183 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

Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

November 14, 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, under RSA 281-A:13, V., to waive a portion of the State's $155,657.08 gross lien related to a workers' compensation claim for [redacted] and to accept $40,000.00 to satisfy the lien, effective upon Governor and Council approval.

EXPLANATION

On April 22, 2022, [redacted] was on duty as a [redacted] worker for the Department of Health and Human Services when [redacted] was injured in a [redacted] The State, working through its workers' compensation third-party administrator, Constitution State Services (CSS), paid workers' compensation benefits related to [redacted] injuries in the total amount of $155,657.08. 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 $155,657.08, 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] obtained legal counsel to pursue civil action against the driver who caused [redacted] injuries, and [redacted] has indicated that there is only $100K in limits available from the personal injury case. CSS has recommended to accept $40K in full satisfaction of the lien. The Division of Risk and Benefits has tentatively agreed to a $40K settlement contingent upon the Governor and Council approval of the partial lien waiver.

The attached petition explains the tentatively agreed upon $40k paid to the State as payment in full on the lien. If the State does not agree to the partial lien waiver, there will be no further compensation to the State to offset some of the $155,657.08 paid workers' compensation expense. 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 Health and Human Services

PETITION FOR PARTIAL WAIVER
OF WORKERS' COMPENSATION LIEN

The State of New Hampshire, Department of Health and Human Services ("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 [redacted] on April 22, 2022 when [redacted] car was struck by a driver that failed to yield. [redacted] received workers' compensation benefits for [redacted] injuries that included, headaches, cervical pain, and concussion.

2. The State, through Cross Insurance (WC TPA from 7/1/15 to 6/30/22) and Constitution State Services (Current TPA), paid wage replacement benefits and medical benefits in the amount of $155,657.08. [redacted] continues to treat for [redacted] injuries.

3. [redacted] has not yet pursued action against the third-party driver, pending the approval of this petition. The total insurance coverage available is $100,000.

4. The parties have tentatively agreed to the following three-way split of the $100K settlement: State/CSS $40,000.00, [redacted] $35,000.00, and Attorney Ward $25,000.00. The State will retain its right to a dollar-for-dollar holiday in the amount of $35,000.00, without reduction

for fees or costs and will defer action on it until the time of a settlement approved by the Department of Labor and/or a permanent impairment award.

5. The parties jointly request this partial waiver in order to accept the $40,000 in full satisfaction of the lien.

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 $40,000 presents a fair resolution under the circumstances.

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

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

Dated: 11/14/2023

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

Constitution State Services

Dated: 11/13/2023

By: _____
Joe Pizzino
Travelers Insurance
PO Box 507
Hartford, CT 06102-5076
(610) 371-7537

[redacted]

By [redacted] Attorneys,
Ward Law Group PLLC

Dated: 11/13/23

By: _____
John Ward, Esq.
28 Webster Street
Manchester, NH 03104
(603) 232-5220