

# MAINE STATE LEGISLATURE

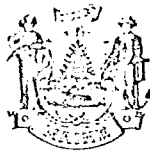
The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

JOSEPH E. BRENNAN  
ATTORNEY GENERAL

RICHARD S. COHEN  
JOHN M. R. PATERSON  
DONALD G. ALEXANDER  
DEPUTY ATTORNEYS GENERAL



STATE OF MAINE

DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

REPLY TO:  
DEPARTMENT OF MANPOWER AFFAIRS  
EMPLOYMENT SECURITY COMMISSION  
P. O. BOX 309  
AUGUSTA, MAINE 04330  
TEL. (207) 289-2191

March 21, 1978

To: Emilien A. Levesque, Commissioner  
Department of Manpower Affairs

From: Patricia M. McDonough, Asst. Atty. General  
Department of Attorney General

Subject: Partial Benefits under 26 M.R.S.A., § 1191(3)

FACTS

P.L. 1977, c. 444, amended Title 26 M.R.S.A., § 1191(3), weekly benefit for partial unemployment, so as to provide "incentive benefits" to those individuals engaged in temporary or odd-job employment. In implementing this new provision, the Employment Security Commission has raised several questions in connection with temporary employment.

QUESTIONS:

1. Are incentive benefits for temporary employment limited to one two-consecutive calendar week period?
2. Is the second of the two-consecutive week period computed as the week prior to the first week of the period or the week following the first week period?
3. May the same week be used twice in the computation of incentive benefits - that is, may week two of one period become week one of the next period?

ANSWER:

1. No.
2. Any two consecutive weeks may be used.
3. Yes.

REASON:

26 M.R.S.A., § 1191(3), "Weekly Benefit for partial unemployment" provides in part:

On and after January 1, 1978, each eligible individual who, affirmatively terminated from his regular employment for a period in excess of 4 consecutive calendar weeks, is employed less than 40 hours for a period not exceeding 2 consecutive calendar weeks or performs odd jobs shall be paid an amount equal to his weekly benefit amount less:

A. 50% of his earnings paid or payable to him with respect to such week in excess of \$10 up to \$35, plus any fraction of a dollar; and

B. 100% of his earnings paid or payable to him with respect to such week in excess of \$35, plus any fraction of a dollar.

In order to be eligible for incentive benefits, an individual who is employed in a "temporary job" must be employed for less than forty hours over a two-week period. Several questions have been raised regarding how benefits are to be determined for those in temporary employment.

1. Section 1191(3) provides that incentive benefits can be paid to individuals who are either in temporary employment or in odd-job employment. Nothing in the statutory provision limits the number of weeks for which an individual may be eligible for these incentive benefits. The two-week period contained in the temporary employment provision refers only to the period of employment for which the number of hours worked is to be computed. So long as the individual meets the qualifications of odd-job employment or temporary employment of less than forty hours over a two-week period, he will be eligible for incentive benefits.

2. Before an individual can be paid incentive benefits, he must have been separated from his employment for four weeks. Nothing in the statutory provision limits the two-week period to a specific time other than a period of two consecutive weeks. Therefore, an individual applying for benefits for his fifth week of unemployment may be paid incentive benefits if, during the fourth and fifth weeks of unemployment, he was employed less than forty hours.

E. A. Levesque, Commissioner  
March 21, 1978  
P. 3

3. As stated above, nothing in the statutory provision limits the two-week period to a specific time other than a period of two consecutive weeks. There is no prohibition in the statute against using the same week more than once in computing incentive benefits. Therefore, an individual may be paid incentive benefits for any week where he was employed for less than forty hours in a two-consecutive-week period.

---

Patricia M. McDonough

PMM:er