

orkers'
Compensation
Offset



Commonwealth of Massachusetts
Public Employee Retirement Administration Commission

Five Middlesex Avenue, Suite 304 | Somerville, MA 02145

Phone 617 666 4446 Fax 617 628 4002

TTY 617 591 8917 Web www.mass.gov/perac



- The Honorable Domenic J. F. Russo
Chairman
- The Honorable A. Joseph DeNucci
Auditor of the Commonwealth
Vice Chairman
- The Honorable Deval Patrick
Governor of the Commonwealth
- The Honorable Paul V. Doane
Executive Director
Arkansas Teacher Retirement System
- Kenneth J. Donnelly
Lieutenant (Retired)
Lexington Fire Department
- James M. Machado
Sergeant
Fall River Police Department
- Donald R. Marquis
Former Town Manager
Arlington
- Joseph E. Connarton
Executive Director



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Section 14. (1) Retention of Rights of a Member in Service. — (a) Any employee who was a member in service at the time of sustaining an injury or undergoing a hazard on account of which he becomes entitled to payments under the provisions of chapter one hundred and fifty-two shall, during the period while he is receiving weekly payments for total incapacity under the provisions of sections sixty-nine to seventy-five, inclusive, of such chapter or of sections thirty-four, thirty-four A, thirty-four B, thirty-five A, thirty-five F or thirty-six of such chapter in the case of an employee of the Massachusetts Turnpike Authority, the Massachusetts Port Authority, the Greater Lawrence Sanitary District, the Blue Hills Regional Vocational School system, or the Minuteman Regional Vocational Technical School District, or during any period determined, as set forth, in paragraph (c), represented by the allocation of the amount of any lump sum settlement payable directly to him under the provisions of section forty-eight of such chapter in lieu of such weekly payments and also, in either event, during a further period of thirty days, retain all the rights of a member in service while he is living, unless and until a retirement allowance becomes effective for him under the provisions of sections one to twenty-eight, inclusive. During such periods, however, no deductions for the annuity savings fund of the system shall be made from payments such members shall receive under the provisions of chapter one hundred and fifty-two nor shall he withdraw his accumulated total deductions therefrom.

Any such member shall have credited to him as creditable service under the system the period during which he is receiving such weekly payments or lump sum settlement in lieu of such weekly payments. The board of each system shall keep an annual record of all such creditable service. At the time of his retirement there shall be transferred from the pension fund of the system of which he was a member at the time of the accident, to the annuity savings fund of the system of which he is then a member, the amount which said person would have paid into said fund had his employment in the service of the commonwealth or political subdivision thereof not been interrupted by his industrial accident with regular interest to the date of retirement, but in no event more than would be credited to him if regular deductions with interest were made on his full salary or wages; provided, that any sum so paid by the commonwealth or any political subdivision thereof shall be used only to provide an increased retirement allowance of the person on whose account such payment is made. Any period during which an employee is receiving weekly benefits for total incapacity under chapter one hundred fifty-two shall not be counted in computing such employee's sick leave for severance pay purposes; nor may an employee use sick leave accrued during the time of total incapacity during such total incapacity.

(b) If such member attains the maximum age for his group during any such period he shall be retired for superannuation in the same manner as if he were actually in service; provided, that if prior to his attaining such maximum age there has been filed with the board an application for his retirement for accidental disability, his rights to such retirement, if any, shall not expire or be abridged by the attainment of such maximum age while action on such application is pending.

(c) Whenever such member receives an amount of lump sum settlement payable directly to him under the provisions of section forty-eight of chapter one hundred and fifty-two in lieu of weekly payments, the period represented thereby shall, for the purpose of this section, be computed to begin on the date for which he last received regular compensation prior to such settlement, or on the date of the last compensation payment in case weekly payments had previously been made under the provisions of sections sixty-nine to seventy-five, inclusive, or section thirty-four, thirty-four A, thirty-four B,

thirty-five A or thirty-six of such chapter, and to continue during a number of weeks equal to the quotient of the amount of such lump sum settlement divided by the amount of the maximum weekly compensation which would otherwise be payable to him under the provisions of such sections. Any fraction of a week resulting from such division shall be taken as a full week.

