

APPENDIX A

June 21, 2012

Phillip L. Hillman, Director
Department of Industrial Accidents
1 Congress Street
Boston, MA 02114

RE: Employee: Scott A. Murphy
Employer: American Steel & Alum.
Insurer: AIM Mutual Ins. Co.
Board No.: 027092-04

Dear Director Hillman:

The reviewing board today is filing its decision in the above-named case. In the course of deciding the issues raised on appeal, we determined that the proper calculation of § 50 interest on an award of § 36 specific injury benefits is made impossible if the definition of “Interest” contained in 452 Code Mass. Regs. 1.02 is enforced. Accordingly, we have refused to apply the regulation in the instant case.

Pursuant to G. L. c. 152, § 5, be advised that in our opinion there is an explicit contradiction in this case between the cited regulation and G. L. c. 152, § 50. Specifically, because the regulation-promulgated departmental interest calculator does not function correctly to calculate interest on a § 36 benefits award, the resulting amount of interest derived from that data was inaccurate and contravened § 50. The problem with using the calculator to determine interest on a one-time benefit award, as occurred here, will be rectified in the near future.

Very truly yours,

Catherine Watson Koziol
Administrative Law Judge

Patricia A. Costigan
Administrative Law Judge

Frederick E. Levine
Administrative Law Judge