

2011 -- S 0128

LC00531

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION--
PROCEDURE

Introduced By: Senator Roger Picard

Date Introduced: January 27, 2011

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-35-8 of the General Laws in Chapter 28-35 entitled "Workers'
2 Compensation - Procedure" is hereby amended to read as follows:
3 **28-35-8. Filing of non-prejudicial memorandum of agreement.** -- (a) Notwithstanding
4 section 28-35-1, if the employer files a memorandum of agreement but specifically designates
5 that agreement as a "non-prejudicial" or "without prejudice", the employer may pay weekly
6 compensation benefits not exceeding thirteen (13) weeks. In these cases, the employer shall send
7 a copy of the non-prejudicial memorandum and any amendments to it to the employee and his or
8 her attorney or the representative of the decedent and his or her attorney by certified mail, return
9 receipt requested, at the same time as it is filed with the department in the same manner as if it
10 were a memorandum of agreement. The non-prejudicial memorandum of agreement shall contain
11 all information as directed by section 28-35-1. Having done so, the non-prejudicial memorandum
12 of agreement and any action taken pursuant to it shall be without prejudice to any party
13 subsequently maintaining any position as to employer liability for payments under chapters 29 --
14 38 of this title, maintainable in the absence of an agreement. No petition shall be filed during the
15 pendency of the nonprejudicial memorandum of agreement or up until the notification that
16 payments have been terminated. If at any time within or at the close of the thirteen-week period
17 after payments of compensation have commenced the employer or insurer terminates weekly
18 payments to the employee or to those entitled to payments on account of death of an employee,

1 the employer or insurer shall notify the employee and his or her attorney or the representative of
2 the decedent employee and his or her attorney within ten (10) days on a form prescribed by the
3 department that:

4 (1) Payments have terminated;

5 (2) The claim has not been formally accepted; and

6 (3) The employee has the right to file a petition, within the two (2) year limitation as set
7 forth in section 28-35-57, to formally establish liability of the employer or insurer.

8 (b) If the employer or insurer makes payments of weekly benefits to the employee or to
9 those entitled to payments on account of death of an employee for more than the thirteen (13)
10 week period, the payments shall constitute a conclusive admission of liability and ongoing
11 incapacity as to the injuries set forth in the non-prejudicial memorandum of agreement. The
12 employer or insurer shall within ten (10) days of making additional payments file a memorandum
13 of agreement pursuant to section 28-35-1.

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would prohibit an injured employee from filing a petition for workers'
2 compensation benefits, if the employee was being paid benefits under a nonprejudicial
3 memorandum of agreement or hadn't received notice that his/her benefits would be terminated.

4 This act would take effect upon passage.

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