

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

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J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

CHAPTER 682

H.P. 1660 - L.D. 2190

AN ACT to Amend the Early Payment
Provision of the Workers' Compensation Act with
Respect to Payments for Impairment and
Medicals-only Claims.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the early payment provisions of "An Act to Reform the Workers' Compensation System," which became effective on January 1, 1984, was made applicable to payment for impairment and medical-only claims; and

Whereas, the application of the early pay system to payment of impairment and medical-only claims is unnecessary and highly impracticable within a 14-day period; and

Whereas, the application of the early payment provisions to payment of impairment and medical only claims will cause an undue burden on the administration of the Workers' Compensation Act; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 39 MRSA §51-B, sub-§3, as enacted by PL 1983, c. 479, §7, is amended to read:

3. Compensation for incapacity. The first payment of compensation, ~~either than compensation for impairment under section 56 or 56-A, for incapacity under section 54 or 55~~ is due and payable within 14 days after the employer has notice or knowledge of the injury or death. In cases where the employee did not lose time from work within 5 scheduled work days following the injury, compensation for incapacity under section 54 or 55 is due and payable within 14 days of the date the employee asserts to the employer

that that lost time is related to the injury or from the date a request is made for medical expenses or other benefits payable under the Act, whichever occurs first. On or before the 14th day, all compensation then due shall be paid. Subsequent incapacity compensation benefit payments shall be made weekly and in a timely fashion.

Sec. 2. 39 MRSA §51-B, sub-§4, as enacted by PL 1983, c. 479, §7, is amended to read:

4. Compensation for impairment; compensation for medical expenses. Compensation for impairment under sections 56 and 56-A shall not be payable prior to the date on which the injured employee reaches the stage of maximum medical improvement. It shall become due and payable within ~~14~~ 90 days after the employer has notice that maximum medical improvement has been attained. For the purpose of this subsection, "maximum medical improvement" means the date after which further recovery and further restoration of function can no longer be reasonably anticipated, based upon reasonable medical probability. Compensation for medical expenses and other services under section 52 is due and payable within 90 days from the date a request is made for payment of these expenses.

Sec. 3. 39 MRSA §51-B, sub-§5, as enacted by PL 1983, c. 479, §7, is amended to read:

5. Memorandum of payment. Upon making the first payment of compensation for incapacity or for medical expenses or upon making a payment of compensation for impairment, the employer shall immediately forward to the commission a memorandum of payment on forms prescribed by the commission. This information shall include, at a minimum, the following:

- A. The names of the employee, employer and insurance carrier;
- B. The date of the injury;
- C. The names of the employee's other employers, if any, or a statement that there is no multiple employment, if that is the case; and
- D. The initial weekly compensation rate.

When the compensation sought does not include payments for incapacity or impairment, the information described in paragraphs C and D need not be provided.

When payment is solely one for medical expenses and the employer has previously filed any memorandum of payment with respect to the claim, no subsequent memorandum of payment for medical expenses need be filed. Reporting of subsequent medical expenses paid shall be made to the commission in accordance with its rules.

Sec. 4. 39 MRSA §51-B, sub-§6, as enacted by PL 1983, c. 479, §7, is amended to read:

6. Information. If the employer is making compensation payments under this section, the employer shall file with the commission a statement of the employee's average weekly wage, as defined in section 2, within 30 days after the initial payment, together with a wage statement or wage statements in the case of multiple employment. A copy of this information shall be mailed to the person receiving payments. When the only compensation claimed or payable is for medical services, wage statements need not be submitted.

Sec. 5. 39 MRSA §51-B, sub-§7, as enacted by PL 1983, c. 479, §7, is amended to read:

7. Notice of controversy. If the employer, prior to making payments under subsection 3, controverts the claim to compensation, he shall file with the commission, within 14 days after an event which gives rise to an obligation to make payments under subsection 3, a notice of controversy in a form prescribed by the commission. If the employer, prior to making payments under subsection 4, controverts the claim to compensation, he shall file with the commission, within 90 days after an event which gives rise to an obligation to make payments under subsection 4, a notice of controversy in a form prescribed by the commission. The notice shall indicate the name of the claimant, name of the employer, date of the alleged injury or death and the grounds upon which the claim to compensation is controverted. The employer shall promptly furnish the employee with a copy of the notice.

If, at the end of the 14-day period in subsection 3 or the 90-day period in subsection 4, the employer has not filed the notice required by this subsection, he shall begin payments as required under subsection 3 those subsections. He In the case of compensation for incapacity under subsection 3, he may cease payments and file with the commission a notice of controversy, only as provided in this subsection, no later than 44 days after an event which gives rise to

an obligation to make payments under subsection 3. Failure to file the required notice of controversy prior to the expiration of the 44-day period, in the case of compensation under subsection 3, constitutes acceptance by the employer of the compensability of the injury or death. Failure to file the required notice of controversy prior to the expiration of the 90-day period under subsection 4 constitutes acceptance by the employer of the extent of impairment claimed or the reasonableness of the medical services claimed.

If, at the end of the 44-day period, the employer has not filed a notice of controversy, or if, pursuant to a proceeding before the commission, the employer is required to make payments, the payments may not be decreased or suspended, except as provided in section 100.

Sec. 6. 39 MRSA §51-B, sub-§8, as enacted by PL 1983, c. 479, §7, is amended to read:

8. Effect of payment. If, within the 44-day period established in subsection 7 and after the payment of compensation for incapacity without an award, the employer elects to controvert the claim to compensation for incapacity, the payment of compensation shall not be considered to be an acceptance of the claim or an admission of liability. Notwithstanding the provisions of section 99-C, the acceptance of compensation in any case, except by decision or agreement, by the injured employee or his dependents shall not be considered an admission by the employee or his dependents as to the nature and scope of the employer's liability or a waiver of the right to question the amount of compensation or the duration of the same or the nature of the injury and its consequences.

Sec. 7. 39 MRSA §94-A, sub-§2, ¶A, as enacted by PL 1983, c. 479, §19, is amended to read:

A. Either payments are initiated or notice of controversy is filed by the end of 14 days after an event which gives rise to an obligation to make payments under section 51-B, subsection 3 within the time limits established in section 51-B, subsections 3, 4 and 7; and

Sec. 8. 39 MRSA §106-A, as amended by PL 1983, c. 479, §29, is further amended to read:

§106-A. Notice by the commission

Within 15 days of receipt of an employer's notice of injury, as required by section 106, unless it has received a petition for award of compensation relating to the injured employee, the commission shall take reasonable steps to notify the employee that, unless the employer disputes the claim, the employer is required to pay compensation within ~~14 days after~~, ~~an event which gives rise to an obligation to make payments under section 51-B, subsection 3~~ the time limits established in section 51-B, subsections 3 and 4; that a petition for award may be filed; section 110 of the Act provides for the payment of attorney's fees under certain circumstances; and rights under the Act may not be protected unless a petition of award or memorandum of payment is on file with the commission within 2 years of the injury.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 2, 1984.

CHAPTER 683

H.P. 1735 - L.D. 2288

AN ACT Establishing Penalties for
Violations of the Disconnection and Deposit
Regulations of the Public Utilities Commission.

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

Sec. 1. 5 MRSA §10051, sub-§4 is enacted to read:

4. Violations. The Administrative Court shall have exclusive jurisdiction to hear complaints of the Public Utilities Commission for violations of Title 35, section 314.

Sec. 2. 35 MRSA §314, as amended by PL 1983, c. 233, §2, is further amended by adding at the end a new paragraph to read: