



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.

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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:

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

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§217. Employment rehabilitation

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

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A rehabilitation evaluation is available to 1. Services. any employee whose medical records or other available evidence 16 demonstrates a prima facie case for compensable injury with a period of disability not likely to resolve within 90 days. 18 If employment rehabilitation services are not voluntarily offered and accepted, the board on its own motion or upon application of 20 the-employee,-carrier-or-employer,-after-affording-the-parties-an opportunity-to-be-heard, any party may refer the employee to a 22 board-approved facility for evaluation of the need for and kind of service, treatment or training necessary and appropriate to 24 return the employee to suitable employment. The cost of the 26 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 28 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 30 filing based on the written records as the parties may submit. A hearing may be granted on the application only if the board finds 32 it necessary to resolve issues not adequately addressed in the written submissions. 34

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

 3. Order of implementation costs recovery. If an injured employee returns to suitable employment after completing a
rehabilitation plan ordered under subsection 2, the board shall order the employer who refused to agree to implement the plan to
pay reimbursement to the Employment Rehabilitation Fund as provided in section 355, subsection 7.

Additional payments. The board may order that any
employee participating in employment rehabilitation receive
additional payments for transportation or any extra and necessary
expenses during the period and arising out of the employee's program of employment rehabilitation.

5. Limitation. Employment rehabilitation training,
16 treatment or service may not extend for a period of more than 52
<u>104</u> weeks except--in--cases--when--by--special--order--the-board
18 extends-the-period-up-to-an-additional-52-weeks.

20 6. Loss of or reduction in benefits. If an employee unjustifiably refuses to accept rehabilitation pursuant to an 22 order of the board, the board shall order a loss or reduction of compensation in an amount determined by the board for each week 24 of the period of refusal, except for specific compensation payable under section 212, subsection 3. <u>To implement a</u> rehabilitation plan, the board may temporarily suspend rights of 26 review under section 205, subsection 9 and order that benefits for total disability continue for long as necessary to complete 28 the ordered plan.

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7. Hearing. If a dispute arises between the parties
32 concerning application of any of the provisions of subsections 1
to 6, any of the parties may apply for a hearing before the
34 board. The board shall conduct a hearing to enforce, modify,
suspend or terminate a plan on its own motion or upon petition by
36 a party when it appears that:

38 A. Either party is failing to meet the requirements of the plan; or

B. The employer has been found not responsible for any current disability.

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SUMMARY

This bill reinstates limited rehabilitation benefits under 48 the Maine Workers' Compensation Act of 1992 for people with long-term disabilities.