

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to HOUSE AMENDMENT "A" to H.P. 1775,  
L.D. 2457, Bill, "An Act to Delay the Workers' Compensation Rate  
Increase"

Amend the amendment by inserting after the title the  
following:

'Amend the bill by striking out the title and substituting  
the following:

**'An Act Concerning Workers' Compensation'**

Further amend the amendment in the first paragraph after the  
title in the first line (page 1, line 16 in amendment) by  
striking out the following: "Amend" and inserting in its place  
the following: 'Further amend'

Further amend the amendment by inserting before section 1  
the following:

**Sec. 1. 39 MRSA §52-B, sub-§1**, as amended by PL 1991, c. 615,  
Pt. D, §4, is further amended to read:

**1. Maximum charges.** Standards, schedules or scales of  
maximum charges for individual services, procedures of courses of  
treatment. The maximum charges may not be less than the usual,  
customary and reasonable charge paid by private 3rd-party payors  
for similar services provided by Maine health care providers. In  
establishing these standards, schedules or scales, the commission  
shall consult with organizations representing health care  
providers and other appropriate groups. The standards must be  
adjusted annually to reflect any appropriate changes in levels of  
reimbursement. The standards shall must apply to hospital costs  
and health care providers and must be in effect no later than  
January 1, 1992. Notwithstanding this section or any other  
provision of law, the standards, schedules or scales for 1993 are  
the same as those in effect on January 1, 1992; and

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Sec. 2. 39 MRSA §65-A is enacted to read:

§65-A. Applicability

Section 65 governs any actions, dispositions or proceedings under this Act after the effective date of this section.

Sec. 3. 39 MRSA §71-A, sub-§§4 and 5 are enacted to read:

4. Offsets. If a settlement is approved and the employee suffers another injury for which compensation is payable under this Act, the benefits payable for the subsequent injury must be reduced by an amount not to exceed the amount of the settlement to the extent necessary to avoid duplicative payment of benefits for any period of incapacity. All settlement agreements must expressly allocate amounts payable as compensation for wage loss, medical services, permanent impairment or other benefits agreed to by the parties, subject to a determination by the commissioner that the settlement is fair and reasonable.

5. Disapproval; disqualification of commissioner. A commissioner who disapproves or otherwise fails to approve a proposed lump-sum settlement must be disqualified from presiding at any subsequent formal hearing in that case.

Sec. 4. 39 MRSA §92-B, sub-§3, ¶B, as enacted by PL 1991, c. 615, Pt. D, §19, is amended to read:

B. Determination of degree of impairment under section 55-B and of maximum medical improvement and degree of impairment under section 56-B;

Sec. 5. 39 MRSA §92-B, sub-§10 is enacted to read:

10. Applicability. This section governs any actions, dispositions or proceedings under this Act after the effective date of this subsection.

Sec. 6. 39 MRSA §96-A, sub-§3 is enacted to read:

3. Effect of previous settlement. A petition or claim for benefits of any type available under this Act is not allowed on account of an injury that has been previously resolved by a lump-sum settlement or by any other final settlement process pursuant to the laws of any other jurisdiction.

Sec. 7. 39 MRSA §99-D is enacted to read:

§99-D. Automatic petition for provisional order

2 Upon the petition of either party, the commissioner shall  
3 issue a provisional order clarifying that any structure of  
4 benefits, rights, compensation payment scheme, award or decree  
5 issued under this Act is subject to the procedural and  
6 substantive law of this Act in existence as of December 31, 1992,  
7 as if that procedural and substantive law were in effect on May  
8 1, 1992. A final order may not be issued in contravention of  
9 this section.

10 1. Application to actions. The provisions of this section  
11 apply only to actions in which a final order has not been issued  
12 by the commission on or after May 1, 1992.

14 2. Benefits. Nothing in this section may be interpreted to  
15 require the repayment or surrender of benefits actually paid to  
16 or received by an employee between May 1, 1992 and December 31,  
17 1992.

