

MAINE STATE LEGISLATURE

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(EMERGENCY)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2190

H.P. 1660

House of Representatives, March 6, 1984

Reference to the Committee on Labor is suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Speaker Martin of Eagle Lake.

Cosponsors: Representative Beaulieu of Portland, Representative Joseph of Waterville and Senator Dutremble of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FOUR

AN ACT to Amend the Early Payment
Provision of the Workers' Compensation Act with
Respect to Payments for Impairment and
Medicals-only Claims.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the early payment provisions of "An Act to Reform the Workers' Compensation System," which became effective on January 1, 1984, was made applicable to payment for impairment and medical-only claims; and

Whereas, the application of the early pay system to payment of impairment and medical-only claims is unnecessary and highly impracticable within a 14-day period; and

1 Whereas, the application of the early payment
2 provisions to payment of impairment and medical only
3 claims will cause an undue burden on the administra-
4 tion of the Workers' Compensation Act; and

5 Whereas, in the judgment of the Legislature,
6 these facts create an emergency within the meaning of
7 the Constitution of Maine and require the following
8 legislation as immediately necessary for the preser-
9 vation of the public peace, health and safety; now,
10 therefore,

11 Be it enacted by the People of the State of Maine as
12 follows:

13 Sec. 1. 39 MRSA §51-B, sub-§3, as enacted by PL
14 1983, c. 479, §7, is amended to read:

15 3. Compensation for incapacity. The first pay-
16 ment of compensation, ~~other than compensation for im-~~
17 ~~pairment under section 56 or 56-A, for incapacity un-~~
18 ~~der section 54 or 55~~ is due and payable within 14
19 days after the employer has notice or knowledge of
20 the injury or death. In cases where the employee did
21 not lose time from work within 5 scheduled work days
22 following the injury, compensation for incapacity un-
23 der section 54 or 55 is due and payable within 14
24 days of the date the employee asserts to the employer
25 that that lost time is related to the injury ~~or from~~
26 ~~the date a request is made for medical expenses or~~
27 ~~other benefits payable under the Act, whichever oc-~~
28 ~~curs first. On or before the 14th day, all compensa-~~
29 ~~tion then due shall be paid.~~ Subsequent incapacity
30 compensation benefit payments shall be made weekly
31 and in a timely fashion.

32 Sec. 2. 39 MRSA §51-B, sub-§4, as enacted by PL
33 1983, c. 479, §7, is amended to read:

34 4. Compensation for impairment; compensation for
35 medical expenses. Compensation for impairment under
36 sections 56 and 56-A shall not be payable prior to
37 the date on which the injured employee reaches the
38 stage of maximum medical improvement. It shall be-
39 come due and payable within ~~14~~ 180 days after the em-
40 ployer has notice that maximum medical improvement
41 has been attained. For the purpose of this subsec-

1 tion, "maximum medical improvement" means the date
2 after which further recovery and further restoration
3 of function can no longer be reasonably anticipated,
4 based upon reasonable medical probability. Compensa-
5 tion for medical expenses and other services under
6 section 52 is due and payable within 180 days from
7 the date a request is made for payment of these ex-
8 penses.

9 Sec. 3. 39 MRSA §51-B, sub-§5, as enacted by PL
10 1983, c. 479, §7, is amended to read:

11 5. Memorandum of payment. Upon making the first
12 payment of compensation for incapacity or for medical
13 expenses or upon making a payment of compensation for
14 impairment, the employer shall immediately forward to
15 the commission a memorandum of payment on forms pre-
16 scribed by the commission. This information shall
17 include, at a minimum, the following:

18 A. The names of the employee, employer and in-
19 surance carrier;

20 B. The date of the injury;

21 C. The names of the employee's other employers,
22 if any, or a statement that there is no multiple
23 employment, if that is the case; and

24 D. The initial weekly compensation rate.

25 When the compensation sought does not include pay-
26 ments for incapacity or impairment, the information
27 described in paragraphs C and D need not be provided.

28 When payment is solely one for medical expenses and
29 the employer has previously filed any memorandum of
30 payment with respect to the claim, no subsequent mem-
31 orandum of payment for medical expenses need be
32 filed. Reporting of subsequent medical expenses paid
33 shall be made to the commission in accordance with
34 its rules.

