



Eraclides Gelman

Tips on Settling FL WC Claims:

A JCC will not enforce any term that is not spelled out between the parties. If you settle via email make sure to cover the items below. If the settlement is accepted over the phone, send a confirming email.

- 1) Confirm that it is an overall settlement of the entire claim, not just the pending issues, and the settlement also includes any other dates of accident with the employer/carrier.
- 2) Address when and how benefits end. Will indemnity continue until the JCC signs the order? Medical?
- 3) The attorney for the E/C will prepare the settlement documents. And if you know who at our firm will be handling it, let the claimant's attorney know who to contact.
- 4) Who is responsible for any prior attorney fee liens or past fees owed to prior attorneys.
- 5) Subrogation liens, maintained or waived?
- 6) Any Medicare or MSA issues. Is the claimant over 65? Has the claimant applied for or receiving Social Security Disability? If there is an MSA, is the settlement contingent on CMS approval of the MSA estimate?
- 7) If there is an advance or overpayment, does that come out of the ultimate settlement or is it waived?
- 8) On a denied claim, confirm it is being settled on a denied basis. The E/C is not responsible for any unpaid unauthorized medical.
- 9) If permitted, General release and effective date of resignation, and whether there is separate consideration. If this is something the Carrier does not discuss, then be sure to advise the claimant or his attorney that your defense attorney will have additional terms to include regarding employment issues. If you don't mention it when you accept the settlement, then it is not included.
- 10) And as a catch all, mention the attorney you refer it to will discuss any additional terms of the settlement with OC.

Additional items for unrepresented claimants:

- 1) Make sure they understand it is a settlement of indemnity and medical.
- 2) Employment issues (see above)
- 3) MSA issues
- 4) An attorney from our firm will send them the settlement paperwork for them to sign and have notarized.
- 5) We will need to obtain MMI and an estimate of future medical costs from the treating doctor.
- 6) Make sure that any impairment benefits are paid separately from the settlement. Some JCC's require a showing the IB's were paid if due.
- 7) It will require a very brief hearing before a JCC to make sure they understand the settlement.
- 8) The process takes at least several weeks as we are at the mercy of the JCC's calendar.

Our Firm has offices throughout Florida, Georgia, Tennessee and Alabama:

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Birmingham	205-949-5500
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