

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1195

H.P. 894 House of Representatives, April 9, 1987
Reference to the Committee on Labor suggested and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative McHENRY of Madawaska.
Cosponsored by Representative PARADIS of Augusta and Senator ANDREWS of Cumberland.

STATE OF MAINE

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

1 **AN ACT to Fully Compensate Injured Workers**
2 **and their Families for Losses Suffered**
3 **Because of Delays in Paying Claims.**
4

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

7 **Sec. 1. 39 MRSA §111-A, sub-§1, as amended by PL**
8 **1977, c. 696, §408, is further amended to read:**

9 1. No delay of benefits. If an employee is due
10 benefits from an employer under an insured disability
11 plan or insured medical payments plan because of a
12 personal injury or disease, the employer shall not
13 delay or refuse payment of those benefits because the
14 employee filed a workers' compensation claim based on
15 the same personal injury or disease. At the informal
16 conference, if the employee has not been paid bene-

1 fits for the entire period of claimed disability un-
2 der this Act, the employer shall explain to the com-
3 missioner when payments were commenced under this
4 section and if payments have not been commenced the
5 justification for any delay under section 111-B.

6 Sec. 2. 39 MRSA §111-B is enacted to read:

7 §111-B. Consequential damages

8 If an employee is not paid benefits within one
9 week of the conclusion of the informal conference and
10 later recovers benefits under this Act, and, as a re-
11 sult of the delay in receiving benefits, the employee
12 and his dependents suffer a loss of housing through
13 eviction for nonpayment of rent, mortgage foreclosure
14 or threat of foreclosure or similar reason; suffer
15 loss of personal property, including household goods
16 and motor vehicles for nonpayment or repossession or
17 threat of nonpayment or repossession, or cancellation
18 of insurance; when such nonpayment was caused or con-
19 tributed by the failure of the employer to pay work-
20 ers' compensation benefits in a timely fashion within
21 one week of the informal conference, then in addition
22 to other benefits, due under the Act, the employer
23 shall pay the full direct and indirect financial loss
24 suffered by the employee and his dependents as a re-
25 sult of the employer's failure to pay benefits within
26 one week of the informal conference.

27 The commission may enforce this section and after
28 the hearing issue appropriate decrees and orders.
29 The orders may include financial compensation for
30 losses to date with authority to issue continuing or-
31 ders with the purpose of making whole the injured
32 worker and his family.

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STATEMENT OF FACT

2 The essential promise of the Workers' Compensation
3 Act to the injured worker was that benefits
4 would be speedy and automatically paid. Unfortunately,
5 70 years after the enactment of the Workers' Compensation
6 Act, this promise of speedy and automatic
7 payment is still often breached. Delays in contro-
8 verted cases run from a minimum of 4 or 5 months to
9 periods in excess of a year. An injured worker who
10 waits for a long period for his benefits undergoes
11 tremendous financial and human suffering. The suffer-
12 ing has been such that suicide has occurred and
13 divorces are common, as are mortgage foreclosures and
14 personal property repossessions. The most serious
15 cases with prolonged disability are the very cases
16 which insurance companies are most likely to fully
17 controvert.

18 There is some provision in existing law, the
19 Maine Revised Statutes, Title 39, section 111-A, to
20 provide for the payment of some nonoccupational dis-
21 ability benefits while the legal squabbles go on, but
22 that obligation is also often subject to breach and
23 delay. Thus specific provision is made in this bill
24 that a commissioner at the informal conference should
25 inquire as to payments under section 111-A to provide
26 minimal relief for the injured worker and his family.

27 It should be noted here that no insurer will in-
28 cur any liability under this bill if the compensation
29 benefits are paid within the confines of the Early
30 Pay System, which means within a time frame of ap-
31 proximately 45 to 85 days from the date of injury.
32 If benefits are not paid within that time, however,
33 and if the injured worker or his family suffers se-
34 vere loss, loss of housing, personal property or med-
35 ical insurance, the injured worker has a right to
36 recover for the financial damage done him and his
37 family by the delay in payment of benefits in addi-
38 tion to his workers' compensation benefits.

39 The ultimate purpose of this bill is to encourage
40 compliance by employer and insurance carriers with
41 the Early Pay System for quick and realistic evalua-
42 tion and payment of cases and to avoid needless and

1 unjustified controversy regarding workers' compensa-
2 tion cases. These legal controversies should be
3 avoided particularly where due to the seriousness of
4 the injury and the long-term nature of the disabili-
5 ty, the interruption in income will be so long as to
6 cause the worker and his family to lose their hous-
7 ing, motor vehicles, personal property and medical
8 coverage.

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