

4123-3-37

Lump sum advancements.

(A) The administrator of the bureau of workers' compensation 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 injured worker or the surviving spouse financial relief or for furthering the injured worker's rehabilitation.

(1) The ~~administrator~~ bureau may ~~only~~ grant a lump sum ~~payment~~ advancement to an injured worker 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 ~~administrator~~ bureau may grant a lump sum ~~payment~~ advancement to a surviving spouse only from ~~awards~~ an award of ~~compensation~~ death benefits made pursuant to ~~sections~~ section 4123.59 of the Revised Code. However, the advancement shall not exceed the amount of death benefits payable to the surviving spouse over a two-year period.

(3) The bureau shall not grant a lump sum advancement to a surviving dependent 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.

(4) The bureau shall 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.

~~(3)~~(5) The industrial commission has exclusive jurisdiction over an application for a lump sum advancement for the payment of attorney fees incurred in the securing an award. The bureau shall refer such applications to the industrial commission to adjudicate.

(B) An injured worker or the surviving spouse shall file an application requesting a lump sum advancement with the bureau.

(1) The application shall be fully completed and notarized.

(a) The injured worker or surviving spouse shall provide proof that the lump sum advancement is advisable for the purpose of providing financial relief or for furthering the injured worker's rehabilitation.

(b) The bureau may dismiss an application for a lump sum advancement

where the injured worker or surviving spouse has not provided proof of financial relief or for furthering the injured worker's rehabilitation.

- (2) The ~~administrator~~ bureau shall review the application and utilize whatever methods the ~~administrator~~ bureau determines to be appropriate, consistent with general insurance principles, to evaluate the claim for a lump sum ~~payment~~ advancement.
- (3) ~~If~~ 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 administrator bureau determines that the lump sum application advancement is advisable, the administrator bureau shall calculate the net present value of the lump sum advancement on the remaining compensation payable to the injured worker or benefits payable to the spouse. The bureau shall determine the amount of the biweekly rate reduction and the terms of such reduction. The administrator shall fix a specific time for the reduction of the biweekly rate of compensation to repay offset the lump sum advancement depending upon the time period that the injured worker or surviving spouse has selected for the offset of the lump sum advancement, when applicable. Once an injured worker or surviving spouse has selected a time period for the offset of the lump sum advancement, the injured worker or surviving spouse may not change the time period. The administrator may include interest in the repayment schedule. The bureau shall 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 calculate the net present value of the lump sum advancement on the remaining weeks of compensation payable to the injured worker and in determining the amount to be paid to the injured worker for the lump sum advancement.
- (5) In determining the net present value of a lump sum advancement, the bureau shall use the discount factor as periodically established by the bureau.
- (4)(6) The ~~administrator~~ bureau shall issue an order approving or disapproving the application. If the bureau approves the application is approved, the order shall advise the injured worker 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 be approved that will result in a rate reduction of more than one-third of the biweekly rate of compensation, except where the ~~payment~~ advancement is for compensation under division (A) or (B) of section 4123.57 of the Revised Code. The bureau shall 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 ~~administrator~~ bureau may approve ~~more than one lump sum advancement in a claim, but shall not permit 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 ~~repayment~~ recoupment of the lump sum advancement in accordance with the terms of the order and agreement, the ~~administrator~~ bureau shall remove the rate reduction due to the lump sum advancement and reinstate the injured worker's rate of compensation or the surviving spouse's benefits.
- (D) The lump sum advancement warrant shall include the claimant or the surviving spouse as a payee, except where the ~~check~~ 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 be named as the only payee on the ~~check~~ warrant.

Effective:

Five Year Review (FYR) Dates: 01/01/2019

Certification

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: 12/1/04, 10/12/10, 7/11/13