(2) Workers' Compensation Benefits Offset. — (a) All sums of money payable under the provisions of sections ~~thirty-one, thirty-four, thirty-four A, thirty-four B, thirty-five and thirty-five A of chapter one hundred and fifty-two~~ directly to a retired member or to the legal representative or dependents of a deceased member on account of his death, including so much of the amount of any lump sum settlement payable under the provisions of such sections directly to any such person as is allocable to the period following the retirement or death of such member, but excluding any payments for or amounts allocable to any period prior to the date his retirement allowance became effective, ~~shall be offset against and payable in lieu of any pension payable on his account under the provisions of section six, seven or nine by reason of the same injury, but not against his accumulated total deductions or any annuity derived therefrom.~~ Whenever the amount of any such lump settlement is payable directly to a beneficiary, the period over which it is allocable for purposes of this section shall be determined by the actuary in a manner which is consistent with that set forth in paragraph (1)(c) of this section. ~~If any such pension exceeds the compensation payable on account of such member under such provisions of chapter one hundred and fifty-two when both are reduced to the same periodical basis, the excess only shall be paid as a pension so long as such compensation continues. If any such pension is less than or equal to such compensation, no pension shall be paid so long as such compensation continues to be equal to or greater than such pension.~~

(b) In all cases where a member or a beneficiary receives delayed compensation payments or an amount of any lump sum settlement payable directly to him under the provisions of sections ~~thirty-one, thirty-four, thirty-four A, thirty-four B, thirty-five or thirty-five A of chapter one hundred and fifty-two~~ subsequent to his receipt of payments under any pension granted under the provisions of section six, seven or nine by reason of the same injury, no further pension payments shall be made unless and until such time as the total amounts which by then would have been payable as compensation and pension together as set forth in paragraph (a) of this subdivision, if there had been no delay in making such compensation payments, shall exceed the total amounts of compensation and pension actually paid by them after due allowance in either case for the allocation of any such lump sum settlement.

(c) If a member or a beneficiary entitled to a pension under the provisions of section six, seven or nine, and also having a right to compensation under the provisions of chapter one hundred and fifty-two by reason of the same injury or death of such member, as the case may be, neglects or fails to prosecute fully such right or to co-operate with the board in its prosecution thereof, as provided for by the provisions of section ~~seventy-three~~ of such chapter, the board may, during the period of such neglect or failure, suspend such member's or beneficiary's right to further payment under the provisions of section six, seven or nine. Under the circumstances set forth in the said section ~~seventy-three~~, the duty of the board to prosecute shall be mandatory.

Narrative

Mr. Anderson is the manager of the Quabbin Department of Public Works (DPW). One day he and his four employees left the office together in one of the town trucks on the way to a job site. Their vehicle collided with a police car. All six participants were injured. Eventually, the five DPW workers and the policeman apply for and receive Accidental Disability retirements. The DPW workers are all receiving Workers' Compensation benefits. The policeman was receiving c. 41, § 111F benefits, which ceased when his accidental disability benefits began. He is not subject to any Workers' Compensation offset.

Necessary Facts:

- A Mr. Anderson is receiving weekly Workers' Compensation benefits of \$500 per week and has a pension of \$600 per week. The other four are all receiving \$400 per week and have pensions of \$380 per week.
- B Mr. Billings is not a veteran and has no dependents.
- C Mr. Caruso has three-year-old triplets.
- D Mr. Davis is a veteran.
- E Mr. Edmundson's Workers' Compensation changed from being paid under c. 152, § 34 (total incapacity) to being paid under c. 152, § 35 (partial incapacity).
- F Mr. Anderson later settled his case in a lump sum.

A Mr. Anderson is receiving weekly Workers' Compensation benefits of \$500 per week and has a pension of \$600 per week.

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COMMONWEALTH OF MASSACHUSETTS | PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION COMMISSION

DOMENIC J. F. RUSSO, *Chairman* | A. JOSEPH DeNUCCI, *Vice Chairman*

JOSEPH E. CONNARTON, *Executive Director*

MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

MEMORANDUM

TO: Quabbin Retirement Board
FROM: Joseph E. Connarton, Executive Director
DATE: December 1, 2007

The following is the Workers' Compensation offset to the Accidental Disability benefit payable to Alan Anderson, who retired as of July 15, 2007. The pension, when reduced to an approximate weekly basis, amounts to \$600.00, which is offset by the weekly compensation payment of \$500.00, resulting in a pension payable of \$100.00 weekly.* This offset is effective as of July 15, 2007, and shall continue until there is a change in Mr. Anderson's Workers' Compensation benefit.

