

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 electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1999

6-A. Additional data. Subject to the limitations of section 8704, subsection 1, the board may adopt rules requiring the filing of additional clinical data from other providers and payors.

7. Authority to obtain information. Nothing in this section may be construed to limit the board's authority to obtain information that it considers necessary to carry out its duties.

Sec. 15. 22 MRSA §8709, as enacted by PL 1995, c. 653, Pt. A, §2 and affected by §7, is amended to read:

§8709. Financial data; scope of service data

Financial data and scope of service data must be filed, stored and managed as follows.

1. Financial data. Each health care facility shall file with the organization, in a form specified by rule pursuant to section 8704, financial information including costs of operation, revenues, assets, liabilities, fund balances, other income, rates, charges and units of services, except to the extent that the board specifies by rule that portions of this information are unnecessary.

2. Certification required. The board may require certification of such financial reports and attestation from responsible officials of the health care facility that such reports have to the best of their knowledge and belief been prepared in accordance with the requirements of the board.

3. Scope of service data. Each health care facility shall file with the organization scope of service information, including bed capacity by service provided, special services, ancillary services, physician profiles in the aggregate by clinical specialties, nursing services and such other scope of service information as the organization determines necessary for the performance of its duties.

Sec. 16. 22 MRSA §8711, sub-§2, as enacted by PL 1995, c. 653, Pt. A, §2 and affected by §7, is amended to read:

2. Information on mandated services. The organization is authorized and directed to require providers of mammography services to furnish information with respect to those services for the purpose of assisting in the evaluation of the social and financial impact and the efficacy of the mandated benefit for screening mammograms under Title 24, section 2320-A and Title 24-A, sections 2745-A and 2837-A. The information that may be collected includes the location of mammography units, the purchase of new mammography units, the number of screening and diagnostic mammograms performed, the charge per mammogram and the method and

amount of payment, and the number of cancers detected by screening mammograms. ~~To the extent practicable, the organization shall collect information consistent with that collected by the Maine Health Care Finance Commission in cooperation with the Department of Human Services, Bureau of Health for prior periods.~~

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

Effective May 28, 1999.

CHAPTER 354

S.P. 364 - L.D. 1067

An Act to Amend the Workers' Compensation Laws

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

Sec. 1. 2 MRSA §6-E, sub-§5, as enacted by PL 1993, c. 145, §1, is repealed and the following enacted in its place:

5. Deputy directors. The salary of the deputy directors is within the following salary ranges:

A. Deputy Director of Medical/Rehabilitation Services, Range 85;

B. Deputy Director of Business Services, Range 85; and

C. Deputy Director of Benefits Administration, Range 85.

Sec. 2. 39-A MRSA §153, sub-§9, as enacted by PL 1997, c. 486, §3, is amended to read:

9. Audit and enforcement. The executive director shall establish an audit, enforcement and monitoring program by July 1, 1998, to ensure that all obligations under this Act are met, including the requirements of section 359. The functions of the audit and enforcement program include, but are not limited to, auditing timeliness of payments and claims handling practices of insurers, self-insurers and 3rd-party administrators; determining whether insurers, self-insurers and 3rd-party administrators are unreasonably contesting claims; and ensuring that all reporting requirements to the board are met. The program must be coordinated with the abuse investigation unit established by section 153, subsection 5 as appropriate. The program must monitor activity and conduct audits pursuant to a schedule developed by the deputy director of benefits administration. Audit

working papers are confidential and may not be disclosed to any person outside of the board except the audited entity. For purposes of this subsection "audit working papers" means all documentary and other information acquired, prepared or maintained by the board during the conduct of an audit or investigation, including all intra-agency and interagency communications relating to an audit or investigation and draft reports or any portion of a draft report. The final audit report, including the underlying reconciled information, is not confidential. At the end of each calendar quarter, the executive director shall prepare a compliance report summarizing the results of the audits and reviews conducted pursuant to this subsection. The executive director shall submit the quarterly compliance reports to the board, the Bureau of Insurance and the Director of the Bureau of Labor Standards within the Department of Labor. An annual summary must be provided to the Governor and to the joint standing committees of the Legislature having jurisdiction over labor and banking and insurance matters by February 15th of each year. The quarterly compliance reports and the annual summaries must be made available to the public following distribution.

Sec. 3. 39-A MRSA §205, sub-§8, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed and the following enacted in its place:

8. Information. Information regarding wages must be reported as provided in section 303.

Sec. 4. 39-A MRSA §205, sub-§9, ¶D, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

D. The board, within 21 days after the employee filed a petition for review, may enter an order providing for the continuation or reinstatement of benefits pending a hearing on the petition. The order must be based upon the information submitted by both the employer, insurer or group self-insurer and the employee under this subsection. Once a request for an order has been ruled upon, the matter may not be referred to mediation, but must be set for hearing.

