

# Claims resolution settlement agreements

The benefits and costs of engaging with CRSAs

October 9, 2024 | AWC Member Expo



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## Objectives

- Know how a city can be a party to a structured settlement, and what rights an employer has in these negotiations
- Explore the considerations your organization should be weighing as you engage in settlement discussions
- Understand the settlement process, the scope of settlements, and what limitations exist for this type of claim resolution

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# Navigating a claim to resolution

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## Claim closure needs

For a workers' compensation claim to close, it must reach two resolutions:

1. Medical fixity (i.e. maximum medical improvement (MMI), fixed and stable)
2. Vocational determination

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## Medical fixity

Medical fixity is the determination that no further treatment will increase the physical condition or capacities of the injured worker.

When medical fixity is reached further treatment is deemed palliative, meaning it may improve pain or other symptoms, but it will not provide curative benefit.

Generally, when medical fixity is reached treatment should conclude on a workers' compensation claim.

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## Vocational determinations

A vocational outcome is required on workers' compensation claims. It must be concluded that:

- the worker has returned to work, or
- the worker is capable of gainful employment, or
- the worker is eligible for a retraining program, or
- the worker is totally and permanently disabled (pension)

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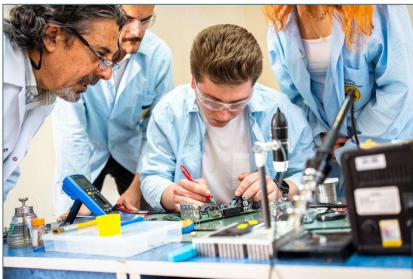




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# Claim offramps



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## RCW 51.04.062

The legislature finds that Washington state's workers' compensation system should be designed to focus on achieving the best outcomes for injured workers. Further, the legislature recognizes that controlling pension costs is key to a financially sound workers' compensation system for employers and workers. To these ends, **the legislature recognizes that certain workers would benefit from an option that allows them to initiate claim resolution settlements in order to pursue work or retirement goals independent of the system**, provided that sufficient protections for injured workers are included.



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## Structured settlement

- Eligibility opened in January 2012
- Allows for cash settlements and permanent closure of non-medical portions of workers' comp claims
- Settlements were distributed in structured payment schedules
- Worker, employer, and department (L&I) are parties to the claim resolution agreement.

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## Updates to settlement rules

- Reduced eligibility age (gradually) for workers from 55 to 50
- Allowed lump-sum payments as a distribution option for CRSAs
- Name changed to Claims Resolution Settlement Agreement; “structured” removed from title

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## Claim eligibility

- Allowance order for claim is final and binding
- Worker is at least 50 years old
- Claim is at least 180 days old
- *(Informal)* Claims must have incurring indemnity costs; medical-only claims not a candidate

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83,000 claims

4,800 long-term disability claims

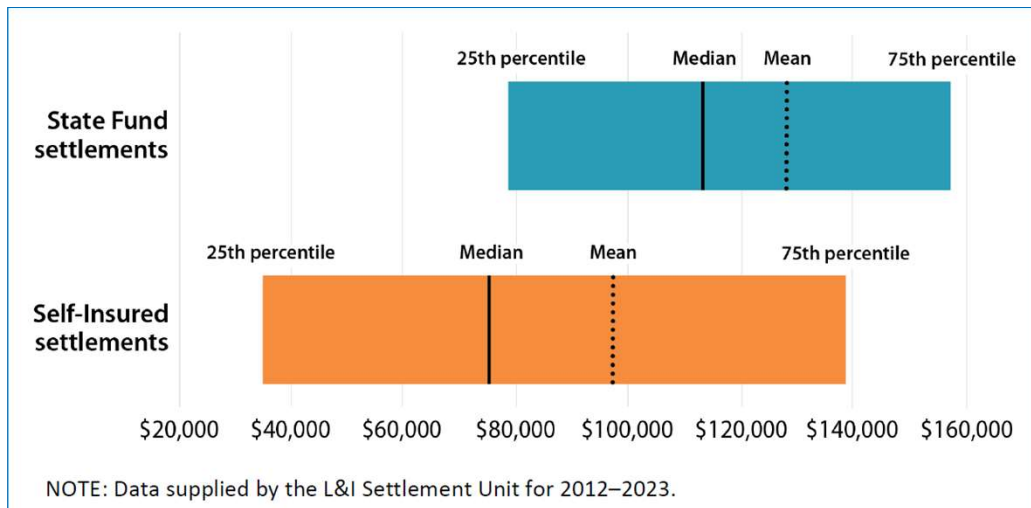
200 CRSAs approved

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## Distribution of settlement amounts, 2012-2023