The annuity is payable without adjustment.

*To convert from a weekly amount to a monthly amount, multiply by 52 and divide by 12. In this case, \$100.00 weekly is \$433.33 monthly.

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B Mr. Billings is not a veteran and has no dependents.

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MEMORANDUM

TO: Quabbin Retirement Board
FROM: Joseph E. Connarton, Executive Director
DATE: December 1, 2007

The following is the Workers' Compensation offset to the Accidental Disability benefit payable to Brian Billings, who retired as of July 15, 2007. The pension, when reduced to an approximate weekly basis, amounts to \$380.00, which is offset by the weekly compensation payment of \$400.00, resulting in no pension payable. This offset is effective as of July 15, 2007, and shall continue until there is a change in Mr. Billings' Workers' Compensation benefit.

The annuity is payable without adjustment.



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MEMORANDUM

TO: Quabbin Retirement Board
FROM: Joseph E. Connarton, Executive Director
DATE: December 1, 2007

The following is the Workers' Compensation offset to the Accidental Disability benefit payable to Christopher Caruso, who retired as of July 15, 2007. The pension and dependent allowance,* when reduced to an approximate weekly basis, amount to \$418.53, which is offset by the weekly compensation payment of \$400.00, resulting in no pension payable and a dependent allowance payable of \$18.53 weekly. This offset is effective as of July 15, 2007, and shall continue until there is a change in Mr. Caruso's Workers' Compensation benefit.

The annuity is payable without adjustment.

*Per Chapter 32, Section 7, the dependent allowance is considered "additional pension."



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MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

MEMORANDUM

TO: Quabbin Retirement Board
FROM: Joseph E. Connarton, Executive Director
DATE: December 1, 2007

The following is the Workers' Compensation offset to the Accidental Disability benefit payable to David Davis, who retired as of July 15, 2007. The pension (not including the veterans' allowance), when reduced to an approximate weekly basis amounts to \$380.00, which is offset by the weekly compensation payment of \$400.00, resulting in no pension payable. This offset is effective as of July 15, 2007, and shall continue until there is a change in Mr. Davis's Workers' Compensation benefit.

The annuity and veterans' allowance are payable without adjustment.



E Mr. Edmundson's Workers' Compensation changed from being paid under G.L. c. 152, § 34 (total incapacity) to being paid under G.L. c. 152, § 35 (partial incapacity).

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MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

JOSEPH E. CONNARTON, *Executive Director*

MEMORANDUM

TO: Quabbin Retirement Board
FROM: Joseph E. Connarton, Executive Director
DATE: October 10, 2008

The following is the Workers' Compensation offset to the Accidental Disability benefit payable to Edward Edmundson, who retired as of June 15, 2007. The pension, when reduced to an approximate weekly basis, amounts to \$380.00, which is offset by the weekly compensation payment of \$400.00, resulting in no pension payable. This offset is effective as of June 15, 2007, and shall continue until August 1, 2008.

On August 2, 2008 Mr. Edmundson's weekly compensation payment was reduced to \$250.00. The pension, when reduced to an approximate weekly basis, amounts to \$386.92,* which is offset by the new weekly compensation payment, resulting in a pension payable of \$136.92 weekly. This offset is effective as of August 2, 2008, and shall continue until there is a change in Mr. Edmundson's Workers' Compensation benefit.

The annuity is payable without adjustment.

*The different pension amount is due to a COLA increase.



FORM 117



The Commonwealth of Massachusetts
Department of Industrial Accidents
600 Washington Street - 7th Floor, Boston, Massachusetts 02111
Info. Line 800-323-3249 ext. 470 in Mass. Outside Mass. - 617-727-4900 ext. 470
http://www.mass.gov/dia

DIA Board #
(If Known):

AGREEMENT FOR REDEEMING LIABILITY
BY LUMP SUM UNDER G.L. CH. 152
FOR INJURIES OCCURRING ON OR AFTER NOV. 1, 1986

Page 1 of 2
Please Print or Type

EMPLOYEE Alan Anderson LUMP SUM AMOUNT \$ 15,000.00
EMPLOYER TOTAL DEDUCTIONS \$ 13,150.00
INSURER NET TO CLAIMANT \$ 1,850.00
BOARD NUMBER TOTAL PAYMENTS \$
DATE OF INJURY (Weekly benefits plus lump sum)

