

STATE OF MAINE  
WORKERS' COMPENSATION BOARD

DECISION NO.: WCB-213-03-01

Dick Coty, Worker Advocate  
WORKERS' COMPENSATION BOARD  
36 Mollison Way  
Lewiston ME 04240

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Mail Date: Nov 10 2003  
WCB File No.: 95-012035

DOI: 09/28/1995

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Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within 20 days of receipt of this decision, and by filing a petition seeking appellate review with the Law Court within 20 days thereafter. *See* 39-A M.R.S.A. § 322.

Pursuant to Board Rule Chapter 12 Section 19, all evidence and transcripts in this matter may be destroyed after 60 days unless (1) we receive written notification that one or both parties wish to have their exhibits returned to them, or (2) a petition for appellate review is filed. The 60 days will not begin to run until all post-decree motions have been decided or otherwise disposed.

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LLOYD CHARLES MCKENNA  
(Employee)  
v.  
LADD FARMS, INC.  
(Employer)  
and  
ONEBEACON AMERICA  
(Insurer)

BEFORE: COONEY, GAUVIN, HILTZ, KIRKPATRICK, KOOSCHER, MINGO AND MONFILETTO, DIRECTORS

Pending before the Board is a Petition for Extension of Benefits Pursuant to 39-A M.R.S.A. § 213(1) filed by the employee and dated August 21, 2002, concerning a September 28, 1995 date of injury.

Mr. McKenna has received 364 weeks of incapacity benefits. He is seeking an extension of his entitlement to incapacity benefits because of extreme financial hardship due to inability to return to gainful employment, pursuant to 39-A M.R.S.A. § 213(1). An evidentiary hearing was held on October 21, 2003.

As evidence, the Board considered the testimony of Mr. McKenna taken on October 21, 2003; a packet of Employee Exhibits #1-11 (consisting of two documents from the federal Social Security Administration and several documents concerning bills and financial obligations); Employer's Exhibit No. 1 (consisting of Board decisions involving these parties dated December 31, 1996; November 15, 2001; and May 13, 2003); and Employer's Exhibit No. 2 (a worksheet concerning income and expenses).

#### DECISION AND ORDER

1. The employee has received more than 364 weeks of lost time benefits due to incapacity that resulted from a back, knee and hip injury that he suffered while employed at Ladd Farms, Inc. on September 28, 1995. The employee was paid partial lost time benefits from October 5, 1995, based on a weekly earning capacity of \$125.00.
2. Mr. McKenna began working for Ladd Farms, Inc. on a part-time basis in 1969 and went to full-time in 1987. He is 65 years old and last worked in 1995.
3. Mr. McKenna's monthly expenses exceed his monthly income. He and his wife receive Social Security benefits and food stamps, and have no other household income.
4. Pursuant to a Board decree dated May 13, 2003 Mr. McKenna's incapacity benefits were suspended.
5. Due to his injury, Mr. McKenna is experiencing extreme financial hardship.

WHEREFORE, on a vote of 7-0, Mr. McKenna's Petition for Extension of Benefits is GRANTED. Mr. McKenna is entitled to partial incapacity benefits based on a weekly earning capacity of \$125.00 from May 13, 2003 to the present and continuing, with any appropriate offsets.

SO ORDERED.

WORKERS' COMPENSATION BOARD

VOTING YES:

\_\_\_\_\_  
Date

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John C. Cooney, Director

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Date

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David M. Gauvin, Director

\_\_\_\_\_  
Date

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Rodney B. Hiltz, Director

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Date

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Joan R. Kirkpatrick, Director

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Date

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Gary M. Koocher, Director

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Date

\_\_\_\_\_  
James A. Mingo, Director

\_\_\_\_\_  
Date

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Anthony Monfiletto, Director