

## Santos

In June 2001, the Ohio Supreme Court ruled the Ohio workers' compensation system's subrogation statute unconstitutional. Subsequent to the Supreme Court's decision, a class action suit – Santos v. the Ohio Bureau of Workers' Compensation (BWC) – was filed on behalf of injured workers who BWC had subrogated against prior to the June 2001 Supreme Court decision. On July 19, 2006, the Court of Appeals in Cuyahoga County ordered BWC to reimburse the amounts collected through subrogation prior to the 2001 Supreme Court decision; specifically, in claims with dates of injury from Oct. 20, 1993, to June 27, 2001.

### Important information

#### Eligibility

Only injured workers who BWC successfully subrogated against under the 1993 and 1995 statutes and whose claims have dates of injury between Oct. 20, 1993 and June 27, 2001, will receive funds. Since 2003, BWC has subrogated claims. Resolution of the Santos case does not affect claims subrogated under the 2003 statutes. Therefore, BWC will continue to perform subrogation whenever appropriate.

Self-insured injured workers who were subrogated against by their self-insured employers are not eligible for reimbursement from BWC because the bureau did not subrogate against them. These injured workers must contact their self-insured employer or their legal representative to pursue reimbursement.

Injured workers whose claims were against bankrupt self-insured employers may be eligible if BWC subrogated against their claims. However, if their self-insured employers collected subrogation monies while the employer was not bankrupt, the injured workers are not eligible for reimbursement from BWC.

#### Reimbursement amount

If entitled to receive funds, an injured worker will receive the amount BWC collected through subrogation less 30 percent. The 30-percent reduction is the fee for the attorneys who brought forth the class action suit. In cases when an overpayment exists due to a finding of fraud, BWC will deduct the overpayment, in addition to the 30-percent attorney fee.

#### Notice of repayment

BWC sent notices to eligible injured workers on Sept. 17, 2006. To properly complete a notice of repayment, it is the injured worker's responsibility to supply BWC with a correct date of birth and the last four digits of his/her Social Security number. Additionally, the injured worker must have the notice of repayment notarized and he/she must supply two forms of identification, one with a picture and the other containing a Social Security number. (One form of identification, such as a driver's license, which contains both the Social Security number and a picture, is acceptable.)

Injured workers are to return copies of their identification with the completed notice. BWC will not notarize these documents as it is a party to the case. BWC will send a different version of the notice of repayment form if it knows that the injured worker is deceased or legally incompetent. An individual who has the authority to sign on behalf of the injured worker, such as an executor of a will or a legal guardian, must complete these forms.

After completing the notice of repayment, the injured worker sends the notice back to BWC in a provided postage-paid return envelope. Due to the stringent requirements the court order placed on BWC, the bureau can only accept original notices of repayment. BWC will not accept faxed, electronic or copies of the document. It will return these to the injured workers with instructions to resubmit an original copy.

BWC will return forms to injured workers to correct if they do not give it the correct date of birth and Social Security number. Additionally, BWC will return forms that are not notarized or do not have copies of the injured worker's identification. You must mail all notices of repayment to:

BWC – Santos Case  
P.O. Box 15429  
Columbus, OH 43215-9609

#### Disputes

An injured worker can dispute his/her eligibility to participate in the class action suit or the amount BWC intends to reimburse the injured worker. The court-appointed class administrator has jurisdiction over these disputes. File any disputes with the court-appointed class administrator:

Mr. James McMonagle, Santos Class Administrator  
P.O. Box 93296  
Cleveland, Ohio 44101-5296

#### Payment

If the administrator determines the injured worker is entitled to additional funds, BWC will distribute any monies less a 30-percent attorney fee, which goes to the class action attorneys. If it is determined the injured worker is not entitled to additional funds, the class administrator will advise the injured worker of this decision. BWC will not issue reimbursements until the injured worker's dispute is resolved.

#### Payment processing

After BWC receives a properly completed form, it will process payment. BWC anticipates an injured worker will receive his/her reimbursement within 45 days. The U.S. Postal Service will deliver all payments – no exceptions. Warrants cannot be picked up or payments made by electronic fund transfer.