



Best Practices: Settlement Documents as Case Opening Documents

How to obtain a successful “Walk Through” settlements

For the Pro Per Applicant you can obtain a case number with either a Stipulation with Request for Award (STIP) or a Compromise & Release (C&R) and then obtain either an Award(s) or an Order Approving Compromise & Release upon assignment of an ADJ case number. The time associated with the assignment of an ADJ case number will depend on the venue and the way it is referred to the local district office of the WCAB (mail, e-filing or walk through).

First and Foremost, make sure your settlement documents and those documents that accompany them are filled out completely and explain the case(s) adequately. There are no shortcuts to drafting settlement documents. Stipulations with Request for Award should be narrowly drafted since future medical care attaches. If there are body parts in dispute they should NOT be listed body parts for which future medical care is to be given. Instead they should be dismissed specifically in the body of the settlement document and there should be an explanation of HOW & WHY that dismissal is being made (with accompanying documents or notice that there is not medical evidence to substantiate same and that the applicant wants to dismiss them). A C&R on the other hand should be as ALL INCLUSIVE as possible to cover all dates of injury and body parts that can be foreseen and for which there is documentation of injury, treatment and release from care (and or permanent disability and need for future medical care). The use of addenda can be appropriate but many WCJ's will strike General Release language for a Pro Per applicant. We also do not recommend resignation letters ever be included in the documents sent to the WCAB for approval.

If the applicant has worked for the employer long enough to have had other claims, we always recommend adding other cases/ claims that are closed into any C&R, BUT you must produce the same documents for each of the claims/ cases you want case numbers and settlement approval.

Failure to provide the documentation recommended by the DWC will mean suspension of the settlement documents or questions of adequacy and the setting of the matter for a hearing to explain yourself and the rationale behind the settlement.

WALK THROUGH SETTLEMENT CHECKLIST (CASE OPENING) DOCUMENTS:

According to the DWC at their annual conference and the WCAB/ WCJ the following documents MUST be produced to them with every request for walk through.

P&S REPORT – PTP, QME, AME

QME WAIVER (IF APPLICABLE – THE APPLICANT IS SETTLING ON PTP REPORT)

BENEFIT PRINTOUT (THIS MUST BE EASY TO READ WITH TOTALS OF EACH SPECIES OF BENEFITS PREFERRABLE)

BENEFIT NOTICE – THE MOST RECENT ONE IS ALL YOU NEED

NOTICE OF SJDB – OR SOME EXPLANATION ABOUT WHY IT IS NOT APPROPRIATE

OFFER OF REGULAR WORK (IF APPLICABLE)

OFFER OF MOD/ALT WORK (IF APPLICABLE)

PD RATING – EITHER FROM A 3RD PARTY RATER OR THE DEU OR YOUR OWN RATING – IT SHOULD EITHER BE ATTACHED WITH ALL THE OTHER DOCUMENTS OR IN THE BODY OF THE SETTLEMENT DOCUMENTS – EASY TO FIND / EXPLAIN TO THE WCJ

DWC-1 (CLAIM FORM)

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AND ANY OTHER DOCUMENT YOU DEEM NECESSARY TO GET THE WCJ TO SIGN THE ORDER OR AWARD.