18 3. Repeal. This section is repealed on January 1, 1993.

20 Sec. 8. 39 MRSA §100, sub-§4-B, ¶C, as enacted by PL 1991, c.  
21 615, Pt. D, §21, is amended to read:

24 C. If either party disagrees with the order of the  
25 commissioner under paragraph A, that party may request an  
26 expedited hearing on the pending petition pursuant to  
27 section 98. If an employee petitions for review of a  
28 discontinuance or a reduction in benefits made under  
29 subsection 4-A more than 21 days after the discontinuance or  
30 reduction and either party disagrees with the order of the  
31 commissioner under paragraph A, that party may request a  
32 hearing, but is not entitled to a hearing on an expedited  
33 basis pursuant to section 98.

34 Sec. 9. 39 MRSA §100, sub-§8 is enacted to read:

36 8. Applicability. This section governs any actions,  
37 dispositions or proceedings under this Act after the effective  
38 date of this subsection.

40 Sec. 10. Resolve 1991, c. 59, §6-A is enacted to read:

42 Sec. 6-A. Consideration of increase. Resolved: That the  
43 commission shall consider the implications of any impending or  
44 potential workers' compensation rate increase as of the effective  
45 date of this section and shall make recommendations designed to  
46 mitigate any increase retrospective to May 1, 1992; and be it  
47 further

2 **Sec. 11. Provisional orders.** Nothing in this Act may be  
4 interpreted to prohibit the issuance of a provisional order in  
any proceeding before the Superintendent of Insurance on the  
effective date of this Act.'

6 Further amend the amendment by renumbering the sections to  
8 read consecutively.

10 Further amend the amendment by inserting before the  
statement of fact the following:

12 'Further amend the bill by inserting before the statement of  
14 fact the following:

### 16 **FISCAL NOTE**

18 It can not be determined at this time if the changes  
20 proposed to the workers' compensation system and benefits will  
result in any savings or costs.'

### 22 **STATEMENT OF FACT**

24 This amendment substitutes a new title and amends the Maine  
26 Revised Statutes, Title 39. The amendments to Title 39 do the  
following:

28 1. Freeze maximum fee standards, schedules and scales for  
30 providers of health care services at their levels on January 1,  
1992 during the year 1993;

32 2. Makes Title 39, section 65 applicable to all actions,  
34 dispositions and proceedings after the effective date of Title  
39, section 65-A;

36 3. Reduces benefits as necessary to avoid duplication if an  
38 employee is receiving or has received a settlement and suffers  
another injury. It requires that all settlement agreements be  
40 itemized and disqualifies from the case a commissioner who has  
disapproved a lump-sum settlement;

42 4. Adds to the possible duties of the independent medical  
44 examiner's determination of the degree of impairment under Title  
39, section 55-B;

46 5. Makes the independent medical examiner provisions  
48 applicable to all actions, dispositions or proceedings after the  
effective date of Title 39, section 92-B, subsection 10;

2 6. Disallows a petition of claim for an injury previously  
4 resolved by lump-sum or other final settlement in another  
jurisdiction;

6 7. Provides for provisional orders clarifying the  
procedural and substantive law applicable to a case;

8 8. Within the automatic discontinuance and reduction  
10 procedures, provides that an employee requesting a hearing more  
than 21 days after the discontinuance or reduction is not  
entitled to the hearing on an expedited basis; and

12 9. Makes automatic discontinuance and reduction procedures  
14 under Title 39, section 100 applicable to all actions,  
dispositions and proceedings after the effective date of Title  
16 39, section 100, subsection 8.

18 The amendment also charges the Blue Ribbon Commission to  
20 Examine Alternatives to the Workers' Compensation System  
established by Resolve 1991, chapter 59 with consideration of any  
impending or potential workers' compensation rate increases and  
22 to make recommendations to mitigate such increases.

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Filed by Rep. Lipman of Augusta  
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