

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1995 MTWCC 1A

WCC No. 9311-6928

MICHAEL STERMITZ

Petitioner

vs.

STATE COMPENSATION INSURANCE FUND

Respondent.

ORDER DENYING PETITION FOR LUMP SUM

Summary: During January 1995, the Court issued a judgment awarding claimant permanent partial disability benefits in the amount of \$60 a week for 500 weeks. Claimant now moves in that same proceeding for an order that the benefits be paid in a lump sum.

Held: Where no lump sum request was made in the initial case, claimant must file a new petition demanding lump sum payment. Counsel agreed the request would be presented to the insurer and, if denied, a new petition filed in this Court.

Topics:

Benefits: Lump Sums: Generally. Where no lump sum request was made in petition demanding permanent partial disability benefits, and the Court has already rendered judgment that claimant receive biweekly permanent partial disability benefits, if claimant wants a lump sum payment, he must file a new petition with that request. In telephone conference with the Court, counsel agreed the request would be presented to the insurer, promptly considered, and, if denied, a new petition would be filed in this Court.

This case was decided on January 10, 1995. The decision awarded claimant permanent partial disability benefits of \$60 a week for 500 weeks. The claimant did not request, and the Court did not make, any determination concerning claimant's entitlement to lump sum his benefits. However, on March 23, 1995, claimant filed a Petition for Lump Sum requesting that the Court order payment of his benefits in a lump sum. This latest petition was filed as a continuation of the present case and not as a new matter.

The Court held a telephone conference with counsel today, April 5, 1995. Since no lump sum request was previously made, I indicated that the lump sum petition would have to be filed as a new matter and that the present petition is therefore **denied**. However, during the conference counsel agreed that claimant will prepare a petition for lump sum advance and a supporting affidavit and submit them to the insurer for its consideration. Mr. Goe indicated that the petition will be promptly processed. If that lump sum request is disapproved the claimant may then file a petition with the Court. Since claimant is presently unemployed, such petition would be heard on an emergency basis.

Dated in Helena, Montana, this 6th day of April, 1995.

(SEAL)

/S/ Mike McCarter
JUDGE

c: Ms. Sydney E. McKenna
Mr. Oliver H. Goe