

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1235

H.P. 921

House of Representatives, February 28, 2001

**An Act to Speed Up the Decision Process on Workers' Compensation
Claims.**

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative LAVERRIERE-BOUCHER of Biddeford.
Cosponsored by Representatives: HATCH of Skowhegan, HUTTON of Bowdoinham,
JACOBS of Turner, SMITH of Van Buren, TARAZEWICH of Waterboro, VOLENIK of
Brooklin.

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

2

Sec. 1. 39-A MRSA §304, 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. Inform employee.** Immediately upon receipt of the
8 employer's report of injury required by section 303, the board
shall contact the employee and provide information explaining the
10 compensation system and the employee's rights. The board shall
advise the employee how to contact the board for further
12 assistance via a telephone number that is staffed during business
hours and shall provide that assistance. The assistance includes
14 giving information, clarifying information and support through
the claim process.

16 **Sec. 2. 39-A MRSA §313, sub-§1**, as amended by PL 1999, c. 354,
§7, is further amended to read:

18

1. Procedure. Except as provided in section 205,
20 subsection 9, paragraph D, upon filing of notice of controversy
or other indication of controversy, the matter must be referred
22 by the board to mediation, which must be held within 7 days upon
receipt of the notice. Notice of the mediation to the parties or
24 to the attorney of record for each party must be given no less
than 3 days before the mediation occurs.

26

Sec. 3. 39-A MRSA §313, sub-§3, as enacted by PL 1991, c. 885,
28 Pt. A, §8 and affected by §§9 to 11, is amended to read:

30 **3. Conclusion.** At the conclusion of mediation, the
mediator shall file a written report with within 7 days to the
32 board stating the information required by section 305, 2nd
paragraph and the legal issues in dispute. If an agreement is
34 reached, the report must state the terms of the agreement and
must be signed by the parties and the mediator. If a full
36 agreement is not reached, the report must state the information
required by section 305, 2nd paragraph, any terms that are agreed
38 on by the parties and any facts and legal issues in dispute and
the report must be signed by the parties and the mediator.

40

Sec. 4. 39-A MRSA §315, first ¶, as enacted by PL 1991, c. 885,
42 Pt. A, §8 and affected by §§9 to 11, is amended to read:

44 Upon filing of the mediator's report indicating that
mediation has not resolved all issues in dispute, the matter must
46 be referred to the board, which shall ~~fix-a-time-for~~ hold a
hearing within 7 days of receipt of the report upon at least a
48 5-day 3-day notice given to all the parties or to the attorney of
record of each party. All hearings must be held before a hearing

officer employed by the board at such towns and cities
geographically distributed throughout the State as the board
designates. If the designated place of hearing is more than 10
miles from the place where the injury occurred, the employer
shall provide transportation or reimburse the employee for
reasonable mileage in traveling within the State to and from the
hearing. The amount allowed for travel is determined by the board
and awarded separately in the decree.

Sec. 5. 39-A MRSA §321, sub-§1, as enacted by PL 1991, c. 885,
Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Agreements. Upon the petition of either party at any
time, the board may annul any agreement that has been approved by
the board if it finds that the agreement has been entered into
through mistake of fact by the petitioner or through fraud.
Except in the case of fraud on the part of the employee, an
employee is not barred by any time limit from filing a petition
to have the matters covered by the agreement determined in
accordance with this Act as though the agreement had not been
approved. A hearing on a petition filed under this subsection
must be held within 7 days of the filing of the petition with at
least 3 days' notice given to all parties or to the attorney of
record for each party.

Sec. 6. 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~~ 7 days after the
receipt of notice of an approved agreement for payment of
compensation or within ~~10~~ 7 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. The employer or insurer may recover from an
employee payments made pending appeal to the Law Court if and to
the extent that the Law Court has decided that the employee was
not entitled to the compensation paid. The board has full
jurisdiction to determine the amount of overpayment, if any, and
the amount and schedule of repayment, if any. The board, in
determining whether or not repayment should be made and the
extent and schedule of repayment, shall consider the financial
situation of the employee and the employee's family and may not
order repayment that would work hardship or injustice.

SUMMARY

This bill speeds up the workers' compensation process by

requiring:

- 2 1. Mediation within 7 days of notice of controversy;
- 4 2. The mediator to issue the mediation report within 7 days;
- 6 3. The Workers' Compensation Board to hold a hearing within
- 8 7 days of receipt of the mediator's report;
- 10 4. The Workers' Compensation Board to hold a hearing within
- 12 7 days of receipt of a petition to reopen the case;
- 14 5. The insurance company or employer to begin paying
- 16 compensation within 7 days of receipt of an approved agreement or
- order from the Workers' Compensation Board; and
- 18 6. The Workers' Compensation Board to maintain a staffed
- telephone number to provide assistance to employees filing claims.