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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES

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Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Shari L. Rockburn
Assistant Commissioner

November 21, 2022

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Administrative Services, Division of Risk and Benefits, under RSA 281-A:13, V., to waive a portion of the State's \$23,007.06 gross lien related to a workers' compensation claim for Trooper [REDACTED] and to accept \$20,000.00 to satisfy the lien, effective upon Governor and Council approval.

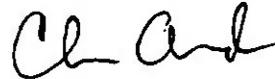
EXPLANATION

On [REDACTED] was on duty as a N.H. State Trooper for the Department of Safety when he was injured in a motor vehicle accident. In [REDACTED] settled his third party claim with the third-party insurance carrier. The State, working through its workers' compensation third-party administrator (TPA) at the time, Cross Insurance, paid workers' compensation benefits related to [REDACTED] injuries in the total amount of \$23,007.06. Per RSA 281-A:13, the State is entitled to a lien on proceeds the injured employee receives as a result of a claim or civil action against a third party responsible for the injury up to the \$23,007.06, less pro rata share of fees, expenses, and cost of action. Only the Governor and Executive Council has the authority to grant a full or partial waiver of the lien.

[REDACTED] did not obtain legal counsel to pursue civil action against the driver who caused his injuries. Through conversations with the third-party insurance company, [REDACTED] agreed to settle his claim for \$5,000. The third-party insurance carrier, Progressive Universal Insurance Company (Progressive) neglected to take into account the lien put on the claim by the State of New Hampshire. Progressive acknowledged their error and is looking to pay the remainder of the \$25,000 policy limit to the State. The difference between the total lien and the remaining amount of the policy is \$3,007.06. The Division of Risk and Benefits has tentatively agreed to a \$20K settlement contingent upon the Governor and Council approval of the lien waiver. Since the difference remaining is far less than the total cost to pursue litigation to collect on the full amount of the lien, DAS recommends accepting the \$20K in full satisfaction of the lien and waiving the outstanding lien amount of \$3,007.06.

The attached petition explains the tentatively agreed upon \$20k paid to the State as payment in full on the lien. If the State does not agree to the lien waiver, there will be no further compensation to the State to offset some of the \$23,007.06 workers' compensation expense without further legal action. Based on the foregoing, DAS recommends that a partial lien waiver be granted by the Governor and Executive Council.

Respectfully submitted,



Charles M. Arlinghaus
Commissioner

THE STATE OF NEW HAMPSHIRE
GOVERNOR AND EXECUTIVE COUNCIL

Petition of State of New Hampshire, Constitution State Services Insurance Company

[REDACTED]

v.

New Hampshire Department of Safety

PETITION FOR PARTIAL WAIVER
OF WORKERS' COMPENSATION LIEN

The State of New Hampshire, Department of Safety ("State") and Constitution State Services Insurance Company ("CSS"), the State's current workers' compensation claims administrator, hereby jointly petition for approval of a partial waiver of a workers' compensation lien per RSA 281-A:13, V, under the following terms and conditions:

1. [REDACTED] was employed by the State and on duty as a State Trooper on [REDACTED] when he was involved in a motor vehicle crash. A pick-up truck struck his cruiser that was on the side of the highway. The cruiser struck [REDACTED] as he was jumping out of the way. [REDACTED] received workers' compensation benefits for his injuries that included, lumbar and right hip contusion.

2. The State, through Cross Insurance (WC TPA from 7/1/15 to 6/30/22), paid wage replacement benefits and medical benefits in the amount of \$23,007.06. [REDACTED] returned to work full duty [REDACTED]

3. Progressive settled directly with [REDACTED] for \$5,000 without consideration of the lien. The policy limit is \$25,000.

4. Progressive has agreed to pay SONH \$20,000 to satisfy the lien.

5. The parties jointly request this waiver in order to accept the \$20,000 in full satisfaction of the lien and waive the remaining \$3,007.06.

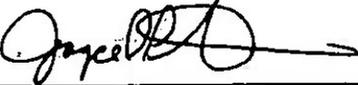
6. RSA 281-A:13, V, provides that the Governor and Council "may, in their discretion, waive all or part of the lien."

7. The recovery of \$20,000 presents a fair resolution under the circumstances.

8. For the foregoing reasons, the petitioners jointly request that the Governor and Executive Council approve the lien waiver as set forth herein.

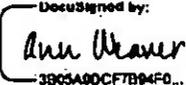
Respectfully Submitted,
The State of New Hampshire
Dept. of Administrative Services

Dated: 11/21/2022

By: 
Joyce Pitman
Director of Risk and Benefits
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Constitution State Services

Dated: 11-21-22

By: 
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