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The Effect of Child Support Liens on Your Settlement

Greetings!

It is a pleasure to be able to blog with you for the next couple weeks. Before I get into the “nuts and bolts” of some workers’ comp tips, I’d like to tell you a little more about myself.

I am a husband and father of three. I love spending time with my family. These days, much of my free time is spent coaching my son’s YMCA soccer team. If you think trying to get a Form 21 filed is a challenge, try getting a group of 7-year-old boys to go in one direction with an object that bounces!

Although one of the perks of working at Collins and Lacy is starring in “The Professor’s” (a.k.a Stan Lacy’s) Comp Camp movies, the real benefit of practicing law here is being a part of a team of dedicated and talented attorneys working for businesses of South Carolina. That being said, let’s get to the meat of this post - The Effect of Child Support Liens on Your Settlement.

In the past 12 months, we’ve noticed an increase in child support lien notices, which allege an attachment to workers’ compensation claims. Although this method of attaching liens has not been fully challenged, the following are practical tips to assist you when confronted with a notice of a DSS lien:

- Immediately send the notice of lien to defense counsel to satisfy the requisite five day confirmation of the lien notice.
- Notify the claimant of the Notice of lien immediately.
- Notify the Commission of the Notice of lien immediately.
- If the claim is set for a clincher conference, place the burden of whether the lien needs to be satisfied squarely before the Commissioner to make the decision. If the Commissioner makes the decision the carrier cannot be looked to for satisfying the lien, the carrier has secured extra protection.

- Notify DSS in writing the lien will only be honored and satisfied in the event the commission approves an award made payable to the Claimant. If an award is never made payable to the Claimant or approved by the Commission, the carrier is under no obligation to satisfy any portion of the lien. This information is critical to put in writing and give notice to DSS as the carrier does not want to obligate themselves to a lien prior to adjudication of the claim before the Commission.
- Sometimes claimants are reluctant to give up money to satisfy back child support payments and often will abandon their workers' compensation claims. By involving the claimant early in the process and notifying them you plan on honoring the lien, Claimant knows up front whether he wishes to abandon his claim or proceed with the hearing. We have found through practice the Claimant will sometimes abandon his claim by failure to appear at the hearing. If Claimant refuses to acknowledge the lien or attend the hearing, a Fourteen Day Order may be requested. Make sure the Order states that if the Claimant fails to respond within fourteen days, showing good cause for failure to attend the hearing, his case will be dismissed with prejudice.
- By involving the Claimant early in the process of notification of the lien, Claimant may be able to renegotiate the lien with DSS. DSS will often negotiate the lien based upon the proposed settlement amount.
- Make sure that any renegotiation of the lien by DSS is confirmed in favor of a new lien notice for the amount that is owed.

These practical tips should assist you in satisfying the obligation to recognize and honor the lien while using this advantage to possibly resolve workers' compensation cases. Should you have any questions, please contact me at cboesl@collinsandlacy.com