

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1472

S.P. 470

In Senate, March 11, 1997

**An Act to Modify the Work Search Requirements for Workers'
Compensation Recipients.**

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

2
3 **Sec. 1. 39-A MRSA §213, sub-§1**, as enacted by PL 1991, c. 885,
4 Pt. A, §8 and affected by §§9 to 11, is amended to read:

6 **1. Benefit and duration.** While the incapacity for work is
7 partial, the employer shall pay the injured employee a weekly
8 compensation equal to 80% of the difference between the injured
9 employee's after-tax average weekly wage before the personal
10 injury and the after-tax average weekly wage that the injured
11 employee is able to earn after the injury, but not more than the
12 maximum benefit under section 211. Compensation must be paid for
13 the duration of the disability if the employee's permanent
14 impairment, determined according to the impairment guidelines
15 adopted by the board pursuant to section 153, subsection 8
16 resulting from the personal injury is in excess of 15% to the
17 body. In all other cases an employee is not eligible to receive
18 compensation under this section after the employee has received
19 260 weeks of compensation under section 212, subsection 1, this
20 section or both. The board may in the exercise of its discretion
21 and in accordance with subsection 1-A extend the duration of
22 benefit entitlement beyond 260 weeks in cases involving extreme
23 financial hardship due to inability to return to gainful
24 employment. This authority may not be delegated to a hearing
25 officer and such decisions must be made expeditiously.
26

27 **Sec. 2. 39-A MRSA §213, sub-§1-A** is enacted to read:

28 **1-A. Work search requirement.** If an employee has received
29 benefits under this section for 260 weeks or more, in order to
30 extend the duration of benefit entitlement beyond 260 weeks the
31 employee bears the burden of establishing the unavailability of
32 work within that employee's work restrictions. Nothing in this
33 subsection may be construed to require an employee that has not
34 received benefits under this section for 260 weeks or more to
35 establish the unavailability of work in order to receive benefits.
36

37 **Sec. 3. 39-A MRSA §214, sub-§6** is enacted to read:

38 **6. Work search requirement.** Nothing in this section may be
39 construed to require an employee that has not received benefits
40 under section 213 for 260 weeks or more to establish the
41 unavailability of work in order to receive benefits.
42
43
44

45 **SUMMARY**

46
47 In Bureau v. Staffing Network, Inc., 678 A.2d 583 (Me.
48 1996), the Law Court found that a partially incapacitated
49 employee bears the initial burden of establishing the
50

unavailability of work within that employee's work restrictions.
2 This bill specifically provides that only employees that have
received benefits for 260 weeks or more are subject to the work
4 search requirement.