

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (2) (text unchanged)

(3) *"Formal set-aside allocation" means a document reflecting a comprehensive analysis and projection of future injury-related medical needs and associated costs.*

[(3)] (4) (text unchanged)

.19 Agreements for Final Compromise and Settlement.

A. General Requirements. An agreement for final compromise and settlement of a claim that is submitted to the Commission for approval as required by Labor and Employment Article, §9-722, Annotated Code of Maryland, shall contain the following:

(1) (text unchanged)

(2) [The] *A payment allocation sheet, including the amount of any deductions for attorney's fees, medical fees, and other costs;*

(3) — (4) (text unchanged)

(5) *If any compensation was previously awarded or paid, a statement indicating whether the settlement includes, is in addition to, or is in place of all or part of that compensation; [and]*

(6) *A statement indicating the rate of payment and whether all or part of the settlement is to be paid in a lump sum[.];*

(7) *The claimant's average weekly wage;*

(8) *The claimant's date of birth and age in years and months;*

(9) *The total amount of all indemnity benefits paid to the claimant;*

(10) *A statement confirming that the interests of Medicare have been considered in reaching the settlement;*

(11) *A statement that the insurer shall reimburse Medicare for any provisional or conditional payments made by Medicare, up to the date of the*

executed settlement, that are ultimately determined to be the responsibility of the employer/insurer;

(12) The gross total of all future payments to be paid pursuant to an annuity (not present value); and

(13) If the insurer makes an assignment of any of its obligations to a third party, the settlement agreement shall contain affirmative language confirming that the employer/insurer shall resume its obligation for all remaining payments in the event of default by the third party.

B. Future Medical Expenses.

(1) In determining whether a settlement must be reviewed and approved by the Centers for Medicare and Medicaid Services (CMS), the Commission shall apply the Medicare thresholds set forth in the most current memoranda or regulation available at the CMS website.

(2) A settlement that falls within the Medicare thresholds must be approved by CMS before it will be approved by the Commission.

(3) A settlement that falls outside the Medicare thresholds may be approved by the Commission provided that the settlement agreement:

(a) Contains a statement confirming that the interests of Medicare have been considered in reaching the settlement; and

(b) Identifies the amount of the proposed settlement:

(i) Apportioned to future medical expenses; or

(ii) Set aside for future medical expenses through a formal set-aside allocation.

(4) The apportionment of the amount of the settlement associated with future medical expenses shall be supported by medical evidence such as a medical opinion or evaluation.

(5) A formal set-aside allocation shall comply with the guidelines established by Medicare for set-aside allocations.

[B.] C. Special Requirements.

(1) [Claims Involving] Resolution of Third-Party Liability Claims. When [the settlement arises in connection with a claim involving a third-party liability action under Labor and Employment Article, Title 9, Subtitle 9, the agreement submitted

to the Commission for approval, in addition to complying with §A,] *a third-party liability claim has been resolved by settlement or judgment, the agreement settling the workers' compensation claim shall be submitted to the Commission for approval, comply with §A, and contain or be accompanied by the following:*

(a) — (b) (text unchanged)

(c) A copy of the *executed* release or judgment.

(2) (text unchanged)

[C.] D. (text unchanged)

[D.] E. Medical Report.

(1) Except for those settlements arising under [§B(2)] §C(2) of this regulation, an agreement for final compromise and settlement shall be accompanied by all medical reports evaluating the nature and extent of the claimant's disability.

(2) On written request of the parties, the Commission may waive the requirement under [§D(1), above] §E(1) of this regulation, if:

(a) The claim being settled is contested on an issue that denies the claimant's right to any benefits under Labor and Employment Article, Title 9, *Annotated Code of Maryland*;

(b) — (c) (text unchanged)

[E.] F. Hearing. The Commission may not approve an agreement for final compromise and settlement without a hearing unless the agreement is accompanied by [the notarized] affidavit of the claimant, on the form prescribed by the Commission, waiving the hearing. The Commission may, *at its discretion*, require a hearing even when the affidavit is filed.