

ADVISORY NO. 289
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TOPIC: FO&L WEB SITE CALCULATORS – IMPORTANT NOTICE

We have just added a new calculator to our Resource Center on our web site.

This will assist you in calculating the interest and discount for commuted payments made to the Subsequent Injury Fund. It may only be used if you are paying the full 364 weeks. In very rare instances, you will pay less than 364 weeks if the decedent is survived by a beneficiary whose eligibility for continuing payments terminates prior to the payment of 364 weeks of benefits. For these very rare cases, you should contact FO&L for assistance in calculating the commuted payment.

This calculator incorporates the new rule changes adopted by the Commission. The complexity of the interest and discounting rules is unmatched by any other rule in workers' compensation. This calculator incorporates arguments that we have made before the Commission, and which the Commission has not yet adopted. In particular, we believe that Rule 132.10 permits carriers to defer payment to the Subsequent Injury Fund until one year following the death of the decedent. For that reason, we believe that carriers may defer payment and owe no interest if paid on or before the anniversary date of the death of the decedent. *TWCC disagrees with this.* We have made this assumption in the calculator that we have created.

There is a further anomaly about the calculation of our Subsequent Injury Fund commuted payment. For benefits paid in advance of the date due, we are entitled to a discount that is "*compounded* annually." Rule 130.10(f). For weeks that we paid after they were owed (again, which we contend to be more than one year after the death of the decedent), we must calculate simple *interest*, Rule 126.12(b). Thus, we had to use two separate formulas, depending upon whether we are paying an interest or calculating a discount.

For all these reasons, the FO&L interest calculator is inappropriate. Please use the Calculator – SIF Commuted Death Benefits for calculating discount and interest on payments to the Subsequent Injury Fund.

Lastly, we have adjusted the SIBs calculator – a one-day difference between our calculator and TWCC's method of determining SIBs quarters. When you download this make sure you overwrite the old one.

FLAHIVE, OGDEN & LATSON

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