

**HOUSE . . . . . No. 1827**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act relative to workers compensation benefits..

*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 1. Subsection 1 of section 1 of Chapter 152 of the General Laws, as appearing  
2 in the 2004 Official Edition, is hereby amended by adding the following to the end of the first  
3 paragraph thereof:-

4 If the employee returns to employment after an injury covered by this  
5 chapter without a lump sum settlement and earns less than the pre-injury wages and such  
6 decrease results from the prior work related injury, the prior average weekly wage shall be  
7 applicable to any subsequent period of incapacity, whether or not said incapacity results from a  
8 new injury or subsequent injury as set forth in section thirty-five B.

9 Section 2. Section 13A of said chapter 152, as so appearing, is further  
10 amended by striking out subsection 4 and inserting in place thereof the following subsection:-

11 (4) Whenever an insurer or self-insurer files a complaint to reduce or  
12 discontinue an employee's benefits, and the insurer or self-insurer withdraws such complaint  
13 prior to five days before a hearing pursuant to section eleven, or whenever an insurer contests a

14 claim for benefits on a form prescribed by the department, other than the initial liability claim as  
15 provided by subsection (1), by failing to commence the compensation requested within twenty-  
16 one days of receipt of such claim, and is later required to pay benefits following a conference  
17 pursuant to section ten A on said claim, the insurer or self-insurer shall pay an attorney's fees to  
18 the employees counsel in the amount of seven hundred dollars, plus all necessary expenses.  
19 However, if the insurer or self-insurer withdraws its complaint within five days of the date set for  
20 conference, the fee due shall be three hundred fifty dollars, plus payment of all necessary  
21 expenses. Any fee payable under this paragraph shall be reduced by half when the attorney  
22 failed to appear at a scheduled conciliation and such failure was not beyond the control of the  
23 attorney.