

MONTANA WORKERS' COMPENSATION COURT **FILED**  
REQUEST FOR CONSIDERATION FOR FLYNN BENEFITS

APR - 1 2005

Name of Deceased Claimant: \_\_\_\_\_

SSN# of Deceased Claimant: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Name of Personal Representative: \_\_\_\_\_

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

Address of Personal Representative: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_

1. Please attach documentation verifying your status as the Personal Representative of the deceased claimant's estate.

2. Did the deceased claimant hire an attorney or other representative to assist him or her in obtaining social security disability benefits?

YES NO (circle one)

3. If so, please provide the name and address of the attorney or representative:

4. Please enclose a copy of the Social Security Administration notice concerning the fee of the deceased claimant's attorney or representative.

I have a copy of the notice and it is enclosed.

I do not have a copy of the notice.

5. If the deceased claimant incurred costs other than a fee to an attorney or representative to obtain his or her social security disability benefits:

a. What was the amount of the deceased claimant's costs? \_\_\_\_\_

b. **Attach copies of cancelled checks and receipts showing the costs.**

6. Mr. Rex Palmer, the attorney who prosecuted the legal action which established the deceased claimant's possible entitlement to further benefits, has been asked by the Court to review the deceased claimant's eligibility for benefits. The Court will authorize him to review the deceased claimant's workers' compensation and social security files and records, including medical information, to the extent necessary to determine any eligibility for further benefits. He will do so under a confidentiality order prohibiting him from disclosing information concerning the deceased claimant's claim to any other persons.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

**NOTICE: You must complete and mail this questionnaire and verification to:**

Workers' Compensation Court  
P.O. Box 537  
Helena, MT 59624-0537

by \_\_\_\_\_. If you fail to submit this information by that date, the claim of the deceased claimant's estate will not be considered for additional benefits.

**DO NOT CONTACT THE MONTANA STATE FUND.**

As a result of the Montana Supreme Court decision in *Flynn v. State Comp. Ins. Fund*, 2002 MT 279, 312 Mont. 410, 60 P.3d 397, certain State Fund claimants **may** be entitled to receive additional workers' compensation benefits **if** they paid fees or costs in obtaining social security disability benefits and their workers' compensation benefits were reduced on account of the social security disability benefits. The State Fund's records indicate that you are the Personal Representative or heir for a claimant who passed away on or after December 5, 2002. Please accept our condolences regarding this recent loss. The Court has agreed to allow the Personal Representative to make a claim for *Flynn/Miller* benefits on behalf of the deceased claimant, whose estate is entitled to receive additional benefits if:

1. The deceased claimant received temporary total disability or permanent total disability workers' compensation benefits at any time between July 1, 1974, and December 5, 2002; and
2. The deceased claimant's workers' compensation benefits were reduced on account of receiving social security disability benefits; and
3. The deceased claimant paid an attorney or other representative and/or incurred other costs in connection with the proceedings to obtain his or her social security disability benefits; and
4. The deceased claimant did not settle his or her workers' compensation claim.

**In order to determine if the estate qualifies for further benefits or credits, the Personal Representative must submit verification of the deceased claimant's eligibility by completing and mailing the enclosed questionnaire and verification to the Montana Workers' Compensation Court, P.O. Box 537, Helena, MT 59624-0537 by \_\_\_\_\_.** (Date 210 days from date of letter). **If the Personal Representative fails to submit this information by such date, the claim of the deceased claimant's estate will not be considered for additional benefits.**

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April 1, 2005  
**HAND-DELIVERED**

The Honorable Mike McCarter  
Workers' Compensation Court  
1625 11th Avenue  
Helena, MT 59601

**FILED**

APR - 1 2005

OFFICE OF  
WORKERS' COMPENSATION JUDGE  
HELENA, MONTANA

Re: *Flynn v. State Fund, WCC No. 2000-0222*

Dear Judge McCarter:

As part of the implementation process in the *Flynn* matter, Rex Palmer and the State Fund agreed to revise the letter and questionnaire which will be sent to the Personal Representatives or heirs of deceased claimants. Enclosed please find a copy of the parties' revised letter and questionnaire. At your convenience, please review it and let us know if it meets your approval.

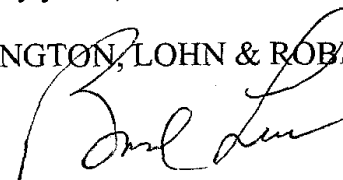
In addition, the parties have agreed upon the general language to use in the cover letter which will be sent to the *Flynn* claimants who will be receiving additional benefits. If you would like to review the parties' proposed letter, please let us know. If you elect not to review the letter, we will be sending the cover letter to certain *Flynn* claimants in the near future.

If you have any questions or concerns, please do not hesitate to contact us.

Very truly yours,

GARLINGTON, LOHN & ROBINSON, PLLP

By

  
Bradley J. Luck

BJL:sec

Enc.

c: Rex Palmer (w/enc.) (hand-delivered)  
Nancy Butler (w/enc.)  
Thomas E. Martello (w/enc.)