

ADMINISTRATIVE BULLETIN

Establishing Best Practices for Resolution of Workers' Compensation Cases

DATE: _____

ORGANIZATION: Executive Office for Administration and Finance

REFERENCED SOURCES: **G.L. c. 152, §48 Workers' Compensation Statute**

HRD/WC Best Practices Manual-Internal Quality Assurance Measures Guide

<https://www.eservices.hrd.state.ma.us>.

The purpose of this Administrative Bulletin is to provide departments with guidance on the authorization of workers' compensation lump sum settlements.

TABLE OF CONTENTS

Purpose and Scope

A&F Secretary Approval and Effective Date

Contact

Purpose and Scope

- Overall: Where it is advisable to settle workers' compensation cases, it is the policy to settle them expeditiously and without unnecessary delay. Agencies remain the decision-makers and are encouraged to raise any financial concerns with A&F.

The Human Resources Division (HRD) oversees the administration and claims processing of workers' compensation cases across the Commonwealth. This includes the Executive Branch, Constitutional Offices, the Legislature, Judiciary, District Attorneys, Sheriff's Departments and Higher Education including the UMass System.

The workers' compensation team administering the program is engaged in a redesign of the process, which emphasizes updated strategies to address increasing costs. One of the strategies being employed is to reduce long term workers' compensation liabilities by resolving cases via lump sum settlement.

This strategy of resolving cases in an expeditious manner is fair for workers, provides greater certainty for all parties, reduces legal expenses and long-term financial risks for the Commonwealth.

The process of settling a workers' compensation case includes a review by Human Resources Division/Workers' Compensation (HRD/WC), Human Resources Division/Workers' Compensation Litigation Unit (HRD/WCLU), WC legal counsel or the partner agency to determine the most cost effective way to limit the Commonwealth's liability, which may include

resolution by lump sum settlement. In many instances, the following factors will be considered when making that determination:

- Whether the employee was approved for Accidental Disability Retirement;
- Whether the employee is collecting a superannuation retirement;
- Whether the employee remains employed by the agency;
- The severity of the injury;
- Whether the employee has been adjudicated as permanently and totally disabled;
- Whether the employee is receiving weekly workers' compensation benefits and at what rate;
- Whether the employee's weekly workers' compensation benefits are set to expire;
- Whether the claim is in litigation and at what stage;
- The employee's life expectancy;
- The employee's education and transferable skills;
- Whether the employee continues to treat medically;
- The exposure of future indemnity payments;
- The exposure of future medical payments;
- Scarring or permanent loss of function;
- Any other strengths or weaknesses of either the employee or the insurer's case; and,
- Potential offsets to benefits payable by Social Security thereby reducing the ultimate financial burden to the Commonwealth.

Following a complete review of the case, HRD/WC, HRD/WCLU, WC legal counsel or the partner agency will contact employee counsel to discuss resolution. HRD/WC, HRD/WCLU, WC legal counsel or the partner agency will then begin negotiations with the employee and/or their legal counsel to determine a fair and reasonable amount to settle the case. However, because of the chargeback system of payment, only the employer agency may grant approval to settle contingent of funds availability.

Administration and Finance (A&F) understands that there are many reasons why a workers' compensation settlement is delayed or prevented, i.e. employee is unwilling to settle, is not at a medical end result, excessive demand for settlement, denial of settlement by administrative judge, employment status, retirement status, etc. However, A&F also recognizes that year over year cost savings occur when workers' compensation cases are settled and the residual claims backlog is reduced.

A&F supports the strategy of resolving workers' compensation cases in an expeditious manner thereby decreasing the timeframe between viability and resolution. Therefore, A&F is requesting that all agencies which are contacted by HRD/WC, HRD/WCLU or WC legal counsel regarding settlement, respond to the request for settlement authority within 14-calendar days of receipt.

A&F Secretary Approval and Effective Date

This Administrative Bulletin published by the Executive Office for Administration and Finance shall be effective as of the date specified below:

Michael Heffernan, Secretary

Effective Date: _____

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