CHECK WHERE APPLICABLE

- () Liability has been established by acceptance or by standing decision of the Board, the Reviewing Board, or a court of the Commonwealth and this settlement shall not redeem liability for the payment of medical benefits and vocational rehabilitation benefits with respect to such injury.
() Liability has NOT been established by standing decision of the Board, the Reviewing Board, or a court of the Commonwealth and this settlement shall redeem liability for the payment of medical benefits and vocational rehabilitation benefits with respect to such injury.
() In addition to the lump-sum, the insurer agrees to pay all outstanding reasonable and related medical bills incurred as of this date.
() The employee is currently receiving a cost-of-living adjustment.

DEDUCTIONS: From the lump-sum amount as stated above, the amount(s) listed below will be deducted and paid directly to the following parties:

Table with 3 columns: Amount, Name, and Address. Contains 7 rows of deduction entries such as Attorney's Fee, Attorney's Expenses, Liens, Inchoate Rights, Section 36, Future Unreimbursed Medical Expenses, and Future Unreimbursed Vocational Expenses.

(OVER)

AGREEMENT FOR REDEEMING LIABILITY BY LUMP SUM SETTLEMENT (Page 2 of 2)

EMPLOYEE MEDICAL INFORMATION:

Age _____ No. of Dependents _____ Average Weekly Wage \$ _____ Compensation Rate \$ 500.00

Social Security No.*: _____ - _____ - _____ Occupation _____ Educational Background _____

On Social Security: YES () NO ()

On Public Employee Disability Retirement: YES () NO ()

DIAGNOSIS _____ PRESENT MEDICAL CONDITION _____

Present Work Capacity: _____ Third Party Action _____

PLEASE GIVE A BRIEF HISTORY OF THE CASE AND INDICATE WHY THE SETTLEMENT IS IN THE EMPLOYEE'S BEST INTEREST (Specify all allocations):

(Please attach a separate sheet if necessary.)

Received of _____ the Lump Sum of _____ dollars and _____ cents (\$ _____)

This payment is received in redemption of the liability of all weekly payments now or in the future due me under the Workers' Compensation Act, for all injuries received by _____

on or about _____ while in the employ of _____

_____. I fully understand that after all of the deductions herein I will receive \$ _____. I am fully satisfied with and request approval of this settlement. This agreement has been translated for me into my native language of _____.

	SIGNATURE	ADDRESS	ZIP CODE
CLAIMANT:	_____	_____	_____
CLAIMANT'S COUNSEL:	_____	_____	_____
INSURER'S COUNSEL:	_____	_____	_____

Signed this _____ day of _____ 20____

*Disclosure of Social Security Number is Voluntary. It will aid in the processing of this document.

F Mr. Anderson later settled his case in a lump sum.

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JOSEPH E. CONNARTON, *Executive Director*

February 1, 2008

Director
Quabbin Retirement Board

Dear Director:

The following is the Workers' Compensation offset to the Accidental Disability benefit payable to Alan Anderson, who retired as of July 15, 2007.

On January 15, 2008, Mr. Anderson was awarded a lump sum settlement, which was allocated as follows:

Lump Sum	\$15,000.00
Deduct:	
Lawyer's Fee	1,000.00
Lawyer's Expense	150.00
Inchoate Rights	5,000.00
§ 36	1,000.00
Future Medical Expenses	3,000.00
Future Vocational Expenses	<u>3,000.00</u>
	\$1,850.00

Therefore, the amount of the settlement to be offset, as a result of the lump sum agreement, in accordance with G.L. c. 32, § 14(2) as amended is \$1,850.00. Pursuant to the decision of the Division of Administrative Law Appeals in *Mitkus v. Public Employee Retirement Administration*, CR-90-878, the number of weeks the pension is to be offset shall be determined by dividing the amount of the offset by the amount of weekly Workers' Compensation payments upon which the settlement was based. In this case, the settlement amount of \$1,850.00 shall be divided by the weekly Workers' Compensation rate of **\$500.00**, giving a result of four weeks over which the pension is to be offset.

Mr. Anderson's pension, when reduced to an approximate weekly basis, amounts to \$600.00. This amount is offset by the weekly Workers' Compensation amount upon which the settlement was based, \$500.00, resulting in a pension payable of \$100.00 weekly over the four-week period of the

(Continued On Next Page)



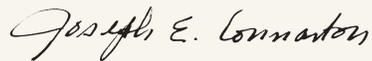
Director
February 1, 2008
Page Two

offset. Please note, that in accordance with the provisions of G.L. c. 32, § 14(1)(c), any fraction of a week shall be considered a full week for the purposes of the computation.

