

DENIAL AND DISMISSAL

What is a denial and dismissal settlement?

RI General Law 28-33-25.1 provides for this type of settlement of disputed claims by the RI Workers' Compensation Court.

This settlement is considered a compromised payment where no liability has been established against the employer or insurer.

Upon payment, the employer and insurer are fully and finally discharged from any and all liability arising out of the claimed injury.

Do these settlements have to be approved by the Workers' compensation Court?

Yes, the parties must submit a settlement proposal to the court. If the Judge determines that the proposal is in the best interest of all parties the proposal will be approved.

What happens if I require future medical treatment?

Because the employer and insurer are entitled to a duly executed release, it fully and finally releases them from any and all liability. As a result your future medical bills would not be paid.

Is this settlement subject to liens?

Although this settlement payment is not subject to Temporary Disability Insurance or welfare liens, it is subject to liens involving unemployment compensation and child support. Also, the payment may be subject to other government liens. For further information call the Education Unit at (401) 462-8125 or contact your attorney if you have one.

Do I have to resign after this type of settlement?

The employer can request a voluntary resignation from the employee, but the law does not require that it be a pre-requisite to settlement.

Who determines the lawyer's fees?

In most cases the fees are limited to 15%, however can be increased due to the peculiarities of a case, but the employee must be in agreement with this. *****Check on this since there are pending cases regarding the D&D attorney fees**

For more information about commutation settlements, denial and dismissal settlements, or other workers' compensation issues call the...

**Workers' Compensation
Education Unit**
(401) 462-8125
Monday through Friday
8:30 a.m. to 4:00 p.m.

Or, if you have an attorney, contact him or her.



**RI Department of Labor and Training
Workers' Compensation Education Unit**

**Workers'
Compensation**

**COMMUTATION
SETTLEMENTS
AND**

**DENIAL AND
DISMISSAL
SETTLEMENTS**

Education Unit

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COMMUTATION SETTLEMENTS

The Rhode Island workers' compensation system is a form of no-fault insurance designed to provide assistance to injured employees for associated medical expenses and for a percentage of the lost wages. It applies to businesses with one or more employees, unless otherwise exempt by state law.

Rhode Island General Law 28-33-25 and 28-33-25.1 relate to two different types of settlements: commutation which is also known as a lump sum settlement, and denial and dismissal settlements. Certain requirements must be met in order for the Workers' Compensation Court to consider eligibility for settlement under these sections of the law.

This brochure is not intended as a full and complete description of law, and should not be a substitute for legal advice. For additional information about workers' compensation claim settlements or other workers' compensation topics, call the EDUCATION UNIT at (401) 462-8125.

What is a commutation settlement?

In cases where payments have continued for six (6) months or more, the parties may petition the workers' compensation court for an order approving a settlement of **future** liability for a lump sum or structured-type period payment.

- This payment guarantees that the employer and insurance company will have no further responsibility for this injury/illness claim.

Do these settlements have to go to court to be decided?

Yes, all lump sum settlements must be approved by a Judge of the Rhode Island Workers' Compensation Court. Any proposed settlement in excess of 104 weeks of compensation for partial benefits may be rejected by the chief judge in his or her discretion.

What are some of the issues addressed by the court?

- That all medical bills relating to the injury have been paid up to the date of the commutation.
- The future medical needs of the injured worker.
- That the settlement will be in the best interest of **all** parties, to include the employee, employer, insurance carrier, and where applicable, the workers' compensation administrative fund.
- In determining whether the settlement is in the best interest of all parties, the judge may refer the employee for a rehabilitation evaluation.
- All settlement cases must be placed upon the record that the employer, if insured, has been advised by the insurer of the potential effect of the settlement on its worker's compensation premium. The employer has the opportunity to appear and state its disapproval of the settlement.

Do any liens have to be paid?

No case may be settled for a lump sum or structured-type periodic payment while the RI Temporary Disability Insurance fund and/or the Dept. of Human Services has a claim for payments made, unless an agreement is made to pay any claim from the settlement amounts.

When the settlement is more than \$3,000, any child support owed is deducted from the settlement amount and forwarded to the RI Family Court.

If employed by the State of RI, there is a "off set" in favor of the State pension fund when the case is commuted and transferred to the State accidental or disability pensions.

Does the settlement mean that I have to resign from my job?

Resignations are not required, however the employer may ask you to voluntarily resign.

Who determines the lawyer's fee?

Attorney's fees are fixed by the court, but a fee for representing an employee in connection with a lump sum or structured-type settlement will not exceed 15% of the lump sum or 15% of the structured type payment reduced to present day value.