

This brochure is intended to answer the most frequently asked questions regarding lump sum settlements and may not contain a solution to your particular problem. The specific facts of your situation may result in interpretations that are different from those presented here. For further information, contact one of our Compensation Consultants for assistance.

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# Idaho Workers' Compensation



## Lump Sum Settlements

- Definitions of lump sum settlements
- Role of the Commission in lump sum settlements
- Information about third-party liability and subrogation

## What is a lump sum settlement?

A Lump Sum Settlement is a final settlement between the injured worker and the surety/employer, which allows benefits to be paid all at once instead of over time. Most settlements close all benefits forever. However, it is possible to finalize some types of benefits and leave other benefits (usually medical) open. Once a Lump Sum Settlement is agreed to by all parties and approved by the Commission, the claim finalized by the settlement cannot be reopened for future workers' compensation benefits.

## Wasn't my impairment money a settlement?

Money paid for your permanent impairment rating is not a final settlement. The money for your impairment rating is yours, whether you agree to a settlement or not. In most situations, once the impairment is paid in full the claim is placed in an inactive or closed status. The claim can be reopened if additional treatment is related to the original injury. No time limitation applies to medical benefits, but income benefits are limited to five years from the date of injury unless a complaint is filed with the Commission.

## What should be included in a lump sum settlement?

Since a lump sum settlement will forever close the claim, an injured worker may consider any future costs he believes will arise. Most common are:

- Medically verified future medical costs
- Unpaid impairment balance
- Money for disability related to decreased wage-earning capacity OR retraining costs (TL, books, tuition)

## Do I need to seek legal counsel?

An Industrial Commission-approved Lump Sum Settlement is a legal and binding agreement. It is recommended that you consult an attorney to either assist with developing the settlement or to review a settlement that has previously been developed. In most cases, an attorney will charge 25% of the negotiated portion of the settlement.

## What is the Commission's role in lump sum settlements?

Idaho Code requires that a lump sum settlement be approved by the Industrial Commission before it can be a legally binding document. Settlements must be in the best interests of all parties, and must be approved by at least two of the three Commissioners.

## What if the Commission does not approve it?

The Commission may request additional information or action regarding the claim. Parties have the right to request a hearing to review the settlement and the Commission's decision. If a settlement is not approved the claim remains in pre-settlement status.

## What happens if I decide not to settle?

- Your medical benefits will remain available.
- Your income benefits may be resumed if you are disabled again by your work injury for five years after the date of injury.
- The surety may choose to make a lesser offer should you later decide to settle.

## What is third-party liability?

If a third party is found to be responsible for the accident, a separate claim may be made and legal action may be taken. (Your employer cannot be a third party.) However, if recovery is made against a third party, it is subject to subrogation.

## What is subrogation?

Subrogation is the right of one party to be reimbursed for something that was the responsibility of another party. If there is third-party liability, the workers' compensation surety has a legal right to reimbursement for all or a portion of the benefits paid. The surety may waive all or part of its rights to recover the money as part of the settlement.