

## INFORMATION GUIDELINES FOR SUBMISSION OF SETTLEMENT DOCUMENTS

Your assistance in complying with these guidelines and careful preparation of settlement documents can prevent unnecessary delay.

### All Settlements (Both C&Rs and Stipulations)

1. Complete all blank spaces on the form with specific information (including signatures and WCAB No. if applicable). **State all amounts and periods paid.** The caption should state the name of the defendant against whom the award is to be made.
2. File all medical reports, including those of treating physicians. Reports should be originals and arranged in reverse chronological order.
3. Medical reports used as the basis of settlement should fully address all issues.
4. Fully explain the basis for the settlement amount, including how PD was determined, and file copies of all ratings (DEU, private, or self-rating, if any).
5. For injuries on or after 1/1/94, a PD report from the treating physician or evidence of good faith efforts to obtain such a report is required.
6. If the injured worker is unrepresented, and the case is settled on the treating physician's report, include documentation that the injured worker was advised of his/her right to a QME at defendant's expense (LC 4061, LC 4062) (restricted to injuries on or after 1/1/94).
7. If TD or PD is payable at less than maximum, file all documents needed to determine applicable wage, if applicant is not represented. If applicant is represented provide an explanation.
8. All lien claims must be addressed. State good faith efforts made regarding unresolved lien claims.
9. Body parts included in this settlement shall be specifically stated. Do not refer to "all body parts" as listed in medical records or reports. (See **SCIF v. WCAB (Bias)**, 43 CCC 845 (1978).
10. Claims for overpayment must be fully disclosed and the basis for the overpayment explained.
11. Provide the WCAB with proof of service on all parties, including lien claimants.
12. Where the injured worker is not fluent in English, a statement that the settlement document has been read to him/her in his/her native language must be included.

### COMPROMISE AND RELEASE

1. If retroactive VRMA and/or TD are being settled, state specific periods and amounts claimed and paid to date (paragraph 6 or 10 of C&R). If there is medical evidence the injured worker is QIW, please explain any gaps between the ending of TD and the beginning of VRMA. If available, send a copy of the job description.
2. In admitted injury cases, the Defendant(s) should ordinarily pay "**TOTAL UNPAID MEDICAL AND HOSPITAL EXPENSE**".

3. If a ***Thomas*** Finding is requested, the C&R must state a specific and legally sufficient factual/legal basis for the finding. (See instruction 6 on C&R Agreement, DWC WCAB Form 15).
4. "All injuries" clauses (settling liability for injuries other than those specifically stated in paragraph one of the C&R) must be limited to the body parts actually injured and evaluated in the medical reports.
5. All dates of injury settled and all body parts injured must be set forth in paragraph one so that separate WCAB numbers can be assigned to each date of injury as required. See Cal. Lab. Code sections 5303 and 3208.2.
6. Third-Party Compromise and Release settlements are subject to the same requirements as regular C&Rs, and, in addition, copies of the third party attorney's fee agreement, disbursement sheet documenting expenses (paragraph 9) and settlement agreement/judgment in the third party case (paragraph 8) must be attached.
7. Clearly state total amount of PD advances including the amounts and dates paid and whether PD advances are continuing.

#### **STIPULATIONS**

1. If future medical treatment is awarded, language limiting the treatment is ordinarily unacceptable.

- ❖ Note: The WCAB lacks jurisdiction to approve settlement of rights other than those arising under the workers' compensation provisions of the California Labor Code.
- ❖ Note: These guidelines are intended to cover common problems which have been found to frequently exist in settlements. In particular cases, there may be unique situations which are not addressed in this list.