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AN ACT

RELATING TO WORKERS' COMPENSATION; PROVIDING FOR LUMP-SUM SETTLEMENT AGREEMENTS FOR PAYMENTS OF COMPENSATION, MEDICAL BENEFITS OR BOTH; REQUIRING APPROVAL OF SETTLEMENTS BY WORKERS' COMPENSATION JUDGE; PROVIDING FOR A LIMIT ON ATTORNEY FEES IN SETTLEMENTS FOR FUTURE PAYMENTS OF COMPENSATION OR MEDICAL BENEFITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 52-5-12 NMSA 1978 (being Laws 1986, Chapter 22, Section 38, as amended) is amended to read:

"52-5-12. PAYMENT--PERIODIC OR LUMP SUM--SETTLEMENT.--

A. It is stated policy for the administration of the Workers' Compensation Act and the New Mexico Occupational Disease Disablement Law that it is in the best interest of the injured worker or disabled employee that the worker or employee receive benefit payments on a periodic basis.

Except as provided in this section, lump-sum payments in exchange for the release of the employer from liability for future payments of compensation or medical benefits shall not be allowed.

B. With the approval of the workers' compensation judge, a worker may elect to receive compensation benefits to which the worker is entitled in a lump sum if the worker has returned to work for at least six months, earning at least

1 eighty percent of the average weekly wage the worker earned  
2 at the time of injury or disablement. If a worker receives  
3 the benefit income in a lump sum, the worker is not entitled  
4 to any additional benefit income for the compensable injury  
5 or disablement and the worker shall only receive that portion  
6 of the benefit income that is attributable to the impairment  
7 rating as determined in Section 52-1-24 NMSA 1978. In making  
8 lump-sum payments, the payment due the worker shall not be  
9 discounted at a rate greater than a sum equal to the present  
10 value of all future payments of compensation computed at a  
11 five-percent discount compounded annually.

12 C. After maximum medical improvement and with the  
13 approval of the workers' compensation judge, a worker may  
14 elect to receive a partial lump-sum payment of workers'  
15 compensation benefits for the sole purpose of paying debts  
16 that may have accumulated during the course of the injured or  
17 disabled worker's disability.

18 D. The worker and employer may elect to resolve a  
19 claim for injury with a lump-sum payment to the worker for  
20 all or a portion of past, present and future payments of  
21 compensation benefits, medical benefits or both in exchange  
22 for a full and final release or an appropriate release of the  
23 employer from liability for such compromised benefits. The  
24 proposed lump-sum payment agreement shall be presented to the  
25 workers' compensation judge for approval, and a hearing shall

1 be held on the record. The workers' compensation judge shall  
2 approve the lump-sum payment agreement if the judge finds  
3 that:

4 (1) a written agreement describing the  
5 nature of the proposed settlement has been mutually agreed  
6 upon and executed by the worker and the employer;

7 (2) the worker has been fully informed and  
8 understands the terms, conditions and consequences of the  
9 proposed settlement;

10 (3) the lump-sum payment agreement is fair,  
11 equitable and provides substantial justice to the worker and  
12 employer; and

13 (4) the lump-sum payment agreement complies  
14 with the requirements for approval set forth in Sections  
15 52-5-13 and 52-5-14 NMSA 1978.

16 E. The workers' compensation judge shall approve a  
17 lump-sum payment agreement pursuant to Subsection D of this  
18 section by order. Once the agreement has been approved and  
19 filed with the clerk of the administration, any further  
20 challenge to the terms of the settlement is barred and the  
21 lump-sum payment agreement shall not be reopened, set aside  
22 or reconsidered nor shall any additional benefits be imposed.

23 F. If a worker and employer elect to enter into a  
24 lump-sum payment agreement pursuant to Subsection D of this  
25 section, the limit on attorney fees pursuant to Subsection I

1 of Section 52-1-54 NMSA 1978 shall apply.

2 G. If an insurer pays a lump-sum payment to an  
3 injured or disabled worker without the approval of a workers'  
4 compensation judge and if at a later date benefits are due  
5 for the injured or disabled worker's claim, the insurer alone  
6 shall be liable for that claim and shall not in any manner,  
7 including rate determinations and the employer's experience  
8 modifier, pass on the cost of the benefits due to the  
9 employer.

10 H. If the compensation benefit to which a worker  
11 is entitled is less than fifty dollars (\$50.00) per week, any  
12 party may petition the workers' compensation judge to  
13 consolidate that payment into quarterly installments."

14 Section 2. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is July 1, 2009. \_\_\_\_\_

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