Maine Legislative Update

JUNE 2019

Issues Update:
After the initial divided vote in the Labor and Housing Committee on LD 756, “An Act To Improve the Maine Workers’ Compensation Act of 1992,” the omnibus workers’ compensation bill, Governor Janet Mills worked with interested parties to write a compromise amendment. The new amendment was reported out of committee with unanimous support on June 13th. The amended bill was passed unanimously by the House and Senate the next day. It was signed by Governor Mills on June 17th. The new Public Law does the following:

• Allows the inclusion of fringe benefits in the calculation of 2/3 of 125% of the state average weekly wage at the time of the injury.
• Beginning January 1, 2020, the Workers’ Compensation Board must vote with 5 of its 7 members to contract services or to employ administrative law judges, with the exception of reappointments of judges appointed before January 1, 2020.
• Allows an exception for “a factual mistake of fact, an act of God or unavoidable circumstances” to the requirement that the first payment must be made by an employer within 14 days after notice of injury or death.
• Increases the maximum benefit level from 100% to 125% of the state average weekly wage for an injury occurring on or after January 1, 2020.
• Requires a COLA to be applied in cases of total incapacity after 260 weeks of benefits (5 years).
• Extends the cap on benefits for partial incapacity from 520 weeks (10 years) to 624 weeks (12 years).
• Provides that if a deceased employee has no dependents, the employer must pay benefits to the employee’s parents for 500 weeks (9 years, 7 months).
• For dates of injury on or after January 1, 2020, an employee won’t be eligible for partial compensation after having received 624 weeks (12 years) of benefits. There may still be an extension of partial benefits for extreme financial hardship, but otherwise this is a hard cap. An extension for “long-term” partial incapacity will not be available, except for employees with dates of injury on or after January 1, 2013 and before January 1, 2020.
• Includes that Workers’ Compensation benefits will be offset by any paid time off.
• Extends the notice of injury requirement from 30 days to 60 days.
• Caps the maximum percentage of attorneys’ fees at 10% in a lump-sum settlement for cases in which the injury occurred on or after January 1, 2020.
• Allows the Workers’ Compensation Board to consider adopting a rule to establish time frames for the filing of any petition related to a controversy with the board if a full agreement is not reached by the parties after the conclusion of any mediation.
• Requires the Workers’ Compensation Board to study the advocate program and report back to the legislature.
• Creates a working group to review work search and vocational rehabilitation requirements and protections for workers whose employers have not secured workers’ compensation payments, and report their findings and recommendations back to the legislature.

The effective date for this legislation is September 19, 2019.

Questions?
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