

§153. Board actions**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

In addition to other actions required of or permitted the board under this Act, the board shall perform the actions required by this section to ensure just and efficient administration of claims. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

1. Monitor payments. The board shall monitor cases to ensure that:

A. Payments are initiated within the time limits established in section 205; and [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

B. Payments to the employee provide the full amount of compensation to which the employee is entitled and are properly indicated on the memorandum of payment. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

2. Troubleshooter program. The board shall establish a troubleshooter program to provide information and assistance to participants in the workers' compensation system. The troubleshooter may meet or otherwise communicate with employees, employers, insurance carriers and health care providers in order to prevent or informally resolve disputes.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

3. Construction. In interpreting this Act, the board shall construe it so as to ensure the efficient delivery of compensation to injured employees at a reasonable cost to employers. All workers' compensation cases must be decided on their merits and the rule of liberal construction does not apply. Accordingly, this Act is not to be given a construction in favor of the employee, nor are the rights and interests of the employer to be favored over those of the employee.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

4. Information. The board shall require the employee, employer or insurer to provide it with any information it reasonably determines necessary to monitor cases, including, but not limited to, preinjury and postinjury wage statements.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

5. Abuse investigation unit. The board shall provide adequate funding for an abuse investigation unit.

A. The board shall, subject to the Civil Service Law, appoint at least 2 abuse investigators who must be qualified by experience and training to perform their duties. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

B. The unit shall, at the direction of the board, investigate all complaints or allegations of fraud, illegal or improper conduct or violation of this Act or rules of the board relating to workers' compensation insurance, benefits or programs, including those acts by employers, employees or insurers. All records, correspondence and reports of investigation in connection with actual or alleged fraud, illegal or improper conduct or violation of this Act or rules of the board and all records, correspondence and reports of criminal prosecution or civil action are confidential. The confidential nature of any such record, correspondence or report does not limit or affect the use of those materials in any prosecution or action or prevent the board, upon request, from providing information to another state agency for use by the agency in enforcing laws and rules. [PL 2009, c. 520, §1 (AMD).]

C. Each employer or employee and each state, county, municipal or quasi-governmental agency shall cooperate fully with the unit and provide any information requested by it. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

D. The unit shall report all its findings to the board. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

E. Whenever the board determines that a fraud, attempted fraud or violation of this Act or rules of the board may have occurred, the board shall report in writing all information concerning it to the Attorney General or the Attorney General's delegate for appropriate action, including a civil action for recovery of funds and criminal prosecution by the Attorney General. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

[PL 2009, c. 520, §1 (AMD).]

6. Mediation. The board shall establish a mediation program to provide mediation services to parties to workers' compensation cases.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

7. Investigation. The board may, when the interests of any of the parties or when the administration of this Act demands, appoint a person to make a full investigation of the circumstances surrounding any industrial injury or any matter connected to an industrial injury, or conduct an audit pursuant to section 359 and report the same without delay to the board.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

8. Impairment guidelines. The following provisions apply regarding impairment guidelines.

A. In order to reduce litigation and establish more certainty and uniformity in the rating of permanent impairment, the board shall establish by rule a schedule for determining the existence and degree of permanent impairment based upon medically or scientifically demonstrable findings. The schedule must be based on generally accepted medical standards for determining impairment and may incorporate all or part of any one or more generally accepted schedules used for that purpose, such as the American Medical Association's "Guides to the Evaluation of Permanent Impairment." Pending the adoption of a permanent schedule, "Guides to the Evaluation of Permanent Impairment," 3rd edition, copyright 1990, by the American Medical Association, is the temporary schedule and must be used for the purposes of this subsection. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

B. The board shall collect and analyze data from Maine cases, studies from other states and generally accepted medical guidelines for occupational impairment to examine the feasibility and desirability of establishing an objectively ascertainable functional capacity standard to be used for determining eligibility for benefits under this Act consistent with section 213, subsection 2. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

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, the Maine Insurance Guaranty Association and 3rd-party administrators; determining whether insurers, self-insurers, the Maine Insurance Guaranty Association and 3rd-party administrators are unreasonably contesting claims; and ensuring that all reporting requirements to the board are met. When auditing the Maine Insurance Guaranty Association, the program shall consider when the Maine Insurance Guaranty Association obtained the records of an insolvent insurer. 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.

Within 180 days of notice of insolvency to the board or its designee and the Maine Insurance Guaranty Association, the executive director of the board or the executive director's designee shall meet with the Maine Insurance Guaranty Association, pursuant to rules established by the board, to review the insolvency.

[PL 2015, c. 297, §4 (AMD).]

10. Annual report to Legislature.

[PL 2023, c. 205, §2 (RP).]

11. (TEXT EFFECTIVE UNTIL 10/01/25) (TEXT REPEALED 10/01/25) Reports on use of rebuttable presumption. The board shall submit reports containing claims data from claims brought under section 201, subsection 3-A, paragraph B to the joint standing committee of the Legislature having jurisdiction over labor matters in accordance with this subsection.

A. No later than April 1, 2025, the board shall submit to the joint standing committee of the Legislature having jurisdiction over labor matters a report regarding claims brought by corrections officers, as defined in section 328-A, subsection 1, and E-9-1-1 dispatchers, including emergency medical dispatchers, as defined in Title 32, section 85-A, subsection 1, paragraph D. The committee may report out legislation related to the content of the report to the First Regular Session of the 132nd Legislature. [PL 2021, c. 629, §1 (NEW).]

B. No later than January 1, 2027, the board shall submit to the joint standing committee of the Legislature having jurisdiction over labor matters a report regarding claims brought by law enforcement officers, firefighters and emergency medical services persons, as defined in section 328-A, subsection 1. The committee may report out legislation related to the content of the report to the First Regular Session of the 133rd Legislature. [PL 2021, c. 629, §1 (NEW).]

C. No later than January 1, 2032, the board shall submit to the joint standing committee of the Legislature having jurisdiction over labor matters a report regarding claims brought by corrections officers, as defined in section 328-A, subsection 1, and E-9-1-1 dispatchers, including emergency medical dispatchers, as defined in Title 32, section 85-A, subsection 1, paragraph D. The committee may report out legislation related to the content of the report to the Second Regular Session of the 135th Legislature. [PL 2021, c. 629, §1 (NEW).]

The reports must include, to the extent the information is available, an analysis of claims brought under section 201, subsection 3-A, paragraph B for the particular category of employees, as provided in this subsection. The reports must include the portion of those claims that resulted in a settlement or award of benefits and the effect of the claims on costs to the State and its subdivisions. The Department of Administrative and Financial Services, Bureau of Human Resources and the Department of Public Safety shall assist the board in developing the reports, and the board shall seek the input of an association whose membership consists exclusively of counties, municipalities and other political or administrative subdivisions in the development of the report.

This subsection is repealed October 1, 2025.

[PL 2021, c. 629, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 1997, c. 486, §3 (AMD). PL 1999, c. 354, §2 (AMD). PL 2005, c. 603, §3 (AMD). PL 2009, c. 520, §1 (AMD). PL 2011, c. 647, §1 (AMD). PL 2015, c. 297, §4 (AMD). PL 2021, c. 629, §1 (AMD). PL 2023, c. 205, §2 (AMD).

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