

<p>State of Alaska Michael J. Dunleavy, Governor</p>	<p>Alaska Workers' Compensation Division PO Box 115512 Juneau, Alaska 99811-5512</p>		
<p>Department of Labor and Workforce Development</p>	BULLETIN	Number 19-04	Date October 16, 2019
<p>Dr. Tamika L. Ledbetter, Commissioner</p>	<p>SUBJECT</p>	<p>Settlement Agreements & Attorney Fees Alaska Statutes 23.30.012; AS 23.30.155(m) Alaska Regulation 8 AAC 45.160</p>	<p>REFERENCE</p>

This bulletin provides guidance for reporting attorney fees associated with a settlement agreement for a workers' compensation insurance claim. The Division of Workers' Compensation has concerns that attorney fees and litigation costs may be lumped in with indemnity benefits rather than being listed as separate categories in some settlement agreements. This guidance is designed to clarify that attorney fees and litigation costs must each be reported separately from other benefit categories such as indemnity benefits. Including the attorney fees in with indemnity benefits on a settlement agreement, will result in a higher Second Injury Fund contribution cost to the employer.

A workers' compensation settlement is an agreement on the benefits available to an injured worker. An injured worker, an employer, and an insurer may enter into a voluntary resolution to a dispute prior to having the matter set for a hearing with the Alaska Workers Compensation Board (Board). A written Compromise and Release (C&R) agreement formally records when parties reach a settlement, which is enforceable as a legal document. The agreement may settle a part or all of past and future benefits. If an attorney does not represent the injured worker, the C&R will not be binding until approved by the Board. Once the Board approves a C&R, it is final. If an attorney represents an injured worker, the C&R is final once it has been filed with the Board, as long as medical benefits are not being waived and it is in the best interest of the injured worker or the injured worker's beneficiaries.

The following are filing and reporting requirements for settlement agreements.

Compromise and Release Agreement - form [07-6117](#).

- In addition to other elements required under paragraph 8 AAC 45.160(c), every C&R agreement must conform strictly to the requirements of AS 23.30.012 and, in addition, must
 - **(5) state the attorney's fee arrangement between the employee or his beneficiaries and the attorney, including the total amount of fees to be paid.**

Under AS 23.30.155 (m) and 8 AAC 45.160 (h), compensation payments must be reported and itemized with the total amount of all compensation by type, medical and related benefits, vocational rehabilitation expenses, **legal fees, including a separate total of fees paid to attorneys and fees paid for the other costs of litigation**, and penalties paid on the claim for annual reporting purposes. Each employer, self-insured employer, insurer or its adjuster and uninsured employer are responsible for reporting to the Division all compensation benefits paid to injured workers, as well as paying all applicable Second Injury Fund Contributions and Workers' Safety and Compensation Administration Account Fees.

Please ensure that attorney fees and litigation costs are recorded separately and accurately reported to the Division of Workers' Compensation. Contact Velma Thomas, Program Coordinator I, at 907-465-6045 or at velma.thomas@alaska.gov if you have questions.