

Section 32 Waiver Agreement– Frequently Asked Questions

1. **What is a Section 32 Waiver Agreement?**

A Section 32 Waiver Agreement is a negotiated settlement between you and the insurer. It ends your right to ongoing and future benefits in exchange for a lump sum payment or an annuity today. It is a serious decision that you must consider carefully before making the agreement.

2. **What can be included in a Section 32 Waiver Agreement?**

Since a Section 32 Waiver Agreement is *negotiated* between you and the insurer, you can seek to include what you feel is in your best interest. For example, you may settle the lost wages (the weekly indemnity payments) portion of your claim and continue your medical benefits, or you can settle both the lost wages and medical benefits portions of your claim. Both you and the insurer must agree to the terms of the agreement. The agreement is then presented to the Board for approval. The Board will make sure it's legally sound. The Board does not negotiate terms.

3. **If the insurer offers me a Section 32 Waiver Agreement, do I have to settle my claim?**

No, you do not have to settle your claim. It is optional.

4. **Why would I accept a Section 32 Waiver Agreement?**

Your claim may be at a point where you're comfortable accepting a single payment today in place of any future lost wages. For example, if your injury date is after March 13th, 2007, and you're classified with a permanent partial disability, you face a cap of up to 10 years on how long you can collect indemnity benefits (weekly payments), depending on the severity of your injury.

You and your doctors may also feel that you will not need significant medical care in the future. Before agreeing to settle your claim, you and your medical provider should discuss your need for future medical treatment, such as surgery, and the cost of that care. You should carefully consider what is in your best interest before agreeing to settle your claim.

Once you settle, you will no longer interact with the insurer and the Board on your claim, unless medical benefits will be continued.

5. If the insurer and I can't agree on terms, will the Board get involved?

No, the Board does not get involved in the negotiations or terms of a Section 32 Waiver Agreement because it's optional.

6. If I settle the medical care, what do I do with the money allocated for future medical treatment, especially if my condition gets worse?

You will pay for all medical care for your injury with those funds. You should not use this money for anything else. If it runs out, you will have to find another way to pay the medical care for your injury. The insurer will not pay you more, nor will the insurer begin paying your medical expenses again. An allocation for future medical treatment is not a Medicare Set-Aside (MSA) account.

7. Will my private health insurance or Medicare pay for my medical expenses if I close out medical coverage?

Future medical expenses may or may not be covered by private health insurance or Medicare. You should check with your private health insurance carrier and/or Medicare to determine if they will pay for any future medical expenses related to your workers' compensation injury.

8. What is a Medicare Set-Aside (MSA) account?

When you choose to end your medical care coverage through a Section 32 Waiver Agreement, it may affect your right to Medicare benefits in the future. When settling a workers' compensation claim, the parties must take into account Medicare's interests. This is most often done by setting up a Medicare Set-Aside account (MSA) out of the proceeds of the Section 32 Waiver Agreement, which will be used to pay for future medical treatment for your workers' compensation injury.

Failing to take into account Medicare's interests when you settle your claim can result in Medicare refusing to pay for treatment for your workers' compensation injury. Check with Medicare to learn your rights and responsibilities. Because Medicare is a federal program, the Workers' Compensation Board has no jurisdiction over it.

9. 9) If I settle the weekly payments for lost wages, what should I do with the money?

This settlement is the only compensation you will receive for lost wages due to your injury. You should budget carefully for your future expenses before accepting it.

10. Suppose my circumstances change in the future and I need more payments or medical care. Can I reopen the Section 32 Waiver Agreement?

No. You cannot reopen a Section 32 Waiver Agreement once it is final, unless all parties agree to a modification. Whatever you settle – lost wages, medical or both – remains permanently settled. You will not receive any more money for that aspect of your claim.

11. Will I continue receiving my biweekly checks until I get the settlement check?

Not necessarily. The day payments stop should be addressed in the Section 32 Waiver Agreement.

12. If I settle my claim with a Section 32 Waiver Agreement and then re-injure the same body part at work, what are my options?

You may file a new claim. If the new claim is established, benefits will probably be split (*or apportioned*) between the new case and the claim that you settled. You'd only be paid the amount of benefits apportioned for the new claim. This applies to both lost wages and medical treatment. You would be personally responsible for paying whatever was apportioned to the settled claim.

For example, if you hurt your leg again and 75% of the injury is from a new accident, your medical providers will receive 75% payment for their services. You will have to pay the remaining 25% of their fee. You would also receive 75% of the lost wage benefit. So if you earned \$600 a week and the benefit is two-thirds of that, or \$400, you would receive \$300 a week, because that's 75% of the benefit.

13. What happens if I owe child support?

If you are in arrears for child support, the amount that you owe will be deducted from the proceeds of your settlement. You will receive what remains of your payment.

14. What if I sign the Section 32 Waiver Agreement and then change my mind?

You have 10 calendar days from the date that the Section 32 Waiver Agreement was submitted to the Board to change your mind. The Board will advise you of that date. You must notify the Board in writing that you wish to withdraw from the agreement. If written notification is not received within that 10-day period, the agreement becomes final, conclusive and binding on all parties.

15. Do I need a hearing to have the Section 32 Waiver Agreement approved by the Board?

A hearing may not be required. When the Board receives a Section 32 Waiver Agreement signed by all parties, the Board will review it and determine if the agreement can be approved without a hearing. Agreements that continue medical benefits may not need a hearing. When medical benefits are being settled, a hearing will be required, unless all parties consent to approval of the agreement without a hearing. This consent must be provided on Form C-32. The Board can always choose to hold a hearing for the approval of any Section 32 Waiver Agreement.

16. When my agreement is approved, how long before I get my check?

The insurer has 10 calendar days from the date that the Section 32 Waiver Agreement is final to have your check postmarked. If the 10th day is a Saturday, Sunday or legal holiday, your check must be postmarked by the next business day.

17. Is there a penalty if my check is late?

Yes. The late payment penalty is 20% of the amount that was paid late. This amount is paid to you. Send a letter requesting a penalty to the Board with a copy of the check and envelope showing the postmark. If your check is electronically deposited, you must send proof of the late deposit with your letter to the Board.

18. What if someone makes me a promise of some benefit that is not part of the Section 32 Waiver Agreement?

Such a promise is not binding or enforceable. If someone promises you a benefit that is outside of the Section 32 Waiver Agreement, report it to the Board immediately.

19. What is the effective date for use of the new forms?

The use of the following forms will be mandatory effective March 1, 2016:
Settlement Agreement - Section 32 WCL Indemnity Only Settlement Agreement (C-32-I) (/content/main/forms/c32_I.pdf)

[Waiver Agreement - Section 32 WCL \(C-32\) \(/content/main/forms/c32.pdf\)](/content/main/forms/c32.pdf)

[Section 32 Settlement Agreement: Claimant Release \(C-32.1\)](/content/main/forms/c32_1.pdf)

[\(/content/main/forms/c32_1.pdf\)](/content/main/forms/c32_1.pdf)

For agreements currently circulating amongst the parties, the Board will accept the prior version of forms, as well as non-templated indemnity-only agreements, until April 1, 2016