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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

Sheri L. Rockburn
Assistant Commissioner

April 27, 2023

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 (DAS), under RSA 281-A:13, V., to waive a portion of the State's $31,139.29 gross lien related to a workers' compensation claim for [redacted] and to accept $22,500.00 to satisfy the lien, effective upon Governor and Council approval.

EXPLANATION

On October 12, 2022, [redacted] was on duty as an [redacted] for the Department of Transportation when he was injured in a motor vehicle accident. The State, working through its workers' compensation third-party administrator, Constitution State Services (CSS), paid workers' compensation benefits related to [redacted] injuries totaling $31,139.29. Per RSA 281-A:13, the State is entitled to put a lien on the proceeds the injured employee receives as a result of a claim or civil action against the third-party driver responsible for the injury up to the $31,139.29, less a pro rata share of the fees, expenses, and cost of the 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 at-fault third-party driver. The at-fault driver's policy limit through Progressive Insurance is $25,000. [redacted] tentatively agreed to settle his claim with Progressive for $2,500. To recoup at least a portion of the lien due to the State, DAS, working through CSS, tentatively agreed to accept the remaining $22,500 of the policy limitation as fulfillment of the lien. Since the approximate $8,600 difference between the full lien and the remaining policy limitation is far less than the cost to pursue litigation for the full amount of the lien, DAS recommends accepting the $22,500 in full satisfaction of the lien.

The attached petition explains the tentatively agreed upon $22,500 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 compensation to the State to offset a portion of the $31,139.29 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 Transportation

PETITION FOR PARTIAL WAIVER
OF WORKERS' COMPENSATION LIEN

The State of New Hampshire, Department of Transportation ("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 an [redacted] on October 12, 2022 when he was involved in a motor vehicle accident. [redacted] received workers' compensation benefits for his injuries that included a large contusion on his left thigh.

2. The State, through its WC TPA, Constitution State Services, paid wage replacement benefits and medical benefits in the amount of $31,139.29. [redacted] returned to work full duty on 10/24/22.

3. Progressive has tentatively settled directly with [redacted] for $2,500. The policy limit is $25,000.

4. Progressive has agreed to pay the State $22,500 to satisfy the lien.

5. The parties jointly request this waiver in order to accept the $22,500 in full satisfaction of the lien and waive the remaining $2,500.00.

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 $22,500 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: 4/20/2023

By: Joyce Pitman

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

Constitution State Services

Dated: 4/13/2023

By: DocuSigned by: Ann Weaver

Ann Weaver
PO Box 5076
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[redacted]

Dated: 4-4-2023

[redacted]