

Instructions for Completing the Settlement Agreement

In order to expedite the processing of the Section 32 Settlement Agreement, the parties are requested to follow these instructions. Failure to follow these instructions and to provide the necessary accompanying documents may result in the Settlement Agreement being returned. The statute and regulation pertaining to Section 32 Agreements (WCL§ 32 and 12 NYCRR 300.36) are available at www.wcb.ny.gov.

1. Form: Submit a legible Form W-32R or a legible document that contains the information prescribed by the Chair on Form W-32R. The terms of the agreement may either be in the space provided on the W-32R, or in a single separate attachment. If it becomes necessary to modify the agreement, please submit a new amended agreement incorporating the modifications, rather than an addendum.

2. Page Numbers: Number the pages of the document as follows: Page 1 of 4, Page 2 of 4, etc.

3. Signatories: Have all parties in interest, including the guardian for minor claimants if any, sign and date Form W-32R and the final page of the agreement prior to submission. The Aggregate Trust Fund is not a proper party to the agreement.

4. Necessary provisions: Address the resolution of these issue(s) if any have been raised or are still pending before the Board at the time of the agreement:

- disputed medical bills (C-8.1's),
- tentative rates,
- periods held in abeyance,
- when continuing payments will stop,
- minor's wage expectancy,
- outstanding requests for attorney's fees (OC-400.1's),
- responsibility for future medical treatment.

5. Language to Avoid: Do not include references to:

- a claim(s) being "disallowed,"
- an unassembled claim(s) that has (have) not been assigned a Case Number by the Board,
- a waiver of the ten day withdrawal period,
- identifiable confidential information pertaining to an individual not a party to the agreement,
- Medicare or Medicaid paying or not paying for future medical treatment causally related to the workplace injury, or to
- when the agreement becomes binding.

Claim(s) need to be assembled and assigned a Case Number by the Board in order to be included in the Section 32 agreement. The Board will not approve any agreement which provides that a claim is "disallowed" by stipulation of the parties because such language implies a finding by the Board, which is not the case. If a claim has not yet been established, the agreement may indicate that the claim is being "withdrawn" by the claimant. Medicare set-aside provisions, if any, must reference that there is no guarantee that Medicare will or will not pay for any causally related treatment.

6. Pending Appeals: Address how the issues raised in a pending appeal and awards stayed by the appeal, if any, will be resolved.

7. Annuity: If the agreement references future payments based upon the purchase of an annuity contract, provide a summary specifying all of the following: that the annuity be purchased from a life insurance carrier rated "A" or better by A.M. Best or Standard & Poor, the total amount payable pursuant to the annuity, cost [present value] of the annuity, schedule of payments to be made, provision if claimant dies before the final payout, and a statement that to the extent they conflict, the terms of the agreement are controlling over the terms of the annuity contract. It is not necessary to provide the annuity contract.

8. Child Support Arrears: If arrears in child support payment(s) exist at the time of the agreement, provide for payment in full of those outstanding arrears by the employer/carrier/WAMO from the proceeds of the settlement.

9. Other Necessary Documents: Submit along with Form W-32R, the following documents. Be sure to reference on the documents the WCB Case Number for each claim included in the settlement agreement.

- a signed and notarized Form C-32.1, Claimant Release;
- a completed Form OC-400.1 if an attorney fee of over \$450 is requested;
- a letter from CMS, if the agreement references CMS's approval of a specified Medicare set-aside;
- current evidence that the life insurance carrier providing the annuity is rated A or better by A.M. Best or Standard & Poor if the agreement references an annuity;
- document(s) identifying the proper beneficiaries if the agreement pertains to benefits payable upon the death of the claimant.