

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
THIRD SPECIAL SESSION

HOUSE AMENDMENT "D" to HOUSE AMENDMENT "C" to H.P. 1783,
L.D. 2464, Bill, "An Act to Reform the Workers' Compensation Act
and Workers' Compensation Insurance Laws"

Amend the amendment on page 2 by striking out all of the
last paragraph (page 2, lines 47 to 49 in amendment) and on pages
3 and 4 by striking out all of paragraphs A to F (page 3, lines 1
to 49 and page 4, lines 1 to 14 in amendment) and inserting in
their place the following:

'Further amend the bill in Part A in section 8 in that part
designated "§205." by striking out all of subsection 9 and
inserting in its place the following:

'9. Discontinuance or reduction of payments. The employer
may discontinue or reduce benefits only as provided in this
subsection.

A. Benefits may be discontinued or reduced in accordance
with the employee's signed agreement filed with the board.
Only a settlement agreement approved under section 352 may
preclude the employee from seeking further benefits.

B. If a compensation payment scheme is in effect, the
employer may discontinue or reduce benefits for any of the
following reasons by sending to the employee and to the
board, by certified mail, a certificate providing the
information that supports discontinuance or reduction.

(1) If the employee receiving benefits has returned to
work or has received an increase in pay, benefits may
be discontinued or reduced in accordance with section
214 and must be promptly reinstated or increased in
accordance with section 214 to the extent of any change
in the employee's employment.

HOUSE AMENDMENT

2 (2) The employee has died for reasons unrelated to
3 that employee's injury.

4
5 (3) If payments to the employee are being returned and
6 the employee can not be found after a diligent search,
7 payments may be forfeited until the employee is found.

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9 (4) If an employee who was a state resident at the
10 time of injury leaves the State to establish residency
11 elsewhere, benefits may be suspended from the time of
12 mailing the certificate until the employee's return to
13 the State. Upon the employee's return, the employee is
14 entitled to payments accrued during that employee's
15 absence without interest.

16 (5) Compensation is forfeitable pursuant to section
17 203 because of the employee's incarceration.

18
19 (6) The benefits become subject to reduction or
20 coordination under section 220, 221 or 223 or former
21 Title 39, section 62-A or 62-B.

22
23 (7) Benefits may be forfeited during any period that
24 the employee unreasonably refuses to submit to a
25 medical examination that the employee is required by
26 this Act to attend.

27
28 (8) The employee's treating physician or, for injuries
29 following October 16, 1991, the independent medical
30 examiner certifies that the employee is able to return
31 to work without any medical restrictions due to the
32 injury.

33
34 (9) The employee has refused an offer of reasonable
35 employment without good cause and the employee's
36 treating physician or, for injuries after October 16,
37 1991, the independent medical examiner certifies that
38 the employee is medically able to perform the offered
39 employment.

40
41 (10) Under section 217, subsection 6, the employee has
42 refused unreasonably to accept rehabilitation pursuant
43 to an order of the board.

44
45 (11) The term of the employee's entitlement to
46 benefits has expired under section 212, 213 or 215 or
47 under the first paragraph of former Title 39, section
48 55-B.

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2 Benefits may be suspended or reduced only to the extent and
4 only for as long as authorized by law and must be promptly
6 reinstated or increased if so required. The employer has
8 the burden of proof to establish a good faith basis for
10 discontinuance or reduction.

12 C. If compensation has been paid and a compensation payment
14 scheme is not in effect, the employer:

16 (1) May discontinue or reduce payments in accordance
18 with paragraph B; or

20 (2) May otherwise discontinue or reduce benefits no
22 earlier than 21 days from the date that a certificate
24 is sent, by certified mail, to the employee and the
26 board placing the claim in dispute as to benefits
28 thereafter.

30 D. The employee may file a petition for review with
32 supporting affidavits, medical records or other relevant
34 information contesting the discontinuance or reduction.
36 Within 21 days after the filing of the employee's petition,
38 the board shall enter an interim order determining whether
40 and to what extent benefits should be restored pending
42 mediation or any further hearing that may be necessary. The
44 board may restore benefits by interim order as follows.

46 (1) If a compensation payment scheme is in effect, the
48 board may restore all benefits required by the payment
50 scheme to the extent that the available evidence fails
52 to support the discontinuance or reduction.

54 (2) If a compensation payment scheme is not in effect,
56 the board may restore up to 50% of the employee's
58 weekly compensation benefits pending further hearing.

60 Any benefits withheld accrue interest at the rate of 10% per
62 annum and must be paid within 10 days of any order to pay.' '

FISCAL NOTE

64 This amendment may reduce the amount of savings resulting
66 from the bill's changes to workers' compensation benefits. The
68 effect on the estimated savings to the State and local units of
70 government as employers can not be estimated at this time.

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STATEMENT OF FACT

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This amendment provides standards for the Workers' Compensation Board to employ in determining a person's continuing entitlement to compensation. It refers to those contained in the Maine Revised Statutes, Title 39-A, section 214 and incorporates 10 other standards that are based on commonly acknowledged criteria for payment or discontinuance of compensation benefits.

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In those cases in which benefits are suspended without a prior compensation payment scheme, the board may grant up to 50% of the employee's full compensation rate pending the outcome of a final hearing.

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Filed by Rep. Pineau of Jay
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10/1/92 (Filing No. H-1349)

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