

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1567

S.P. 505

In Senate, March 18, 1997

**An Act to Reinstate Limited Rehabilitation Benefits under the Maine
Workers' Compensation Act of 1992 for Those with Long-term
Disabilities.**

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 **Sec. 1. 39-A MRSA §217**, as enacted by PL 1991, c. 885, Pt. A,
4 §8 and affected by §§9 to 11, is amended to read:

6 **§217. Employment rehabilitation**

8 When as a result of injury or occupational disease the
10 employee is unable to perform work for which the employee has
12 previous training or experience, the employee is entitled to such
14 employment rehabilitation services, including retraining and job
16 placement, as reasonably necessary to restore the employee to
18 suitable employment.

20 **1. Services.** A rehabilitation evaluation is available to
22 any employee whose medical records or other available evidence
24 demonstrates a prima facie case for compensable injury with a
26 period of disability not likely to resolve within 90 days. If
28 employment rehabilitation services are not voluntarily offered
30 and accepted, the board on its own motion or upon application of
32 the employee, carrier or employer, after affording the parties an
34 opportunity to be heard, any party may refer the employee to a
 board-approved facility for evaluation of the need for and kind
 of service, treatment or training necessary and appropriate to
 return the employee to suitable employment. The cost of the
 evaluation must be paid by the employer up to an amount equal to
 2 times the State's average weekly wage in effect at the time
 when the evaluation is ordered. Evaluation costs in excess of
 such amount shall be borne by the Employment Rehabilitation
 Fund. The board must act on the application within 30 days of
 filing based on the written records as the parties may submit. A
 hearing may be granted on the application only if the board finds
 it necessary to resolve issues not adequately addressed in the
 written submissions.

36 **2. Plan ordered.** Upon receipt of an evaluation report
38 pursuant to subsection 1, if the board finds that the proposed
40 plan complies with this Act and that the implementation of the
42 proposed plan is likely to return the injured employee to
44 suitable employment at a reasonable cost, it may order the
46 implementation of the plan. Implementation costs of a plan
48 ordered under this subsection must be paid from the Employment
50 Rehabilitation Fund as provided in section 355, subsection 7.
 The board's determination under this subsection is final not
 subject to appeal. The board may order that the plan be
 implemented immediately without regard to the status of the
 employee's underlying claim, but the employer may not be ordered
 to reimburse the fund under section 355, subsection 7 unless the
 employer is finally adjudicated as being responsible for the
 injury and disability.

