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An Act To Reverse the Effects of the Grant Case on Workers' Compensation

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

Sec. 1. 39-A MRSA §205, sub-§9, ¶B, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. In all circumstances other than the return to work or increase in pay of the employee under paragraph A, if the employer, insurer or group self-insurer determines that the employee is not eligible for compensation under this Act, the employer, insurer or group self-insurer may discontinue or reduce benefits only in accordance with this paragraph.

(1) If no order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer may discontinue or reduce benefits by sending a certificate by certified mail to the employee and to the board, together with any information on which the employer, insurer or group self-insurer relied to support the discontinuance or reduction. The employer may discontinue or reduce benefits no earlier than 21 days from the date the certificate was mailed to the employee, except that benefits paid pursuant to section 213, subsection 1 may be discontinued or reduced by the amount of earnings paid to the employee during the 21 days. The certificate must advise the employee of the date when the employee's benefits will be discontinued or reduced, as well as other information as prescribed by the board, including the employee's appeal rights.

(2) If an order or award of compensation or compensation scheme has been entered, the employer, insurer or group self-insurer shall petition the board for an order to reduce or discontinue benefits and may not reduce or discontinue benefits until the matter has been finally resolved through the dispute resolution procedures of this Act, any appeal proceedings have been completed and an order of reduction or discontinuance has been entered by the board. Upon the filing of a petition, the employer may discontinue or reduce the weekly benefits being paid pursuant to section 213, subsection 1 by the amount of earnings paid to the employee after the filing of the petition.

SUMMARY

The purpose of this bill is to address an issue identified in Grant v. Central Maine Power, Inc., 2003 ME 96 by amending the Maine Workers' Compensation Act of 1992 to permit employers to reduce weekly benefits by the amount of earnings paid by an employer that is not liable or responsible for paying the weekly benefits.