

85.35 Settlements.

1. The parties to a contested case or persons who are involved in a dispute which could culminate in a contested case may enter into a settlement of any claim arising under [chapter 10A, subchapter III, this chapter](#), or [chapter 85A or 85B](#), providing for disposition of the claim. The settlement shall be in writing on forms prescribed by the workers' compensation commissioner and submitted to the workers' compensation commissioner for approval.

2. The parties may enter into an agreement for settlement that establishes the employer's liability, fixes the nature and extent of the employee's current right to accrued benefits, and establishes the employee's right to statutory benefits that accrue in the future.

3. The parties may enter into a compromise settlement of the employee's claim to benefits as a full and final disposition of the claim.

4. The parties may enter into a settlement that is a combination of an agreement for settlement and a compromise settlement that establishes the employer's liability for part of a claim but makes a full and final disposition of other parts of a claim.

5. A contingent settlement may be made and approved, conditioned upon subsequent approval by a court or governmental agency, or upon any other subsequent event that is expected to occur within one year from the date of the settlement. If the subsequent approval or event does not occur, the contingent settlement and its approval may be vacated by order of the workers' compensation commissioner upon a petition for vacation filed by one of the parties or upon agreement by all parties. If a contingent settlement is vacated, the running of any period of limitation provided for in [section 85.26](#) is tolled from the date the settlement was initially approved until the date that the settlement is vacated, and the claim is restored to the status that the claim held when the contingent settlement was initially approved. The contingency on a settlement lapses and the settlement becomes final and fully enforceable if an action to vacate the contingent settlement or to extend the period of time allowed for the subsequent approval or event to occur is not initiated within one year from the date that the contingent settlement was initially approved.

6. The parties to any settlement made pursuant to [this section](#) may agree that the employee has the right to benefits pursuant to [section 85.27](#) under such terms and conditions as agreed to by the parties in the settlement, for a specified period of time after the settlement has been approved by the workers' compensation commissioner. During that specified period of time, the commissioner shall have jurisdiction of the settlement for the purpose of adjudicating the employee's entitlement to benefits provided for in [section 85.27](#) as agreed upon in the settlement.

7. The parties may agree that settlement proceeds, which are paid in a lump sum, are intended to compensate the injured worker at a given monthly or weekly rate over the life expectancy of the injured worker. If such an agreement is reached, neither the weekly compensation rate which either has been paid, or should have been paid, throughout the case, nor the maximum statutory weekly rate applicable to the injury shall apply. Instead, the rate set forth in the settlement agreement shall be the rate for the case.

8. *a.* If an injury relating to a claim results in the injured worker needing a medically necessary permanent prosthetic device or an alteration of an existing medically necessary permanent prosthetic device, a settlement pursuant to [this section](#) must describe the medically necessary permanent prosthetic device and identify which portion of the settlement proceeds are for the purpose of covering the estimated cost of future repair or replacement of the device.

b. Upon the approval of a settlement by the workers' compensation commissioner, moneys identified for the purpose of covering the cost of future repair or replacement of a permanent prosthetic device shall be paid to the treasurer of state as the custodian of the second injury fund for administration pursuant to [section 85.65, subsection 2, section 85.66, and section 85.67A](#).

c. Notwithstanding any other provision of [this chapter](#), moneys identified for the purpose of covering the estimated cost of future repair or replacement of a permanent prosthetic device shall not be used to calculate an injured worker's compensation schedule.

9. *a.* A settlement shall be approved by the workers' compensation commissioner if the parties show all of the following:

- (1) Substantial evidence exists to support the terms of the settlement.
- (2) Waiver of the employee's right to a hearing, decision, and statutory benefits is made knowingly by the employee.
- (3) The settlement is a reasonable and informed compromise of the competing interests of the parties.

b. If an employee is represented by legal counsel, it is presumed that the required showing for approval of the settlement has been made.

10. Approval of a settlement by the workers' compensation commissioner is binding on the parties and shall not be construed as an original proceeding. Notwithstanding any provisions of [chapter 10A, subchapter III, this chapter](#), and [chapters 85A, 85B, and 87](#), an approved compromise settlement shall constitute a final bar to any further rights arising under [chapter 10A, subchapter III, this chapter](#), and [chapters 85A, 85B, and 87](#) regarding the subject matter of the compromise and a payment made pursuant to a compromise settlement agreement shall not be construed as the payment of weekly compensation.

[C75, 77, 79, 81, §85.35]

[83 Acts, ch 105, §4](#); [89 Acts, ch 60, §2](#); [98 Acts, ch 1061, §11](#); [2001 Acts, ch 87, §3](#); [2005 Acts, ch 168, §10, 23](#); [2008 Acts, ch 1032, §201](#); [2008 Acts, ch 1137, §1, 3](#); [2022 Acts, ch 1128, §3](#); [2023 Acts, ch 19, §1745](#)

Referred to in [§85.65](#)

Subsections 1 and 10 amended