

By Mr. Natsios of Holliston, petition of Andrew S. Natsios for legislation to revise the procedure for discontinuing compensation under the workmen's compensation law. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT REVISING THE PROCEDURES FOR DISCONTINUING COMPENSATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 29 of Chapter 152 of the General Laws, as most recently
2 amended by chapter 155 of the Acts of 1979, is hereby amended by
3 striking out said section and inserting in place thereof the following
4 section:—

5 *Section 29.* No compensation shall be paid for any injury which
6 does not incapacitate the employee from earning full wages for a
7 period of at least five days. If the incapacity extends for a period of
8 six days or more, compensation shall be paid from the date of
9 injury; provided that, except under section 35, no compensation
10 shall be paid for any period for which wages were earned. When
11 compensation shall have begun, it shall not be discontinued except
12 with the written assent of the employee or except if the insurer
13 voluntarily entered into an agreement within 30 days of notice of
14 injury and paid total or partial compensation in accordance with
15 the provisions of Chapter 152 of the General Laws, the insurer may
16 discontinue such compensation payments for total or partial inca-
17 pacity under any such agreement but before discontinuing such
18 payments of compensation, if it is claimed on behalf of the injured
19 person that incapacity still continues, the insurer shall notify the
20 division and the employee, or his attorney or representative, of the
21 proposed discontinuance of such payments and the date of such
22 proposed discontinuance and the medical evidence in support

23 thereof. Until such notice and a copy of the supporting medical
24 evidence are sent to the division and the employee, or his attorney
25 or representative, the liability for such payments shall continue
26 until otherwise ordered by the division. Upon receipt of such notice
27 and supporting medical evidence, the division shall cause an im-
28 partial medical examination to be made and a decision issued
29 within forty-five days as to the discontinuance or continuance of
30 compensation. If the decision is a determination that compensa-
31 tion should not have been discontinued, the insurer shall, in addi-
32 tion to payment of the unpaid compensation, pay the employee an
33 amount equal to ten percent of such unpaid compensation. The
34 additional ten percent, however, shall not be computed on any
35 compensation which becomes due after the expiration of the fifty-
36 five-day period allowed the division to make a determination
37 regarding the discontinuance. In other cases the insurer shall file a
38 written application for approval of discontinuance of compensa-
39 tion with a recent medical report or statement in support thereof or
40 stating such other reason which may justify such discontinuance,
41 and shall furnish a copy of such application and supporting medi-
42 cal report or statement of reason to the employee, or his attorney
43 or representative, and such approval shall only be given by the
44 division or a member thereof after a conference at which the
45 employee may be present or represented by counsel. Failure of an
46 employee to appear at such a conference after due notice thereof or
47 to report for examination by an impartial examiner, if requested by
48 a member or employee of the division, may be deemed sufficient
49 cause for approval of the discontinuance of compensation; pro-
50 vided that such compensation shall be paid in accordance with
51 section thirty-five if the employee in fact earns wages after the
52 original agreement or decision is filed. Failure of the insurer or
53 self-insurer to furnish a copy of the application and supporting
54 evidence to the employee or employee's representative at the time
55 of the application for discontinuance of benefits shall be cause to
56 disapprove the request for said discontinuance.