

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 408

S.P. 132

In Senate, January 25, 2005

An Act Limiting Recovery of Disability Benefits Subject to Offsets

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Insurance and Financial Services 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 PERRY of Penobscot.

Cosponsored by Senator: SULLIVAN of York, Representatives: CANAVAN of Waterville, NUTTING of Oakland, WOODBURY of Yarmouth.

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

4 **Sec. 1. 24-A MRSA §2717-A**, as enacted by PL 2003, c. 321,
§1, is repealed and the following enacted in its place:

6 **§2717-A. Disability benefit offsets**

8 **1. Disclosure to applicants.** At or before the time of
10 application for any policy subject to this chapter that provides
12 disability income benefits, the insurer shall provide the
14 applicant with a clear and conspicuous written notice, on the
application form or in a separate document, that accurately
explains to the applicant all types of other sources of income
that may result in a reduction of the benefits payable under the
policy.

16 **2. Recovery of disability benefit overpayments.** For claims
18 filed after January 1, 2006, an insurer that is entitled to
20 reduce disability income benefit payments when the insured
receives income from other sources and that is entitled to
22 recover overpayments through offsets against current payments to
the insured may not recover such overpayments at a rate greater
than 10% of the net benefit per benefit payment period unless:

24 **A. The insurer has complied with the requirements of**
26 **subsection 1;**

28 **B. The insurer effects the offset of benefits within 60**
30 **days of notice to the insurer that the insured is receiving**
32 **or is entitled to receive income that may result in a**
reduction of benefits payable under the policy;

34 **C. The overpayment did not result from the insurer's**
36 **miscalculation of benefit reductions or the insurer's**
miscalculation of benefits payable under the policy; and

38 **D. The insurer provided the insured with written notice of**
40 **contract provisions permitting benefit reductions within 60**
days of the date disability benefits commenced.

42 **Sec. 2. 24-A MRSA §2829-A**, as enacted by PL 2003, c. 321,
§2, is repealed and the following enacted in its place:

44 **§2829-A. Disability benefit offsets**

46 **1. Disclosure to persons eligible for coverage.** For any
48 policy or contract subject to this chapter that provides
disability income benefits, if the benefits under that policy or
contract are subject to reduction due to other sources of income,
50 then the insurer shall include in any written enrollment material

2 and certificate of coverage developed by the insurer that is
3 intended to be distributed to persons eligible for coverage under
4 the policy or contract a clear and conspicuous notice that
5 accurately explains all types of other sources of income that may
6 result in a reduction of the benefits payable under the policy or
7 contract. The notice requirement under this section does not
8 apply to an advertisement intended for the general public.

9
10 **2. Recovery of disability benefit overpayments.** For claims
11 filed after January 1, 2006, an insurer that is entitled to
12 reduce disability income benefit payments when the insured
13 receives income from other sources and that is entitled to
14 recover overpayments through offsets against current payments to
15 the insured may not recover such overpayments at a rate greater
16 than 10% of the net benefit per benefit payment period unless:

17 A. The insurer has complied with the requirements of
18 subsection 1;

19 B. The insurer effects the offset of benefits within 60
20 days of notice to the insurer that the insured is receiving
21 or is entitled to receive income that may result in a
22 reduction of benefits payable under the policy;

23 C. The overpayment did not result from the insurer's
24 miscalculation of benefit reductions or the insurer's
25 miscalculation of benefits payable under the policy; and

26 D. The insurer provided the insured with written notice of
27 contract provisions permitting benefit reductions within 60
28 days of the date disability benefits commenced.

34 SUMMARY

35 This bill limits the rate at which an insurer's overpayment
36 of disability income benefits may be recovered by the insurer
37 through offsets against current payments to the insured.
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