW/default.aspx?cite=51.32.187>