

## **CLAIM DISPOSITION AGREEMENT INFORMATIONAL ENCLOSURE**

Under ORS 656.236, you may settle a workers' compensation claim except for medical benefits. Such a settlement is usually called a "claim disposition agreement" or "CDA." If you are thinking about settling your claim in this way, there are things you should know.

### **WHAT DO I GET? WHAT DO I GIVE UP?**

In return for an agreed upon amount of money, you may give up or "release" your right to such things as:

- Present and future time loss benefits, which is money paid to compensate you for temporary lost wages related to your industrial injury or occupational disease.
- Present and future permanent disability awards, which is money paid for permanent impairment and/or lost earning capacity related to your industrial injury or occupational disease.
- Monthly payments for permanent total disability, which is money paid for permanent and total incapacity, as a result of your industrial injury or occupational disease, from regularly performing work at a gainful and suitable occupation.
- Vocational assistance benefits, which is a vocational evaluation and possible retraining to assist you in returning to the work force.
- Survivor benefits, which is money paid to a deceased worker's family.
- Penalties and attorney fees, which is money paid as a result of an employer's/insurer's unreasonable claim processing practices or for prevailing against an employer's/insurer's claim denial.

There are only two things you are not allowed to release in a CDA. You cannot release your rights to medical service-related benefits and you cannot waive your eligibility for preferred worker status. ORS 656.236(1)(a); ORS 656.622(4)(b).

If your permanent disability award has not been fully paid, you could lose any unpaid award by signing a CDA, unless the CDA provides for full payment of your award or you ask the insurer for a "lump sum" payment of the award prior to submission of the CDA to the Workers' Compensation Board.

If you are disabled under social security, contact the Social Security Administration to learn how a CDA affects your disability benefits. If the amount of the CDA is offset from your social security payments, you could receive no income from social security until the offset is complete.

If you are paying child support, moneys payable from the CDA are subject to an order to enforce child support obligations.

### **REQUIREMENTS AND RESTRICTIONS**

There are requirements and restrictions that apply if you decide to settle your claim.

#### **The CDA must identify released benefits.**

The CDA must tell you exactly what benefits are being released. This helps you compare the benefits you could normally expect to receive for your claim with the dollar amount being offered you.

#### **You must be informed about the meaning of a CDA.**

This enclosure has been prepared by the Workers' Compensation Board to explain the basic meaning of claim disposition. However, you may want more specific information.

If you do not have an attorney, you may consult the Ombudsman for Injured Workers, whose job it is to help injured workers. You also have the right to personally meet and discuss the proposed CDA with the Workers' Compensation Board. There are no fees or charges for these services.

#### **You have the right to an attorney.**

If you wish, you may retain an attorney. The attorney may charge a fee if the CDA is approved by the Workers' Compensation Board or the Administrative Law Judge (ALJ) who mediated the CDA. The fee will be subtracted from the CDA. You also may have to pay the attorney for costs incurred while working on the CDA, even if no agreement is reached.

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## **MEDICAL BENEFITS/PREFERRED WORKER STATUS**

Because you cannot release your right to medical benefits or waive your eligibility for Preferred Worker status, the Workers' Compensation Division can continue to help you and your doctor resolve problems.

If you have any questions about your rights to medical benefits, call the Benefit Consultation Unit at the numbers shown at the end of this notice.

## **WHAT IF I CHANGE MY MIND?**

After you sign the CDA, it will be sent to the Workers' Compensation Board or the ALJ who mediated the CDA. Once the Board or the ALJ who mediated the CDA receives it, the CDA cannot be approved for 30 days unless you are represented by an attorney and the CDA includes a provision waiving the 30-day "cooling off" period. Unless the CDA states otherwise, no benefits will be paid to you during this 30-day "cooling off" period. If the first day after the expiration of the 30-day "cooling off" period is on a weekend or state holiday, the CDA cannot be approved until the next business day.

If you change your mind before the 30 days are up or before the CDA is approved, you must write the Board or the ALJ who mediated the CDA and ask that the CDA be disapproved. If you do not request disapproval, the CDA will be approved unless the Board or the ALJ who mediated the CDA finds it unreasonable as a matter of law or the result of misrepresentation. Once approved, the CDA is final and cannot be appealed.

If the CDA does not comply with all applicable rules, the Board or the ALJ who mediated the CDA may ask that the CDA be amended. This process can sometimes delay approval of the CDA. Once the written CDA amendment is filed, review will continue. If the CDA is approved, you have 10 days to ask for reconsideration. If the CDA is disapproved, the insurer must resume paying your benefits if they are due. If the CDA is disapproved, the parties have 30 days to appeal the decision to the Court of Appeals.

## **WAIVER OF 30-DAY "COOLING OFF" PERIOD**

If the CDA waives the 30-day "cooling off" period and complies with all applicable rules, it will receive approval within approximately 14 days after the CDA is filed.

## **PAYMENT OF CDA**

Payment of the CDA must be made no later than the 14th day after approval unless otherwise stated in the CDA. If payment is not made, you should contact the insurer, or your attorney. If you need further assistance you may contact the Benefit Consultation Unit, or the Ombudsman for Injured Workers. The Board or the ALJ who mediated the CDA is unable to assist you with nonpayment of the CDA.

## **QUESTIONS -- CALL THESE NUMBERS:**

### **Benefit Consultation Unit Injured Worker Hotline:**

Toll free...1-800-452-0288

### **Ombudsman for Injured Workers:**

Toll free...1-800-927-1271

### **Workers' Compensation Board**

Claim Disposition Agreement Unit:

Toll free...1-877-311-8061

Salem .....(503)934-0116

### *\*Notice to Spanish Speaking Claimants*

**Aviso Para El Reclamante:** Este es un documento importante que puede afectar su caso. Usted es urgido fuertemente a conseguir ayuda inmediata con respecto al significado de este documento y sus derechos y responsabilidades en relación con ello. Tal ayuda puede ser obtenida por comunicarse con el Representante de la Compensación para Trabajadores en Español línea gratis 1-800-927-1271.