

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1101

H.P. 813

House of Representatives, February 18, 1997

**An Act to Amend the Maine Workers' Compensation Act of 1992 as It
Relates to Payment of Benefits Pending Appeal.**

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CLUKEY of Houlton.
Cosponsored by Representatives: CARLETON of Wells, CROSS of Dover-Foxcroft,
KNEELAND of Easton, MURPHY of Kennebunk, WHEELER of Bridgewater.

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

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Sec. 1. 39-A MRSA §205, sub-§9, ¶B, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. In all circumstances other than the return to work or increase in pay of the employee under paragraph A, if the employer, insurer or group self-insurer determines that the employee is not eligible for compensation under this Act, the employer, insurer or group self-insurer may discontinue or reduce benefits only in accordance with this paragraph.

(1) If no order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer may discontinue or reduce benefits by sending a certificate by certified mail to the employee and to the board, together with any information on which the employer, insurer or group self-insurer relied to support the discontinuance or reduction. The employer may discontinue or reduce benefits no earlier than 21 days from the date the certificate was mailed to the employee. The certificate must advise the employee of the date when the employee's benefits will be discontinued or reduced, as well as other information as prescribed by the board, including the employee's appeal rights.

(2) If an order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer shall petition the board for an order to reduce or discontinue benefits and may not reduce or discontinue benefits until ~~the matter has been finally resolved through the dispute resolution procedures of this Act, any appeal proceedings have been completed~~ and an order of reduction or discontinuance has been entered by the board. Compensation must be reduced or discontinued from the date of the board's underlying order or decision as provided in section 324, subsection 1.

Sec. 2. 39-A MRSA §324, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Order or decision. The employer or insurance carrier shall make compensation payments within 10 days after the receipt of notice of an approved agreement for payment of compensation or within 10 days after any order or decision of the board awarding compensation. If the board enters a decision awarding compensation and an appeal is filed with the Law Court pursuant to section 322, payments may not be suspended while the appeal is pending. If the board, after a review of incapacity pursuant to section 205, subsection 9, paragraph B, subparagraph (2), issues

2 an order or decision suspending or reducing compensation to an
3 employee, compensation must be suspended or reduced in accordance
4 with and from the date of the board's order or decision,
5 notwithstanding any motion for findings of fact or conclusions of
6 law filed pursuant to section 318 or any petition or appeal to
7 the Law Court as provided in section 322. The employer or
8 insurer may recover from an employee payments made pending appeal
9 to the Law Court if and to the extent that the Law Court has
10 decided that the employee was not entitled to the compensation
11 paid. The board has full jurisdiction to determine the amount of
12 overpayment, if any, and the amount and schedule of repayment, if
13 any. The board, in determining whether or not repayment should be
14 made and the extent and schedule of repayment, shall consider the
15 financial situation of the employee and the employee's family and
16 may not order repayment that would work hardship or injustice.

18 SUMMARY

20 This bill provides that if the Workers' Compensation Board,
21 after a review of incapacity, issues an order or decision
22 suspending or reducing compensation to an employee, compensation
23 must be suspended or reduced in accordance with and from the date
24 of the board's order or decision.