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## **RLS Workers' Compensation Alternative Dispute Resolution Carve-Out Program**

**“Carve-out” is a generic description for this program however, the ADR Carve-Out program that RLS has developed is all-inclusive, comprehensive, preventive and includes a financial incentive for both our associations and for the employee.**

**The following is a list of  
Frequently Asked Questions  
Pertaining to  
the RLS ADR Carve-Out Program.**

### **1. What is the RLS ADR Carve-Out Program?**

- It is a process for preventing and resolving disputes and is an alternative to the statutory dispute resolution system. The program includes a nurse advocate, a proactive ombudsperson, a mediator and an arbitrator. The injured worker will have the assistance of an ombudsperson who will advocate for the injured worker in seeking payment of full compensation from the claims staff. The ombudsperson will facilitate communication with the claims staff to prevent unnecessary disputes and quickly resolve those that do occur, in order to achieve the common goals of providing quality medical care, a prompt return to work and timely claim resolution.

### **2. Has this been done before?**

- Yes, mostly in the construction trades since 1994.

### **3. How is this different from other programs?**

- This program differs because it involves a self-insured employer, rather than an insured employer, which means that the employer enjoys the savings generated by the program, rather than an insurance company. It is also different because the ombudsperson is proactive and will be tasked with helping injured workers return to work as soon as possible and to achieve resolution of the claim at the earliest opportunity. In the current statutory workers' compensation dispute resolution system, treatment disputes find their way into the utilization review and independent medical review processes in which uninvolved third parties make decisions with limited appeal rights and that can impede the provision of necessary care which delays recovery, return to work and claim resolution. In this program, the nurse advocate, ombudsperson and claims examiner are tasked with working together to assure that needed treatment is provided without delay, and any medical disputes that arise are addressed by physicians selected by labor and management. If

they are unsuccessful, mediation and, if necessary, arbitration will be scheduled with a mediator and arbitrator picked from a panel chosen by labor and management. An arbitrator's decision may be appealed to the Workers' Compensation Appeals Board on a Petition for Reconsideration.

#### **4. Why does this program exist now?**

- Programs like this were developed by trade labor on the east coast in the early 1990s with the intention of assisting union signatory contractors to better compete for projects against non-union contractors. No public sector union or employer has chosen to initiate a comprehensive program like this one, opting for a narrower, medical focused program that doesn't employ alternative dispute resolution concepts.

#### **5. How does this benefit our city/county/district?**

- It will provide a better mechanism for processing workers' compensation claims and, by closing claims more efficiently, will avoid the loss development (ever increasing reserves to address future medical treatment needs and accounting for medical inflation) typically associated with workers' compensation claims presently.

#### **6. How does this benefit my association?**

- The savings generated by the program will be shared with the association and will increase resources in collective bargaining.

#### **7. What if my association is too small?**

- The generated savings will be smaller, but the members and employers will enjoy all the same benefits.

#### **8. How does this benefit me or you as an applicant/injured worker?**

- It will allow association members to have the assistance of a nurse advocate and ombudsperson, enjoy quality medical care, return to work more timely and receive early claim resolution.

#### **9. What do I have to do to become a part of this program?**

- The program will cover all association members, once the city/county/district and the association negotiate the details and get it up and running.

#### **10. Will there be a transition period?**

- All claims with dates of injury on or after the date of commencement of the program will fall within the jurisdiction of the program, and parties with claims prior to commencement will be allowed to seek permission to opt in. As with anything new there will be a transition period.

#### **11. Is there anything to lose?**

- As with anything new, there are always risks. However, the association will have the authority to address problems with the program which it does not have in addressing problems with the statutory system.

## **12. How do I set this up?**

- Contact RLS to begin the process.

## **13. How long will this take to get set up?**

- This will depend mostly on the willingness and ability of the municipality to partner with the association in negotiating the terms of the agreement; anywhere from 6 months to a year.

## **14. How will this impact current work comp cases?**

- It will not, unless the parties choose to allow the right to opt into the program.

## **15. Can the members benefit financially?**

- Yes, members can share in the savings generated by the program.

## **16. How does this impact staffing issues and overtime?**

- If executed correctly it will return injured officers to work more quickly, thus reducing forced overtime and the overtime budget.

## **17. What is the Workers' Compensation Appeals Board (WCAB)?**

- The Workers' Compensation Appeals Board is made up of appointees of the Governor, with approval by the Senate, and it is the appellate body for all decisions by WCJs (Workers' Compensation Judges).

## **18. Can I have my case handled under the WCAB and RLS ADR Carve-Out program simultaneously?**

- No, with the only exception that a claim under Labor Code section 132a must be litigated through the statutory system, unless both parties agree to voluntarily handle it in the program.

## **19. Can I opt out of the RLS ADR Carve-Out program and have my case handled under the Workers' Compensation Appeals Board system?**

- No.

## **20. If the association doesn't like how this is going, can we get out?**

- Yes, with 60 days written notice.

## **21. What happens if we opt out of the program?**

- All claims with dates of injury during the period of the program will continue to be handled within the program jurisdiction.

## **22. What is the process for appeal from the RLS ADR Carve-Out program?**

- An arbitrator's decision can be appealed on a Petition for Reconsideration to the WCAB just as one would be filed in response to a Workers' Compensation Judge's decision.

## **23. Do I need an attorney?**

- You have a right to one by law, if you choose.

## **24. Should I have an attorney?**

- Same answer as 23.

## **25. How do I find an attorney?**

- Contact your association or RLS for a referral.

**[www.RLSlawyers.com](http://www.RLSlawyers.com)**

**Notice: Making a false or fraudulent workers' compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine. Note: Seth Merrick is our firm's primary workers' compensation attorney.**