

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1486, L.D. 2098)  
2 (New Title)  
3 SECOND REGULAR SESSION  
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5 ONE HUNDRED AND TWELFTH LEGISLATURE  
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7 Legislative Document

No. 2274

9 H.P. 1618 House of Representatives, March 25, 1986

10 Reported by Representative Lander from the Committee on Labor and  
11 printed under Joint Rule 2. Original bill sponsored by Speaker Martin of  
Eagle Lake.

12 EDWIN H. PERT, Clerk

13  
14 STATE OF MAINE  
15

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16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-SIX  
18

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19 AN ACT to Amend the Workers' Compensation Act  
20 to Require Prepayment for Medical Aids  
21 and to Make Corrections Relating to  
22 Foreign Employees.  
23

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24 Be it enacted by the People of the State of Maine as  
25 follows:

26 Sec. 1. 39 MRSA §51-B, sub-§4, as amended by PL  
27 1983, c. 682, §2, is further amended to read:

28 4. Compensation for impairment; compensation for  
29 medical expenses. Compensation for impairment under  
30 sections 56 and 56-A shall not be payable prior to  
31 the date on which the injured employee reaches the  
32 stage of maximum medical improvement. It shall be-  
33 come due and payable within 90 days after the employ-  
34 er has notice that maximum medical improvement has  
35 been attained. For the purpose of this subsection,  
36 "maximum medical improvement" means the date after

1 which further recovery and further restoration of  
2 function can no longer be reasonably anticipated,  
3 based upon reasonable medical probability. Compensation  
4 for medical expenses, aids and other services  
5 under section 52 is due and payable within 90 days  
6 from the date a request is made for payment of these  
7 expenses.

8 Sec. 2. 39 MRSA §52, 4th ¶, as amended by PL  
9 1979, c. 116, is further amended to read:

10 In every case where any ~~of said services or aids~~  
11 are procured or aids are required by the employee, it  
12 shall be his duty to see that the employer is given  
13 prompt notice thereof. The employer shall then make  
14 prompt payment for ~~same~~ them to the provider or sup-  
15 plier or reimburse the employee, in accordance with  
16 section 51-B, subsection 4, provided ~~said~~ that the  
17 costs ~~were~~ are necessary and adequate and the charges  
18 ~~therefor~~ reasonable; and further provided that it  
19 shall be presumed that, in a foreign jurisdiction  
20 having a socialized medical program, payment of the  
21 costs will be borne by the medical program and the  
22 employer is not responsible for those costs under  
23 this section unless the socialized medical program  
24 has made payment for services or aids and requests  
25 reimbursement from the employer for the actual  
26 amounts paid. The employer shall furnish artificial  
27 limbs, eyes, teeth, eyeglasses, hearing aids, ortho-  
28 pedic devices and other physical aids made necessary  
29 by ~~such~~ the injury and shall replace or renew the  
30 same when necessary from wear and tear or physical  
31 change of the employee. The employee or his counsel  
32 shall serve upon the employer or opposing counsel,  
33 within 7 days of the date of receipt by ~~such~~ the em-  
34 ployee or counsel, complete copies of any medical re-  
35 ports or statements relating to any treatment or ex-  
36 amination described in this section. The employer,  
37 carrier or their counsel shall serve upon the employ-  
38 ee or opposing counsel, within 7 days of the receipt  
39 by the employer, carrier or counsel, complete copies  
40 of any medical reports or statements relating to any  
41 treatment or examination alleged by the employee or  
42 his counsel to be covered by this section.

43 Sec. 3. 39 MRSA §66-A, as amended by PL 1985, c.  
44 372, Pt. A, §§27 and 28, is further amended by adding  
45 at the end a new paragraph to read:

1           If an employee is prevented from accepting an offer of suitable work because of residence in a foreign country or termination of status as a lawfully employable alien, he shall be deemed to have refused the offer.

6           Sec. 4. 39 MRSA §87, sub-§4, as enacted by PL  
7 1985, c. 372, Pt. A, §29, is amended to read:

8           4. Employee refusal, sanctions. Refusal by the  
9 employee to comply with a requirement, determination  
10 or order of the commission, this chapter or a rule  
11 promulgated under this chapter, or with the terms of  
12 an approved plan or agreement under this subchapter,  
13 shall result in the suspension of benefits for a pe-  
14 riod no longer than the length of the refusal. If an  
15 employee is prevented from complying because of resi-  
16 dence in a foreign country or termination of status  
17 as a lawfully employable alien, he shall be deemed to  
18 have refused to comply. These sanctions may only be  
19 ordered by a commissioner after notice and a hearing.

20           Sec. 5. 39 MRSA §100, sub-§4, ¶B, as enacted by  
21 PL 1981, c. 514, §4, is amended to read:

22           B. The employer or his insurance carrier files a  
23 certificate with the commission stating that:

24           (1) The employee has left the State for  
25 reasons other than returning to his perma-  
26 nent residence at the time of injury;

27           (1-A) The employee has left the United  
28 States and, because of residence in a for-  
29 ign country or termination of status as a  
30 lawfully employable alien, the employee:

31           (a) Has refused an offer of suitable  
32 work; or

33           (b) Is subject to sanction under sec-  
34 tion 87, subsection 4;

35           (2) The employee's whereabouts are unknown;  
36 or

37           (3) The employee has resumed work.

1

STATEMENT OF FACT

2           This new draft is intended to accomplish 2 pur-  
3 poses. First, it includes the payment of medical  
4 aids within the early pay system. This ensures that  
5 injured workers who need prosthetic devices or simi-  
6 lar medical aids will obtain them promptly. Second,  
7 it provides special provisions related to workers who  
8 reside in a foreign country. Under the new draft,  
9 employers are not directly liable to a physician for  
10 the cost of medical treatment provided in a foreign  
11 country that has a socialized medical program. In-  
12 stead, the employer is only obligated to reimburse  
13 that other country's socialized medical program for  
14 their actual payments made to treat an injury related  
15 to employment in Maine. The cost of treatment in the  
16 United States continues to be the direct liability of  
17 the employer. The new draft also clarifies the au-  
18 thority of the Workers' Compensation Commission to  
19 reduce or suspend compensation for failure to accept  
20 suitable alternative employment or failure to cooper-  
21 ate in a rehabilitation program when the employee has  
22 left the United States or lost his status as an em-  
23 ployable alien.

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