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Industry	Eligible employers without settlements		Employers with settlements		Percent of eligible employers with settlements
	Percentage	Number	Percentage	Number	
Public Administration	1.5	431	3.8	51	10.6
Management	0.1	21	0.1	2	8.7
Transportation & Warehousing	5.9	1,648	8.3	112	6.4
Real Estate	3.4	940	4.4	60	6.0
Educational Services	1.0	267	1.2	16	5.7
Manufacturing	7.9	2,212	9.6	130	5.6
Utilities	0.3	86	0.4	5	5.5
Admin. & Support Services	6.5	1,805	7.3	99	5.2
Health Care	8.5	2,373	9.4	128	5.1
Construction	21.7	6,063	22.7	307	4.8
Information	0.6	159	0.6	8	4.8
Wholesale Trade	5.9	1,663	5.9	80	4.6
Retail Trade	9.6	2,693	9.0	122	4.3
Finance & Insurance	0.8	229	0.7	9	3.8
Other Services	6.7	1,875	5.2	70	3.6
Accommodation & Food Svc.	7.8	2,196	5.5	74	3.3
Agriculture	6.9	1,921	3.8	52	2.6
Arts & Entertainment	1.3	370	0.7	10	2.6
Professional Services	3.4	956	1.4	19	1.9
Mining	0.3	71	0.1	1	1.4
<b>Total</b>	<b>100.0</b>	<b>27,979</b>	<b>100.0</b>	<b>1,355</b>	<b>4.6</b>

NOTE: Data supplied by the L&I Data Warehouse on eligible claims for State Fund employers from 2012 through 2023. We exclude employers whose industry is not recorded (fewer than 1% of employers).

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## Protections for workers in CRSAs

- Claims can be reopened for medical treatment
- Attorneys' fees are limited to 15% of settlement
- Settlements must be approved by the BIIA if the worker is not represented (Zimmerman case)

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## Worker interest in CRSAs

A 2023 study of the CRSA system for state fund employers found three significant drivers of employee interest in CRSAs

1. Desire to move on and not deal with L&I
2. Avoid vocational retraining program
3. Access to cash

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## Settlement process

- Settlement initiated by claim party
- Settlement unit establishes an initial settlement amount/offer
- Pro se workers meet with BIIA judge who questions them to understand financial needs and plans; determines if settlement is sufficient for the worker and in their best interest
- Settlement negotiations

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## Settlement process (cont.)

- BIIA approval of the settlement (30 days)
- 30-day cooling off period
- Issuance of order and closing of claim
- Payment issued within 14 days

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## Starting the process

Parties to a claim, vocational counselors, legal advisors, TPAs, and others can all suggest a settlement agreement on a claim

The worker, the employer, or L&I may initiate the settlement process

State fund claims will work through the settlement unit; SI employers will handle the entire process and negotiations

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## Engagement as an employer

- Employer is only a party to the claim if there is EF impacts
- If settlement is initiated by another party, the employer will receive a letter for engagement in settlement; 14 days to respond to engagement, or left out of process
- BIIA has shown willingness to re-engage with employers who did not initially engage in process

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## Potential benefits for a CRSA for a city

- Potential to save total claims costs
- Resolves all pending issues and legal challenges
- Closes all non-medical portions of claims
- Provides solutions to particularly challenging or contentious claims

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## Employer considerations

- Known employee preferences
- Potential costs and savings of settlement
- Relationship with the injured worker
- Timeline in relation to experience factor (EF) impacts
- Accuracy of reserved costs
- Complexity of claim
- Potential wrap-in claims

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### Options review

Criteria	CRSA	Vocational Option 1	Vocational Option 2
Prospective cost	\$120,000	\$150,000	\$77,112
Closing schedule (duration)	Immediate upon authorization of deal after 30-day "cooling off"	At completion of training program (1-2 years)	~ 6 months (after completion of payments)
Potential challenges		Duration and work create exposure for aggravation of injury. IW behavior challenges in Plan.	Worker must choose option on own accord.
Exposures	CRSA order resolves all outstanding issues and appeals. Worker cannot file/petition to reopen claim. Exposure closed	Re-injury during vocational process & increase in PPD. Failure in voc training. Re-opening is always an option. Worsened condition creates pension possibility if voc not an option after updated status at fixity.	Re-opening for medical treatment and indemnity is an option for worker dependent on condition worsening. Worsened condition creates pension possibility if voc not an option after updated status at fixity.

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## Wrapping up

- Be aware of when a CRSA settlement is possible; general rule is to always engage if eligible
- Think holistically about the organization's (and worker's) needs and best interest on the claim
- Do not be afraid to negotiate, and know your options and costs
- Know your exposures and timelines

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## Resources

RCW 51.04.063 Injured worker options – Claim resolution settlement agreements.

<https://app.leg.wa.gov/RCW/default.aspx?cite=51.04.063&pdf=true>

L&I CRSA page. <https://lni.wa.gov/claims/for-employers/settle-a-claim>

A study of Claim Resolution Settlement Agreements: Final Report, Upjohn Institute.

[https://research.upjohn.org/cgi/viewcontent.cgi?article=1053&context=up\\_technicalreports](https://research.upjohn.org/cgi/viewcontent.cgi?article=1053&context=up_technicalreports)

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