

August 17, 2009

Gov. David A. Paterson
The State Capitol
Albany, New York 12224

Re: A2021-B/S2776-B

Dear Governor Paterson:

I write to urge you to sign A2021-B/S2776-B into law. As you know, injured workers who suffer permanent functional limitations to extremities or certain other body parts are typically compensated under the Workers' Compensation Law for such permanent losses by what are known as schedule loss of use awards. Such awards, calculated after deducting the amount of lost time benefits paid to the injured worker, seek to provide the injured worker with a cushion against the diminished future earning capacity caused by his/her permanent functional impairment.

Recently, the New York State Court of Appeals--noting a language anomaly in the pertinent statute--reversed the otherwise justified policy of the Workers' Compensation Board that required payment of schedule loss of use awards to injured workers in one lump sum rather than incrementally over a period of time. The Court of Appeals reasoned that the applicable statute required periodic payments, and lamented that any departure from that payment method "must come from the Legislature".

In passing A2021-B/S2776-B, the Legislature has found that the socioeconomic remediation purposes of the Workers' Compensation Law are not served by the periodic payments of schedule loss of use awards, and that legislative correction was justified to correct this clearly unintended statutory anomaly and restore the Workers' Compensation Board's policy of requiring payment of schedule loss of use awards to injured workers in one lump sum.

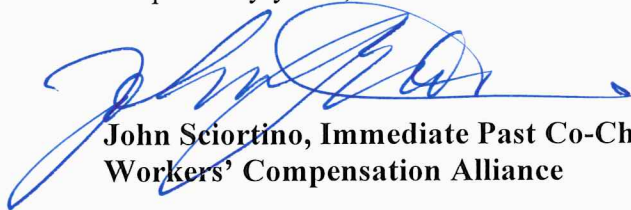
Certainly, lump sum payments facilitate an injured workers' opportunity to invest the award, better restores the injured worker's dignitary losses, and advances the injured worker's ability to successfully encounter the deleterious financial and emotional effects of his/her resulting diminished earning capacity. As such, and as was suggested by the Court of Appeals, this corrective legislative action is justified.

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The only argument I have heard advanced by opponents of this bill is that insurance carriers will be deprived of the comparatively *de minimis* "float" enjoyed by trickling payment of such awards out over time. Of course, such reasoning ignores that the investment potential of the award rightfully belongs to the injured worker--indeed, it is the claimant's money once the award has been made. Additionally, if the widely acknowledged economic hardships associated with delays in receiving indemnity benefits are to be avoided, such awards should be made fully payable in one lump sum.

Thank you for your consideration.

Respectfully yours,

A handwritten signature in blue ink, appearing to read "John Sciortino", is written over the typed name. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**John Sciortino, Immediate Past Co-Chair,
Workers' Compensation Alliance**

JS:kl