

Indian River County, Florida  
Memorandum

**TO:** Board of County Commissioners

**THRU:** John Titkanich, County Administrator

**FROM:** Cynthia Stanton, Risk Manager

**DATE:** April 23, 2024

**SUBJECT:** Workers Compensation Settlement  
Roger Harrington – Lt. Deputy Sheriff's Office

**BRIEF HISTORY OF CLAIMANT AND OF CLAIM:**

Roger Harrington is a 49-year-old male Lt. Deputy employed with the Indian River Sheriff's Office since January 2, 1996. On or about February 5, 2023, Mr. Harrington was vacationing with his family in South Carolina when he began to experience chest pain. He presented to the Prisma Health/Oconee Memorial Hospital where it was determined he was experiencing a heart attack. He underwent cardiac catheterization and had an angioplasty and stent placement. He was discharged from the hospital the following day. Employee filed a WC first report of injury on February 9, 2023.

**MEDICAL HISTORY:**

After recovery, Mr. Harrington was first evaluated by workers compensation, Michael Nocero on March 1, 2023. Dr. Nocero diagnosed Mr. Harrington with coronary artery disease; recent acute inferior wall myocardial infarction/successful angioplasty of 80% proximal right coronary artery stenosis; as well as a history of multiple comorbid diseases and conditions.

Mr. Harrington returned to Dr. Nocero for follow-up visits on two other occasions. In a letter signed by Dr. Nocero on May 17, 2023, he affirms that Mr. Harrington suffers from multiple comorbid diseases and conditions. He notes that the hypertension has not been disabling on the date of accident and it has not prevented Mr. Harrington from working full duty as a law enforcement officer. He signed the letter stating it is of his opinion within a reasonable degree of medical certainty that hypertension along with prior medical conditions caused Mr. Harrington to suffer coronary artery disease and the subsequent myocardial infarction and as thus was not work related. As a result of Dr. Nocero's opinion, the claim was denied on May 19, 2024. Dr. Nocero retired shortly after.

Following the denial, Mr. Harrington obtained attorney Michael Horowitz for legal representation. Due to Dr. Nocero’s unexpected retirement, inability to testify and inadmissibility of the letter he completed, both parties agreed to proceed to obtain an IME physician to weigh in on Dr. Nocero’s opinion. Attorney Horowitz obtained cardiologist Dr. Tee to conduct the IME for the claimant in hopes of refuting Dr. Nocero’s opinion. Dr. Tee confirmed that hypertension and other health and medical conditions would make it more likely than not that Mr. Harrington would develop coronary artery disease which “for sure” caused the ischemic event.

The claim then went to mediation on March 4, 2024, at which time Mr. Harrington informed us that instead of fighting the denial, he was interested in overall settlement which included a resignation. He is in the DROP program and initially made a demand of \$450,000 to settle the claim. The County would not entertain his settlement demand and advised that Mr. Harrington needed a more realistic demand. Both parties agreed to review the claim for settlement and resume mediation negotiations on April 5, 2024.

**EXPOSURE EVALUATION:**

The employee is 49 years of age and has a life expectancy of an additional 29 years. He was given a permanency rating of 42% of the whole body. The table below illustrates the worst-case scenario, if the County does not prevail on the denial with an exposure based on a 42% permanency rating.

Temporary Benefits	\$4,446	05/19/2023 – 06/14/2023
Impairment Benefits	\$167,879	
Future Medical/RX	\$668,160	RX @ \$1,920 month x 29 yrs.
Attorney’s Fees	\$40,000	Claimant’s only
<b>Total Value</b>	<b>\$880,485</b>	

**SETTLEMENT DEMAND:**

The second mediation was held on April 5, 2024, and resulted in aggressive negotiations. The parties reached a tentative settlement of \$100,000 inclusive of attorney’s fees, costs, and Mr. Harrington’s resignation. This settlement amount represents 11.36% of the total possible exposure.

Following mediation, the contingent settlement of \$100,000 was reviewed by John Titkanich, William Debraal, Susan Prado, Cynthia Stanton, and Nathan McCollum. All agreed the County should move forward with the proposed settlement amount.

**FUNDING:**

The final settlement in the amount of \$100,000 will be paid out of the Self-Insurance Fund/Risk Management/Workers Compensation account, number 50224619-012140.

<b>Account Description</b>	<b>Account Number</b>	<b>Amount</b>
Self-Insurance Fund/Risk Management/Workers Compensation	50224619-012140	\$100,000

**RECOMMENDATION:**

This claim was evaluated by the County's TPA service, defense counsel and the County staff listed above; and it is recommended that the Board of County Commissioners approve the final settlement of \$100,000 to resolve this claim.