35 Sec. 4. 39 MRSA §51-B, sub-§6, as enacted by PL
36 1983, c. 479, §7, is amended to read:

1 6. Information. If the employer is making com-
2 pensation payments under this section, the employer
3 shall file with the commission a statement of the
4 employee's average weekly wage, as defined in section
5 2, within 30 days after the initial payment, together
6 with a wage statement or wage statements in the case
7 of multiple employment. A copy of this information
8 shall be mailed to the person receiving payments.
9 When the only compensation claimed or payable is for
10 medical services, wage statements need not be
11 submitted

12 Sec. 5. 39 MRSA §51-B, sub-§7, as enacted by PL
13 1983, c. 479, §7, is amended to read:

14 7. Notice of controversy. If the employer, pri-
15 or to making payments under subsection 3, controverts
16 the claim to compensation, he shall file with the
17 commission, within 14 days after an event which gives
18 rise to an obligation to make payments under subsec-
19 tion 3, a notice of controversy in a form prescribed
20 by the commission. If the employer, prior to making
21 payments under subsection 4, controverts the claim to
22 compensation, he shall file with the commission,
23 within 180 days after an event which gives rise to an
24 obligation to make payments under subsection 4, a no-
25 tice of controversy in a form prescribed by the com-
26 mission. The notice shall indicate the name of the
27 claimant, name of the employer, date of the alleged
28 injury or death and the grounds upon which the claim
29 to compensation is controverted. The employer shall
30 promptly furnish the employee with a copy of the no-
31 tice.

32 If, at the end of the 14-day period in subsection 3
33 or the 180-day period in subsection 4, the employer
34 has not filed the notice required by this subsection,
35 he shall begin payments as required under subsection
36 3 those subsections. He In the case of compensation
37 for incapacity under subsection 3, he may cease pay-
38 ments and file with the commission a notice of con-
39 troversy, only as provided in this subsection, no la-
40 ter than 44 days after an event which gives rise to
41 an obligation to make payments under subsection 3.
42 Failure to file the required notice of controversy
43 prior to the expiration of the 44-day period, in the
44 case of compensation under subsection 3, constitutes

1 acceptance by the employer of the compensability of
2 the injury or death. Failure to file the required notice
3 of controversy prior to the expiration of the
4 180-day period under subsection 4 constitutes accept-
5 ance by the employer of the extent of impairment
6 claimed or the reasonableness of the medical services
7 claimed.

8 If, at the end of the 44-day period, the employer has
9 not filed a notice of controversy, or if, pursuant to
10 a proceeding before the commission, the employer is
11 required to make payments, the payments may not be
12 decreased or suspended, except as provided in section
13 100.

14 Sec. 6. 39 MRSA §51-B, sub-§8, as enacted by PL
15 1983, c. 479, §7, is amended to read:

16 8. Effect of payment. If, within the 44-day pe-
17 riod established in subsection 7 and after the pay-
18 ment of compensation for incapacity without an award,
19 the employer elects to controvert the claim to com-
20 pensation for incapacity, the payment of compensation
21 shall not be considered to be an acceptance of the
22 claim or an admission of liability. Notwithstanding
23 the provisions of section 99-C, the acceptance of
24 compensation in any case, except by decision or
25 agreement, by the injured employee or his dependents
26 shall not be considered an admission by the employee
27 or his dependents as to the nature and scope of the
28 employer's liability or a waiver of the right to
29 question the amount of compensation or the duration
30 of the same or the nature of the injury and its con-
31 sequences.

32 Sec. 7. 39 MRSA §94-A, sub-§2, ¶A, as enacted by
33 PL 1983, c. 479, §19, is amended to read:

34 A. Either payments are initiated or notice of
35 controversy is filed by the end of 14 days after
36 an event which gives rise to an obligation to
37 make payments under section 51-B; subsection 3
38 within the time limits established in section
39 51-B, subsections 3 and 4; and

40 Sec. 8. 39 MRSA §106-A, as amended by PL 1983,
41 c. 479, §29, is further amended to read:

1 Section 4 provides that no wage statement need be
2 filed when the only compensation being paid is for
3 medical bills.

4 Section 5 provides that an employer-insurer can
5 controvert impairment compensation claims and claims
6 for medical expenses and other services. It also pro-
7 vides that when there are payments for impairment or
8 medical expenses the employer does not gain an addi-
9 tional 30 days during which it can stop payments and
10 file a notice of controversy. The final decision to
11 pay or controvert must be made at or before the
12 180-day point. By lengthening the period for payment
13 of impairment compensation or compensation for medi-
14 cal expenses to 180 days, there no longer exists any
15 reason for extending the period upon payment.

16 Section 6 amends the Revised Statutes, Title 39,
17 section 51-B, subsection 8, to make it consistent
18 with changes made to the Revised Statutes, Title 39,
19 section 51-B, subsection 7.

20 Section 7 amends the Revised Statutes, Title 39,
21 section 94-A, subsection 2, paragraph A, to make it
22 consistent with changes made to the Revised Statutes,
23 Title 39, section 51-B.

24 Section 8 amends the Revised Statutes, Title 39,
25 section 106-A to make it consistent with changes made
26 to the Revised Statutes, Title 39, section 51-B.

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