



# 115th MAINE LEGISLATURE

# FIRST REGULAR SESSION-1991

Legislative Document

No. 692

H.P. 498

House of Representatives, February 20, 1991

Reference to the Committee on Labor suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative McHENRY of Madawaska. Cosponsored by Representative RUHLIN of Brewer, Senator ESTY of Cumberland and Speaker MARTIN of Eagle Lake.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND NINETY-ONE

An Act to Clarify the Definition of Return to Suitable Employment in the Maine Workers' Compensation Act.

Printed on recycled paper

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

### Sec. 1. 39 MRSA §85, sub-§4-A, ¶B is enacted to read:

B. If during the course of a plan ordered implemented under subsection 2-A the employee and the employer enter into an agreement to commute the underlying claim for compensation pursuant to section 71-A, this agreement is deemed a "return to suitable employment" for purposes of the employer's obligation to reimburse the Employment Rehabilitation Fund.

Sec. 2. Application. This Act applies to all employees for whom a rehabilitation plan has been implemented under the Maine Revised Statutes, Title 39, section 85, subsection 2-A.

## STATEMENT OF FACT

Prior to 1989, in order for a worker to receive vocational 20 rehabilitation under the Workers' Compensation Act, both the injured worker and the employer had to agree to a vocational rehabilitation plan. In 1989, the Legislature gave authority to 22 the Office of Employment Rehabilitation, a part of the Workers' 24 Compensation Commission, to approve vocational rehabilitation plans meeting certain criteria without consent by the employer. These plans are to be paid for from the Employment Rehabilitation 26 Fund. If after the completion of the vocational rehabilitation plan the employee returns to suitable employment, as defined in 28 the Workers' Compensation Act, the employer is obligated to reimburse the Employment Rehabilitation Fund an amount equal to 30 180% of the costs of the vocational rehabilitation plan that had been paid out of the fund. 32

Since this provision has been in effect the Office of 34 Employment Rehabilitation has approved a number of plans. Α problem has arisen, however, when during the course of a plan 36 paid for by the Employment Rehabilitation Fund the worker and the commute, or settle, the underlying claim for 38 employer compensation. This leaves open the question of what, if anything, the employer must pay to the Employment Rehabilitation 40 Fund as reimbursement for expenditures already made for the vocational rehabilitation plan. This bill clarifies that in such 42 an instance the employee will be deemed to have returned to suitable employment and the employer will be obligated to 44 reimburse the Employment Rehabilitation Fund at the statutory rate for money spent on the vocational rehabilitation plan. 46

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