



THE COMMONWEALTH OF MASSACHUSETTS

Department of Industrial Accidents

M.G.L. c. 152, §48

Lump Sum Brochure

What is a Lump Sum?

A *Lump Sum* is a contract among you, your employer (where applicable), and your employer's workers' compensation insurer. This one-time payment replaces your weekly compensation checks, and, in some cases, certain other benefits. The judge who hears your Lump Sum decides whether lump summing your claim is in your best interest.

Should I Lump Sum my case?

You must weigh the present value of your lump sum against potential benefits. If you were injured **ON OR AFTER** November 1, 1986, you give up your rights to future weekly benefits, but when the insurer has agreed that it is responsible for payments, or a judge has ordered the insurer to pay benefits, the insurer will pay for your causally connected future medical benefits and vocational rehabilitation. The insurer has the right to dispute future medical bills before, as well as after, your lump sum.

Does my signing a Lump Sum Agreement mean that I am also terminated from my job?

Your employer cannot tell you that by signing a Lump Sum Agreement you are agreeing not to return to your job. Signing a Lump Sum Agreement does not prevent you from:

- Maintaining employment with the employer at whose job you were hurt;
- Gaining employment with any other employer;
- Receiving any benefits owed to you by your employer;
- Bringing any future workers' compensation claims for other work-related injuries or illnesses; or
- Bringing any future claims of wrongful discharge, or breach of contract.

The presumption that an employee who accepts a Lump Sum is incapable of returning to work for the employer continues for one month for every \$1,500.00 included in the Lump Sum. [So, if you settle your case for \$6,000.00, you are presumed to be unable to

return to work for your employer for 4 months.] The employee has no re-employment rights under M.G.L. c. 152 during this “presumption” period.

An employee who does not return to the previous employer may return to the workforce immediately.

An employer, insurer, and/or attorney who tries to get you to sign any type of release stating otherwise, is subject to a \$10,000.00 fine, and any such release, either general or specific, would be considered null and void.

Does my employer have to approve my Lump Sum?

In most cases, an employer must approve a Lump Sum proposal. Where an employer has approval authority, but does not agree to approve a Lump Sum, the proposal does not proceed. You would still receive the weekly benefits you are currently receiving.

Will Vocational Rehabilitation services affect my Lump Sum?

If you are currently receiving Vocational Rehabilitation services, your Lump Sum cannot be approved unless one of these requirements is met:

- You have returned to work for 6 or more months;
- You have completed the approved vocational rehabilitation program;
- You have received express written consent for OEVR;
- A judge overrides any of these requirements after appropriate notice and hearing.

You must enter a rehabilitation program within 104 weeks from approval of your Lump Sum, or forfeit any rights to do so. For more information about Vocational Rehabilitation services, please call our Office of Education and Vocational Rehabilitation.

Does a Lump Sum close my case forever?

Yes. A Lump Sum replaces future compensation payments for that specific injury or illness.

How does my Lump Sum affect any other claims I may have?

A lump sum **DOES NOT** affect any other action or proceeding on any other separate and distinct injury or illness, whether the injury or illness precedes or arises after your settlement date, and regardless of who the insurer and employer are.

How much of my Lump Sum is my attorney entitled to?

An attorney’s fee is 20% where the insurer accepts liability, or where liability is assigned by the Department; an attorney’s fee is 15% where liability is neither accepted nor assigned.

Note: A attorney cannot collect a fee on a permanent loss of function and/or scarring payment.

What should I consider when determining whether I should Lump Sum my case?

- Are you able to return to work?
- Do you still have unresolved medical problems resulting from your injury or illness?
- How will settlement affect future medical bills causally related to your injury or illness?
- Will you be able to prove your injury or illness is work-related?
- What is your income now, if any?
- What are your expenses?
- Will the settlement affect your retirement/pension rights if you do not return to work?
- If you have a third party claim as part of your workers' compensation claim, ask your attorney how it will affect your Lump Sum.

Note: "Where any party requests that (a Lump Sum Agreement) be approved by an administrative judge or administrative law judge prior to the filing of such agreement with the department, a lump sum agreement shall not have been perfected until and unless approved by an administrative judge or administrative law judge as *being in the claimant's best interest.*" M.G.L. c. 152, sec. 48 (1).

Questions? Visit our website <www.mass.gov/dia> or call your Public Information Office at 617-727-4900, ext. 7470 or toll-free, from inside MA only, at 1-800-323-3249. TDD # (for the deaf and hard of hearing) at 1-800-224-6196.