The annuity is payable without adjustment.

If you have any questions concerning this matter, please call this office.

Sincerely,



Joseph E. Connarton
Executive Director

FORM 117



The Commonwealth of Massachusetts
Department of Industrial Accidents
 600 Washington Street – 7th Floor, Boston, Massachusetts 02111
 Info. Line 800-323-3249 ext. 470 in Mass. Outside Mass. - 617-727-4900 ext. 470
 http://www.mass.gov/dia

DIA Board #
 (If Known):

AGREEMENT FOR REDEEMING LIABILITY
BY LUMP SUM UNDER G.L. CH. 152
FOR INJURIES OCCURRING ON OR AFTER NOV. 1, 1986

Page 1 of 2
 Please Print or Type

EMPLOYEE Alan Anderson LUMP SUM AMOUNT \$ 15,000.00
 EMPLOYER _____ TOTAL DEDUCTIONS \$ 15,000.00
 INSURER _____ NET TO CLAIMANT \$ 0.00
 BOARD NUMBER _____ TOTAL PAYMENTS \$ _____
 (Weekly benefits plus lump sum)
 DATE OF INJURY _____

CHECK WHERE APPLICABLE

- Liability has been established by acceptance or by standing decision of the Board, the Reviewing Board, or a court of the Commonwealth and this settlement shall not redeem liability for the payment of medical benefits and vocational rehabilitation benefits with respect to such injury.
- Liability has **NOT** been established by standing decision of the Board, the Reviewing Board, or a court of the Commonwealth and this settlement shall redeem liability for the payment of medical benefits and vocational rehabilitation benefits with respect to such injury.
- In addition to the lump-sum, the insurer agrees to pay all outstanding reasonable and related medical bills incurred as of this date.
- The employee is currently receiving a cost-of-living adjustment.

DEDUCTIONS: From the lump-sum amount as stated above, the amount(s) listed below will be deducted and paid directly to the following parties:

	NAME	ADDRESS
1. \$ <u>1,000.00</u> Attorney's Fee	<u>Morris Smith</u>	_____
2. \$ <u>150.00</u> Attorney's Expenses	<u>Morris Smith</u> (Please attach documentation)	_____
3. \$ _____ Liens	_____ (Please attach discharges)	_____
4. \$ <u>5,000.00</u> Inchoate Rights	<u>Sylvia Anderson</u> (Please specify release)	_____
5. \$ <u>1,000.00</u>	<u>Section 36</u>	_____
6. \$ <u>3,000.00</u>	<u>Future Unreimbursed Medical Expenses</u>	_____
7. \$ <u>3,000.00</u>	<u>Future Unreimbursed Vocational Expenses</u>	_____
<u>1,850.00</u>	(OVER) <u>Quabbin Retirement Board</u>	

In this case, the net amount was paid directly to the Retirement Board.

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MARY ANN BRADLEY | PAUL V. DOANE | KENNETH J. DONNELLY | JAMES M. MACHADO | DONALD R. MARQUIS

February 1, 2008

Director
Quabbin Retirement Board

Dear Director:

The following is the Workers' Compensation offset to the Accidental Disability benefit payable to Alan Anderson, who retired as of July 15, 2007.

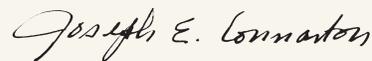
On January 15, 2008, Mr. Anderson was awarded a lump sum settlement, which was allocated as follows:

Lump Sum	\$15,000.00
Deduct:	
Lawyer's Fees	1,000.00
Lawyer's Expenses	150.00
Inchoate Rights	5,000.00
§36	1,000.00
Unreimbursed Medical Expenses	3,000.00
Unreimbursed Vocational Expenses	3,000.00
Quabbin Retirement Board	1,850.00
	<u>1,850.00</u>
	\$0.00

Therefore, the amount of the settlement to be offset in accordance with G.L. c. 32, § 14(2) as amended is \$0.00. As a result, Mr. Anderson's retirement allowance is payable without adjustment.

If you have any questions concerning this matter, please call this office.

Sincerely,



Joseph E. Connarton
Executive Director



