

KWORCC Select Claims Report

Presented September 28, 2023



Claim Summary – Settlement Request

Employer:	Franklin County	Date of Injury:	12/04/2019
Claim No.:	19799148	Job Description:	Former Heavy Equipment Operator
Employee Age:	53	Updated:	9/18/2023
AWW:	599.75	TTD Rate:	399.85
Attorneys:	Keith Mark	Employer:	Ron Laskowski
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$179,900.00	\$ 171,187.16	\$ 0.00	\$ 13,000.00	\$ 40,447.50	\$ 404,534.66
Amount Paid:	\$133,800.35	\$ 54,835.42	\$ 0.00	\$ 530.90	\$ 24,202.69	\$ 213,369.36
Outstanding:	\$ 46,099.65	\$ 116,351.74	\$ 0.00	\$ 12,469.10	\$ 16,244.81	\$ 191,165.30

Accident Description / Nature of Injury:

- The employee felt a pop and pain in her upper right arm and shoulder while maneuvering a tarp to cover a trailer.

Investigation / Compensability:

- The employee was in the course and scope of her employment and there are no significant pre-existing defenses.

Medical Management:

- Since 2019 the claimant has undergone three surgical procedures to the right shoulder, two with Dr. Wertzberger and a third with Dr. Satterlee. She has failed to progress without subsequent regression each time. The claimant attempted physical therapy, pain management and medication with little relief. Ultimately she was diagnosed with complex regional pain syndrome. She also developed post-surgical deep vein thrombosis placing her on a costly regimen of Eliquis. However, the Eliquis which is a large cost driver for the MSA is contested as needed for long term use in relation to the worker's compensation claim. The claimant was suggested to have a capsular release and a total reverse shoulder replacement, but she is reluctant to proceed with the same based on the lack of success with prior procedures and the associated risks. IME opinions solidify the relation of complex regional pain syndrome to the event, and the need for likely future shoulder replacement in the future as well as a possible spinal cord stimulator.

Periods of Disability:

- The claimant did not return to work after her work injury as her employer was unable to accommodate the restrictions. Her employer ultimately terminated the employee to fill her vacant position. She received a total of 74 weeks of TTD before determination of MMI.

Permanent Partial Impairment / Permanent Disability:

- The employee is assigned a general body disability based on the presence of complex regional pain syndrome and deep vein thrombosis. When combined with the wage loss and the task loss the employee qualifies for a maximum permanent total disability benefit.

Subrogation / Other Issues:

- The employee is a current Medicare beneficiary, and their interests must be considered in the event of settlement.

Plan of Action:

- Settlement authority is requested of the board in the amount of \$120,169.58.
 - a) The settlement authority will be used to close the indemnity and review and modification full and final. It also includes additional funds to incentivize acceptance of a CMS approved Medicare set aside and to cover non-Medicare covered future medical expense.
 - b) The current estimated Medicare set aside is valued at \$207,000, however it has not yet been approved by CMS.
 - c) Counsel will attempt a revision of funds to be included for the set aside in the event of claimant's death, however this is *not* guaranteed.
 - d) Counsel is actively involved in trying to obtain necessary evidence and cooperation from claimant's counsel to secure the most cost effective MSA possible.
- Secondary settlement authority is requested simultaneously, if an agreement cannot be made to accept the termination of future medical via CMS approved Medicare set aside. In this case authority to settle the indemnity and review and modification in the amount of \$100,000 is requested, with open medical.



Claim Summary – Reserve Advisory

Employer:	Reno County	Date of Injury:	08/16/2023
Claim No.:	231102568	Job Description:	Heavy Equipment Operator
Employee Age:	63	Updated:	9/19/2023
AWW:	954.86	TTD Rate:	636.60
Attorneys:	N/A	Employer:	N/A
Adjuster:	Amanda Chamberland		

	Medical	Indemnity	Rehabilitation	Legal	Expense	Total
Reserves:	\$ 23,250.00	\$ 19,416.30	\$ 0.00	\$ 600.00	\$ 3,500.00	\$ 46,766.30
Amount Paid:	\$ 47.99	\$ 2,450.91	\$ 0.00	\$ 0.00	\$ 39.45	\$ 2,538.35
Outstanding:	\$ 23,202.01	\$ 16,965.39	\$ 0.00	\$ 600.00	\$ 3,460.55	\$ 44,227.95

Accident Description / Nature of Injury:

- The employee assisted in the excavation of the county landfill, to make way for a new law enforcement shooting range. The excavation resulted in tall walls of surrounding dirt ranging from 8-25 feet in height. The employee stood at the top of the embankment and reached downwards to assist an employee climbing up the steep incline. He fell over the other employee headfirst to the ground.

Investigation / Compensability:

- The employee was in the course and scope of his employment and the event is accepted as compensable.

Medical Management:

- Emergency care was sought at Hutchinson Regional Medical Center. The employee was diagnosed with skin abrasions equivalent to second degree burns, a right clavicle fracture and multiple broken ribs. He is currently treating at Via Christi Wichita burn clinic for outpatient burn/wound care. He is also treating with Dr. Goin for the non-surgical clavicle fracture.

Periods of Disability:

- The employee missed three weeks of work and has now returned to a light duty position.

Permanent Partial Impairment / Permanent Disability:

- It is expected that the employee will receive an impairment of 10% to the upper arm/shoulder and the file is reserved for the same. The claim is not reserved for a disability to the body as a whole at this time as the rib fracture and burns are expected to heal without further impairment.

Subrogation / Other Issues:

- The claimant has a history of litigation against the county for worker’s compensation claims, although at this time he has not sought counsel to date.

Plan of Action:

- I will maintain close contact with the claimant to ensure his medical needs are met and he is healing as expected.
- I will work with the provider and the employer to return him to his regular duty position as he progresses.
- Once the claimant is at MMI, I will request a rating and attempt to settle the claim, full and final.