

Rex Palmer
ATTORNEYS INC., P.C.
301 W Spruce
Missoula, Montana 59802
(406) 728-4514
ATTORNEYS FOR PETITIONER

FILED

MAR 20 2003

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

IN THE WORKERS' COMPENSATION COURT IN THE STATE OF MONTANA
BEFORE THE WORKERS' COMPENSATION JUDGE

Robert Flynn,)	WCC No. 2000-0222
Petitioner,)	
v.)	
)	STATEMENT OF SCOPE
State Compensation Ins. Fund,)	OF ATTORNEY'S LIEN
Respondent/Insurer for)	
)	
Salish Kootenai College,)	
Employer.)	

* * * * *

The undersigned presented notice of his attorney's lien on December 26, 2002. At the status conference on March 4, 2003, the Court instructed the undersigned to provide a more specific description of the entities and claimants intended to be the subject of the claimed lien and to provide a more specific statement of the extent or amount of the claim. Therefore, the undersigned provides the following statement of the scope of his attorney's lien:

1. The lien is asserted against any entity providing workers' compensation benefits to Montana workers at any time and is limited to entities which had a practice of taking an offset for the full Social Security award received by an injured claimant, without accounting for the costs incurred by the claimant to recover the award, as required by the *Flynn* decision of the Montana Supreme

Court. This includes those entities providing coverage under plans 1, 2 and 3 of the Workers' Compensation Act.

2. The lien extends to all workers' compensation claimants in Montana who incurred costs or fees to obtain a Social Security award for which the entity providing workers' compensation coverage took an offset or had a policy of taking an offset without accounting for the costs incurred by the claimant to recover the award, as required by the *Flynn* decision.
3. The amount of the claimed lien is 25% of the funds which the insurer is now required to remove from its offset calculation, as required by the *Flynn* decision.

For example, where an insurer had or has a practice, such as that of the State Fund, of taking a full 50% offset for the entire Social Security award, without accounting for the costs incurred by the claimant to recover the award, the *Flynn* decision now requires the entity taking the offset to take responsibility for 50% of the costs, including fees, incurred by the claimant to recover the award. This is the insurer's proportionate share of the cost of recovery. Under this example the claimant benefits by the insurer removing from its offset calculation 50% of the claimant's cost of recovering of the Social Security award. The amount of benefit to which each claimant is entitled is susceptible to mathematical calculation. This lien simply claims 25% of the amount of the benefit to which each claimant is entitled as a result of the *Flynn* decision.

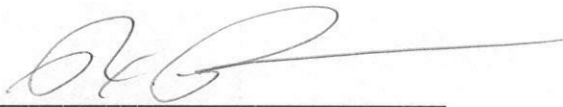
The undersigned claims no lien on any of the following:

1. Any Social Security offset taken prior to July 1, 1974; and
2. Any Social Security award ordered to be paid after the date of the *Flynn* decision of December 5, 2002.

At this time, the undersigned claims no lien for costs, other than fees for representation, incurred by any claimant to recover a Social Security award unless such claimant appears in this action and objects to the claimed lien.

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Dated this 18th day of March 2003.



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CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of March 2003, a true and correct copy of the foregoing was served upon the following by U.S. mail, hand-delivery, Federal Express, or facsimile:

Bradley J. Luck
Garlington, Lohn & Robinson
199 W Pine
PO Box 7909
Missoula, MT 59807-7909

{X} U.S. Mail
{ } Hand Delivered
{ } Federal Express
{ } Facsimile

