

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 805

H.P. 594 House of Representatives, March 17, 1987
Reference to the Committee on Labor suggested and ordered
printed.

EDWIN H. PERT, Clerk
Presented by Representative RACINE of Biddeford.

Cosponsored by Representative GREENLAW of Standish and
President PRAY of Penobscot.

STATE OF MAINE

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

1 AN ACT to Provide Payment of Workers'
2 Compensation Benefits in Cases when a
3 Decision has not been Reached within 6
4 Months.
5

6 Be it enacted by the People of the State of Maine as
7 follows:

8 39 MRSA §104-A, sub-§1-A is enacted to read:

9 1-A. Provisional payment after 6 months. If no
10 decision has been rendered upon any claim for bene-
11 fits under this Act within 6 months of the filing of
12 a petition for award under section 94, the employer
13 against whom the claim is filed is immediately liable
14 to the employee for compensation, pending a final de-
15 cision on the petition.

1 A. Compensation payable under this subsection
2 shall be at a level equal to that contained in
3 the commissioner's advisory opinion at the previ-
4 ous informal conference held under section 94-B.
5 Payment of compensation under this subsection
6 shall be made as if a commissioner's order for
7 payment had been issued 6 months after the peti-
8 tion for award was filed.

9 B. The following provisions govern adjustments
10 in compensation after a decision is ultimately
11 rendered on the employee's petition for award.

12 (1) If the commissioner's decision ulti-
13 imately awards the employee compensation un-
14 der this Act at the same level provided in
15 the previous advisory opinion or at a higher
16 level, the employer shall receive credit un-
17 der section 62 for compensation paid under
18 this subsection in that award, notwithstand-
19 ing any appeal from that decision.

20 (2) If the commissioner's decision ulti-
21 mately denies compensation to the employee,
22 or awards compensation in an amount less
23 than the compensation suggested in the pre-
24 vious advisory opinion, the employer may re-
25 cover any overpayments made under this sub-
26 section from the employee or may reduce fu-
27 ture compensation in an amount equal to any
28 overpayment, notwithstanding any appeal from
29 that decision. The commission has jurisdic-
30 tion to determine the amount of overpayment,
31 if any, and the amount and schedule of re-
32 payment or reduction in future compensation,
33 if any. In determining whether or not re-
34 payment or reduction in future compensation
35 should be made and the extent or schedule of
36 repayment or reduction in future compensa-
37 tion, the commission shall consider the fi-
38 nanacial situation of the employee and his
39 family and shall not order repayment or re-
40 duction which would work hardship or injus-
41 tice.

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STATEMENT OF FACT

2 Many workers are being unjustly denied workers'
3 compensation benefits for long periods of time due to
4 delays in adjudicating their claims. These delays
5 may lead to several serious problems, including the
6 loss of homes and personal possessions, impaired
7 credit ratings, other financial problems and emotion-
8 al distress. According to a recent study by the
9 Workers' Compensation Commission, this situation is
10 occurring despite the fact that 70% of these cases
11 are eventually won by the injured worker. This bill
12 attempts to alleviate this problem by requiring em-
13 ployers or their insurance company to pay compensa-
14 tion to any employee whose claim is not resolved
15 within 6 months. This compensation is based on the
16 compensation level suggested in the advisory opinion
17 of a workers' compensation commissioner issued at the
18 earlier informal conference and includes all amounts
19 which become due after the injury occurs. If the
20 claim is later denied or a lesser award is granted,
21 the employer is authorized to recover any overpay-
22 ments, except in cases when recovery would work hard-
23 ship or injustice.

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