

4123-3-37

Lump sum advancements.

- (A) The administrator of the bureau of workers' compensation, under special circumstances, may commute an award of compensation to a lump sum payment when the administrator determines ~~that~~ the advancement is advisable for the purpose of providing the claimant or the surviving spouse financial relief or for furthering the claimant's rehabilitation.
- (1) The bureau may grant a lump sum advancement to a claimant only from an award of compensation made pursuant to section 4123.58 of the Revised Code or from division (A) or (B) of section 4123.57 of the Revised Code.
 - (2) The bureau may grant a lump sum advancement to a surviving spouse only from an award of death benefits made pursuant to section 4123.59 of the Revised Code. However, the advancement ~~shall not~~ cannot exceed the amount of death benefits payable to the surviving spouse over a two-year period.
 - (3) The bureau ~~shall~~ will not grant a lump sum advancement to a surviving dependent from an award of compensation made pursuant to division (B) of section 4123.57 of the Revised Code.
 - (4) The bureau ~~shall~~ will not grant a lump sum advancement in a claim where the allowance of the award of compensation made pursuant to section 4123.58 of the Revised Code or from division (A) or (B) of section 4123.57 of the Revised Code is on appeal under section 4123.511 of the Revised Code or an appeal to court.
 - (5) The industrial commission has exclusive jurisdiction over an application for a lump sum advancement for the payment of attorney fees incurred in securing an award. The bureau ~~shall~~ will refer such applications to the industrial commission to adjudicate.
- (B) A claimant or the surviving spouse ~~shall file an~~ requests a lump sum advancement by filing a fully completed application ~~requesting a lump sum advancement~~ with the bureau.
- (1) ~~The application shall be fully completed and notarized.~~
 - (a) The claimant or surviving spouse ~~shall~~ is to provide proof that there are special circumstances for the lump sum advancement and that the lump sum advancement is advisable for the purpose of providing financial relief or for furthering the claimant's rehabilitation.

- (b) The bureau may dismiss an application for a lump sum advancement where the claimant or surviving spouse has not provided proof of special circumstances and proof of financial relief or for furthering the claimant's rehabilitation.
- (2) The bureau ~~shall~~will review the application and utilize whatever methods the bureau determines to be appropriate, consistent with general insurance principles, to evaluate the claim for a lump sum advancement.
- (3) For a lump sum advancement from an award of compensation made pursuant to section 4123.58 of the Revised Code or from an award of death benefits pursuant to section 4123.59 of the Revised Code, if the bureau determines ~~that~~ the lump sum advancement is advisable, the bureau ~~shall~~will calculate the net present value of the lump sum advancement on the remaining compensation payable to the claimant or benefits payable to the spouse. The bureau ~~shall~~will determine the amount of the biweekly rate reduction and the terms of such reduction. The administrator ~~shall~~will fix a specific time for the reduction of the biweekly rate of compensation to offset the lump sum advancement depending upon the time period ~~that~~ the claimant or surviving spouse has selected for the offset of the lump sum advancement, when applicable. Once a claimant or surviving spouse has selected a time period for the offset of the lump sum advancement, the claimant or surviving spouse ~~may not~~cannot change the time period. The bureau ~~shall~~will include the net present value of the lump sum advancement in determining the reduction of the biweekly rate of compensation.
- (4) For a lump sum advancement of an award made pursuant to division (A) or (B) of section 4123.57 of the Revised Code, if the bureau determines ~~that~~ the lump sum advancement is advisable, the bureau ~~shall~~will calculate the net present value of the lump sum advancement on the remaining weeks of compensation payable to the claimant and in determining the amount to be paid to the claimant for the lump sum advancement.
- (5) In determining the net present value of a lump sum advancement, the bureau ~~shall~~will use the discount factor as periodically established by the bureau.
- (6) The bureau ~~shall~~will issue an order approving or disapproving the application. If the bureau approves the application, the order ~~shall~~will advise the claimant or surviving spouse of the amount of reduction of compensation and the terms of the lump sum advancement.

(C) Maximum rate reduction in compensation.

- (1) No lump sum advancement ~~shall~~will be approved that will result in a rate reduction of more than one-third of the biweekly rate of compensation, except where the advancement is for compensation under division (A) or (B) of section 4123.57 of the Revised Code. The bureau ~~shall~~will not include an advancement for attorney's fees in accordance with section 4123.06 of the Revised Code in the calculation of the maximum rate reduction limitation.
- (2) The bureau may approve no more than two concurrent lump sum advancements in a claim in addition to an advancement for attorney fees that the industrial commission has granted in accordance with section 4123.06 of the Revised Code.
- (3) Upon the recoupment of the lump sum advancement in accordance with the terms of the order and agreement, the bureau ~~shall~~will remove the rate reduction due to the lump sum advancement and reinstate the claimant's rate of compensation or the surviving spouse's benefits.
- (D) The lump sum advancement warrant ~~shall~~will include the claimant or the surviving spouse as a payee, except where the warrant is for the payment of attorney's fees in accordance with section 4123.06 of the Revised Code, in which case the attorney ~~shall~~will be named as the only payee on the warrant.

Effective: 9/15/2023

Five Year Review (FYR) Dates: 7/1/2024

CERTIFIED ELECTRONICALLY

Certification

09/05/2023

Date

Promulgated Under: 119.03
Statutory Authority: 4121.12, 4121.121, 4121.30, 4121.31, 4123.05
Rule Amplifies: 4123.57, 4123.64, 4123.65
Prior Effective Dates: 12/01/2004, 10/12/2010, 07/11/2013, 11/13/2015,
07/01/2019