

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 929

H.P. 678

House of Representatives, March 27, 1989

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative RUHLIN of Brewer.

Cosponsored by Representative RAND of Portland and Representative McCORMICK of Rockport.

STATE OF MAINE

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

An Act to Clarify the Payment of Medical Expenses under the
Workers' Compensation Act.



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

3 Sec. 1. 39 MRSA §51-B, sub-§5, as amended by PL 1983, c. 682,
5 §3, is further amended to read:

7 5. Memorandum of payment. Upon making the first payment of
9 compensation for incapacity ~~or for medical expenses~~ or upon
11 making a payment of compensation for impairment, the employer
shall immediately forward to the commission a memorandum of
payment on forms prescribed by the commission. This information
shall include, at a minimum, the following:

13 A. The names of the employee, employer and insurance
15 carrier;

17 B. The date of the injury;

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

23 D. The initial weekly compensation rate.

25 ~~When the compensation sought does not include payments for
incapacity or impairment, the information described in paragraphs
C and D need not be provided.~~

27 ~~When payment is solely one for medical expenses and the employer
has previously filed any memorandum of payment with respect to
the claim, no subsequent memorandum of payment for medical
expenses need be filed. Reporting of subsequent medical expenses
paid shall be made to the commission in accordance with its rules.~~

33 Sec. 2. 39 MRSA §51-B, sub-§7, as amended by PL 1987, c. 559,
35 Pt. B, §18, is further amended to read:

37 7. Notice of controversy. If the employer, prior to making
payments under subsection 3, controverts the claim to
39 compensation, he the employer shall file with the commission,
within 14 days after an event which gives rise to an obligation
41 to make payments under subsection 3, a notice of controversy in a
form prescribed by the commission. If the employer, prior to
43 making payments under subsection 4, controverts the claim to
compensation, he the employer shall file with the commission,
45 within 90 days after an event which gives rise to an obligation
to make payments under subsection 4, a notice of controversy in a
47 form prescribed by the commission. The notice shall indicate the
name of the claimant, name of the employer, date of the alleged
49 injury or death and the grounds upon which the claim to
compensation is controverted. The employer shall promptly furnish
51 the employee with a copy of the notice.

1 If, at the end of the 14-day period in subsection 3 or the 90-day
3 period in subsection 4, the employer has not filed the notice
5 required by this subsection, he the employer shall begin payments
7 as required under those subsections. In the case of compensation
9 for incapacity under subsection 3, he the employer may cease
11 payments and file with the commission a notice of controversy,
13 only as provided in this subsection, no later than 44 days after
15 an event which gives rise to an obligation to make payments under
17 subsection 3. Failure to file the required notice of controversy
19 prior to the expiration of the 44-day period, in the case of
21 compensation under subsection 3, constitutes acceptance by the
23 employer of the compensability of the injury or death. Failure to
25 file the required notice of controversy does not constitute such
27 an acceptance by the employer when it is shown that the failure
29 was due to employee fraud or excusable neglect by the employer,
except when payment has been made and a notice of controversy is
not filed within 44 days of that payment. Failure to file the
required notice of controversy prior to the expiration of the
90-day period under subsection 4 constitutes acceptance by the
employer of the extent of impairment claimed ~~or~~ the
reasonableness of the medical services claimed. Failure to file
the required notice of controversy prior to the expiration of the
90-day period under subsection 4 for compensation for medical
expenses, aids or other services pursuant to section 52
constitutes acceptance by the employer of the reasonableness and
propriety of the specific medical services for which compensation
is claimed, but does not constitute acceptance of the
compensability of the injury or death.

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

Sec. 3. 39 MRSA §95, as amended by PL 1983, c. 587, §1, is
further amended to read:

§95. Time for filing petitions

Any employee's claim for compensation under this Act shall
be barred unless an agreement or a petition as provided in
section 94 shall be filed within 2 years after the date of the
injury, or, if the employee is paid by the employer or the
insurer, without the filing of any petition or agreement, within
2 years of any payment by such employer or insurer for benefits
otherwise required by this Act. The 2-year period in which an
employee may file his a claim does not begin to run until his the
employee's employer, if he the employer has actual knowledge of
the injury, files a first report of injury as required by section
106 of the Act. Any time during which the employee is unable by
reason of physical or mental incapacity to file the petition

1 shall not be included in the period provided in this section. If
2 the employee fails to file the petition within that period
3 because of mistake of fact as to the cause and nature of the
4 injury, he the employee may file the petition within a reasonable
5 time. In case of the death of the employee, there shall be
6 allowed for filing said petition one year after that death. No
7 petition of any kind may be filed more than 10 years following
8 the date of the latest payment made under this Act. For the
9 purposes of this section, payments of benefits made by an
10 employer or insurer pursuant to section 51-B or 52 shall be
11 considered payments under a decision pursuant to a petition,
12 unless a timely notice of controversy has been filed.

13 14 15 STATEMENT OF FACT

16
17 This bill clarifies the procedures surrounding payment of
18 the medical expenses under the Workers' Compensation Act. The
19 initiation of the so-called "early pay" system in 1983 created
20 certain procedural ambiguities regarding the payment of medical
21 expenses. This bill addresses some of those.

22
23 First, the requirement of filing a memorandum of payment in
24 cases involving only payment of medical expenses has been
25 eliminated. Approximately 2/3 of the State's 67,000 workers'
26 compensation cases fall into this category. Eliminating this
27 paper work should result in significant savings to the workers'
28 compensation system.

29
30 The bill also furthers the intent of the "early pay" system
31 by allowing employers to pay an employee's medical expenses
32 without prejudice to the employer's right to contest the merits
33 of the claim at some future time. This will remove pressure on
34 employers to either delay reimbursement of medical expenses while
35 the case is under investigation or to litigate questionable
36 claims where only modest medical expenses are involved. Speeding
37 up reimbursement of medical expenses will help assure that all
38 employees receive proper and timely medical treatment.
39 Eliminating unnecessary litigation will result in significant
40 savings to the system.

41
42 Finally, the bill clarifies the statute of limitations
43 governing the filing of workers' compensation claims where
44 employers voluntarily pay medical expenses. The bill assures
45 that as long as an employee has received compensation for medical
46 expenses, the employee is not required to file a claim within 2
47 years of the injury to protect that employee's right to future
48 compensation.