

Alvarado, Laverne

APPEALABLE ORDERS

Self-insured employer's order (RCW 51.32.055)

An order issued by a self-insured employer under the authority of RCW 51.32.055(7)(c) is not appealable to the Board, notwithstanding the fact the order may state otherwise. However, the further determinative order of the Department which must be issued following the filing of a protest with the Department is appealable to the Board. ...*In re Laverne Alvarado, BIIA Dec., 87 4566 (1988)*

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**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON**

IN RE: LAVERNE ALVARADO) DOCKET NOS. 87 4566 & 87 4634
CLAIM NO. S-865639) ORDER DENYING APPEAL

An appeal was filed by the claimant on December 30, 1987, from orders of the self-insured employer dated February 11, 1987 and March 5, 1987. The order of February 11, 1987 closed the claim effective December 18, 1986 with time-loss compensation as paid to July 27, 1986. The order dated March 5, 1987 was a "correct and supersede order" and closed the claim effective March 5, 1987 with time-loss compensation as paid to July 27, 1986. The appeal involving the order of February 11, 1987 was assigned Docket No. 87 4566. The appeal involving the order of March 5, 1987 was assigned Docket No. 87 4634. For purposes of our disposition the matters are hereby consolidated.

In her notice of appeal the claimant contends that the orders of February 11, 1987 and March 5, 1987 "are unlawful and unjust for the reason that neither order was mailed to the claimant at her last known address as shown by the Department records". She contends that both the Department of Labor and Industries and the self-insured employer were notified in November, 1986 of the claimant's change of address to her attorney's office. The claimant further contends that the self-insured employer was without authority to enter an order under the provisions of RCW 51.32.055(7) in that although the claimant had returned to work with the self-insured employer, she was not employed by the employer at the time the orders in question were issued.

We find it unnecessary at this time to pass on the claimant's contentions that the orders of the self-insured employer were not "properly communicated" to the claimant or that the self-insured employer lacked statutory authority to issue the orders in question. Even if these appeals were timely and even if the self-insured employer had authority to issue the orders, this Board lacks jurisdiction over appeals from orders of a self-insured employer. RCW 51.32.055(7)(c) specifies that orders of a self-insured employer can be protested to the Department of Labor and Industries. There is no statutory provision making an order of a self-insured employer appealable directly to the Board of Industrial Insurance Appeals. What is appealable to this Board is the Department's further determinative order which must be entered following its claim review pursuant to any protest filed with the Department's self-insurance section.

We note, with interest, that the orders of February 11, 1987 and March 5, 1987 specify that "any appeal" from those orders must be "made to the Board of Industrial Insurance Appeals" within

1 sixty days from the date the order is communicated to the parties. This language seems inappropriate
2 in that neither the self-insured employer nor the Department of Labor and Industries can confer
3 jurisdiction on this Board where jurisdiction does not exist by statute. Our jurisdiction is limited to
4 orders, decisions, or awards of "the Department". RCW 51.52.050 and .060. Absent statutory
5 authority, the Board does not have jurisdiction over these appeals.
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9 Therefore, the appeals filed by the claimant on December 30, 1987, from the orders of the
10 self-insured employer dated February 11, 1987 and March 5, 1987 must be denied, without prejudice
11 to the right of any party to appeal from any order, decision, or award of the Department of Labor and
12 Industries.
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14 It is so ORDERED.

15 Dated this 29th day of January, 1988.

16 BOARD OF INDUSTRIAL INSURANCE APPEALS
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21 /s/
22 SARA T. HARMON Chairperson

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25 /s/
26 FRANK E. FENNERTY, JR. Member

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29 /s/
30 PHILLIP T. BORK Member
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