Sec. 5. 39-A MRSA §303, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§303. Reports to board

When any employee has reported to an employer under this Act any injury arising out of and in the course of the employee's employment that has caused the employee to lose a day's work, or when the employer has knowledge of any such injury, the employer shall report the injury to the board within 7 days after the employer receives notice or has

knowledge of the injury. The employer shall also report the average weekly wages or earnings of the employee, as defined in section 102, subsection 4, together with any other information required by the board, within 30 days after the employer receives notice or has knowledge of a claim for compensation under section 212, 213 or 215, unless a wage statement has previously been filed with the board. A copy of the wage information must be mailed to the employee. The employer shall report when the injured employee resumes the employee's employment and the amount of the employee's wages or earnings at that time. The employer shall complete a first report of injury form for any injury that has required the services of a health care provider within 7 days after the employer receives notice or has knowledge of the injury. The employer shall provide a copy of the form to the injured employee and retain a copy for the employer's records but is not obligated to submit the form to the board unless the injury later causes the employee to lose a day's work.

Sec. 6. 39-A MRSA §306, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is repealed and the following enacted in its place:

§306. Time for filing petitions

1. Statute of limitations. Except as provided in this section, a petition brought under this Act is barred unless filed within 2 years after the date of injury or the date the employee's employer files a first report of injury as required in section 303, whichever is later.

2. Payment of benefits. If an employer or insurer pays benefits under this Act, with or without prejudice, within the period provided in subsection 1, the period during which an employee or other interested party must file a petition is 6 years from the date of the most recent payment.

3. Establishment of injury. If the occurrence of a work-related injury is established by board decree, mediation report or agreement of the parties without the payment of benefits as provided in subsection 2, the period during which an employee or other interested party may file a petition is 6 years from the date of that decree, report or agreement.

4. Physical or mental incapacity. If an employee is unable to file a petition because of physical or mental incapacity, the period of that incapacity is not included in the limitation period provided in subsection 1.

5. Mistake of fact. If an employee fails to file a petition within the limitation period provided in subsection 1 because of mistake of fact as to the cause or nature of the injury, the employee may file a petition within a reasonable time, subject to the 6-year limitation provided in subsection 2.

6. Death of employee. If an employee dies as a result of a work-related injury, a petition is barred unless filed within one year after the death or 2 years from the date of injury, whichever is later, but in any event not later than 6 years from the date of last payment.

Sec. 7. 39-A MRSA §313, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Procedure. ~~Upon~~ Except as provided in section 205, subsection 9, paragraph D, upon filing of notice of controversy or other indication of controversy, the matter must be referred by the board to mediation.

Sec. 8. 39-A MRSA §324, sub-§3, ¶B, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. The employer is liable to pay a civil penalty of up to \$10,000; or an amount equal to 108% of the premium, calculated using Maine Employers' Mutual Insurance Company's standard discounted standard premium, that should have been paid during the period the employer failed to secure coverage, whichever is larger, payable to the Employment Rehabilitation Fund.

Sec. 9. 39-A MRSA §354, sub-§3, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

3. Subrogation. Any insurer determined to be liable for benefits under subsection 2 must be subrogated to the employee's rights under this Act for all benefits the insurer has paid and for which another insurer may be liable. ~~Any such insurer may, in accordance with rules adopted by the Superintendent of Insurance, file a request for appointment of an arbitrator to determine apportionment of liability among the responsible insurers. The arbitrator's decision is limited to a choice between the submissions of the parties and may not be calculated by averaging. Within 30 days of the request, the Superintendent of Insurance shall appoint a neutral arbitrator who shall decide, in accordance with the rules adopted by the Superintendent of Insurance, respective liability among or between insurers. Arbitration pursuant to this subsection is the exclusive means for resolving apportionment disputes among insurers and the decision of the arbitrator is conclusive and binding among all parties involved. Apportionment decisions made under this subsection may not affect an employee's rights and benefits under this Act. The board has jurisdiction over proceedings to determine the apportionment of liability among responsible insurers.~~

Sec. 10. Application. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 39-A, section 306 applies to injuries occurring on or after January 1, 1993.

Sec. 11. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1999-00	2000-01
WORKERS' COMPENSATION BOARD		
Administration - Workers' Compensation Board		
Personal Services	\$24,008	\$34,824
Provides funds for the range change of 3 Deputy Director positions from range 82 to range 85.		

See title page for effective date.

CHAPTER 355

S.P. 572 - L.D. 1639

An Act to Amend the Laws Governing the Maine State Pilotage Commission

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

Whereas, this bill is intended to reduce safety risks in harbors resulting from unskilled navigation, protect shoreline environment and wildlife from the risk of spills in harbors and protect harbor economies and the fishing industry from safety risks and environmental risks; and

Whereas, in light of the imminent safety, environmental and economic risks, it is essential to authorize the Maine State Pilotage Commission to implement this legislation and proceed with rulemaking as soon as possible; 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: