



State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
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Charles M. Arlinghaus
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December 18, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Administrative Services, Division of Risk and Benefits, under RSA 281-A:13, V., to waive a portion of the State's \$177,431.75 gross lien related to a workers' compensation claim for [REDACTED] and to accept \$40,000.00 to satisfy the lien, effective upon Governor and Council approval.

EXPLANATION

On July 6, 2022, [REDACTED] was on duty as a [REDACTED] worker for the Department of Transportation when the mower [REDACTED] was operating was struck by a motor vehicle. The State, working through its workers' compensation third-party administrator, Constitution State Services (CSS), paid workers' compensation benefits related to [REDACTED] injuries in the total amount of \$177,431.75. Per RSA 281-A:13, the State is entitled to a lien on proceeds the injured employee receives as a result of a claim or civil action against a third party responsible for the injury up to the \$177,431.75, less pro rata share of fees, expenses, and cost of action. Only the Governor and Executive Council has the authority to grant a full or partial waiver of the lien.

[REDACTED] obtained legal counsel to pursue civil action against the driver who caused [REDACTED] injuries, and [REDACTED] has indicated that there is only \$100,000 in limits available from the personal injury case. CSS has recommended to accept \$40,000 in full satisfaction of the lien. The Division of Risk and Benefits has tentatively agreed to a \$40,000 settlement contingent upon the Governor and Council approval of the partial lien waiver.

THE STATE OF NEW HAMPSHIRE
GOVERNOR AND EXECUTIVE COUNCIL

Petition of State of New Hampshire, Constitution State Services Insurance Company

[REDACTED]

v.

New Hampshire Department of Transportation

PETITION FOR PARTIAL WAIVER
OF WORKERS' COMPENSATION LIEN

The State of New Hampshire, Department of Transportation ("State") and Constitution State Services Insurance Company ("CSS"), the State's current workers' compensation claims administrator, hereby jointly petition for approval of a partial waiver of a workers' compensation lien per RSA 281-A:13, V, under the following terms and conditions:

1. [REDACTED] was employed by the State and on duty as a [REDACTED] on July 06, 2022 when [REDACTED] mower was struck by a brown Jeep. [REDACTED] continues to receive workers' compensation benefits for [REDACTED] shoulder and back injuries.

2. The State, through Constitution State Services, has paid wage replacement benefits and medical benefits in the amount of \$177,431.75. [REDACTED] continues to treat for [REDACTED] injuries.

3. [REDACTED] has not yet pursued action against the third-party driver, pending the approval of this petition. The total insurance coverage available is \$100,000.

4. The parties have tentatively agreed to the following three-way split of the \$100K settlement: State/CSS \$40,000.00, [REDACTED] \$25,446.78, and Attorney Pomeroy \$34,553.22. The State will retain its right to a dollar-for-dollar holiday in the amount of \$25,446.78, without

reduction for fees or costs. The Holiday will commence on the date of approval of the third-party settlement by the Department of Labor.

5. The parties jointly request this partial waiver in order to accept the \$40,000 in full satisfaction of the lien.

6. RSA 281-A:13, V, provides that the Governor and Council "may, in their discretion, waive all or part of the lien."

7. The recovery of \$40,000 presents a fair resolution under the circumstances.

8. For the foregoing reasons, the petitioners jointly request that the Governor and Executive Council approve the partial lien waiver as set forth herein.

Respectfully Submitted,
The State of New Hampshire
Dept. of Administrative Services

Dated: 12/18/2023

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Constitution State Services

Dated: 12/1/23

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By: [Redacted] Attorneys,
Shaheen and Gordon

Dated: 12/1/23

By: [Signature]
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