

105 MLC



# State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES  
25 Capitol Street - Room 100  
Concord, New Hampshire 03301  
(603) 271-3201 | [Office@das.nh.gov](mailto:Office@das.nh.gov)

Charles M. Arlinghaus  
Commissioner

Catherine A. Keane  
Deputy Commissioner

Sheri L. Rockburn  
Assistant Commissioner

December 19, 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 \$636,254.01 gross lien related to a workers' compensation claim for former state employee [REDACTED] and to accept \$113,333.33 to satisfy the lien, effective upon Governor and Council approval.

### EXPLANATION

On [REDACTED], [REDACTED] was on duty as a [REDACTED]. [REDACTED] he was operating [REDACTED]. The State, working through its workers' compensation third-party administrators, (Cross Insurance through 6/30/22; Constitution State Services beginning 7/1/22 to present), paid workers' compensation benefits related to [REDACTED] injuries in the total amount of \$636,254.01 as of December 07, 2022. Per RSA 281-A:13, the State is entitled to a lien on proceeds the injured employee receives due to a claim or civil action against a third party responsible for the injury up to the \$636,254.01. Only the Governor and Executive Council has the authority to grant a full or partial waiver of the lien.

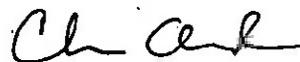
[REDACTED] obtained legal counsel to pursue civil action against the driver who caused his injuries. Since the State currently has a lien that exceeds the potential compensation resulting from the third-party lawsuit, [REDACTED] counsel has indicated it would not make sense for them to pursue settlement unless the State agrees to waive a portion of the lien.

The attached petition explains the tentatively agreed upon three-way split of the \$250,000 settlement: \$68,333.33 to be paid to [REDACTED] legal counsel, \$68,333.34 to be paid to [REDACTED], and \$113,333.33 to be paid to the State as payment in full on the lien with no "holiday" on [REDACTED] net recovery. A "holiday" would have allowed the State to defer payment of future medical bills to [REDACTED], up to [REDACTED]

██████ recovery amount of \$68,333.34. By agreeing to waive the holiday, the State stands to recover a greater sum of money up front than would have been gained if the settlement was split three ways with a holiday. If the State elects not to agree to the partial lien waiver, there will be no compensation to the State to offset any of the \$636k paid to date in workers' compensation expenses.

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  
Administrative Services

JOINT PETITION FOR PARTIAL WAIVER  
OF WORKERS' COMPENSATION LIEN

[REDACTED]

v.

New Hampshire Department of [REDACTED]

---

The State of New Hampshire, Department of [REDACTED] (State), Constitution State Services Insurance Company (CSS), the State's workers' compensation claims administrator, and [REDACTED] 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 [REDACTED] [REDACTED] when he was [REDACTED] [REDACTED] was operating [REDACTED] [REDACTED] received workers' compensation benefits for his injuries that included, [REDACTED] [REDACTED]
2. The State, through both Cross Insurance (WC TPA from 7/1/15 to 6/30/22) and CSS (current TPA), has paid wage replacement benefits and medical benefits in the amount of \$636,254.01.
3. [REDACTED] has filed suit against the third-party driver. Liability is not in dispute. The total insurance coverage available would be \$250,000 (\$50,000 from the at-fault driver and an additional \$200,000 from the State's underinsured motorist coverage).
4. The parties have tentatively agreed to the following three-way split of the \$250K settlement: State/CSS \$113,333.33, [REDACTED] \$68,333.34 [REDACTED] and Attorney Zimmerman \$68,333.33.

5. The parties jointly request this petition to waive a portion of the State's lien and accept \$113,333.33 in full satisfaction of the lien.

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

7. The petitioners submit that a reduction of the lien in exchange for a settlement of the third-party case as described is fair and reasonable.

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: 1/31/2023

By: Joyce A. Pitman

Joyce Pitman  
Director of Risk and Benefits  
25 Capitol Street  
Concord, NH 03301  
(603) 271-3080

Constitution State Services

Dated: 1/30/2023

By: Tim Costello

Tim Costello  
PO Box 5076  
Hartford, CT 06102-5076  
(860) 277-5151

  
By His Attorneys,

Dated: 1/27/2023

By: Anna Goulet Zimmerman

Anna Goulet Zimmerman  
87 Middle Street  
Manchester, NH 03101  
(603) 624-7200

Dated: 1/27/2023

