



CPAP Litigation: Frequently Asked Questions (FAQ)

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Compensation and Evaluation

Q1: What is the maximum number of points a qualifying injury can receive under the Full Evaluation Program (FEP)?

A1: The maximum number of points for FEP claimants is 2,750 points, with the minimum being 25 points.

Q2: How much money will someone receive if they have "X" points?

A2: We can't predict the exact amount of money each claimant will receive. There are too many unknowns, including how many people will file claims, how many will choose the Evaluation Payment Program (EPP) vs. FEP, and the number and severity of the injuries. Because of these factors, we can't make a good estimate at this time.

Q3: If claimants who select EPP receive compensation sooner than those who select FEP, what's the time difference?

A3: The time difference will likely be a few months.

Q4: Can I submit medical records from 6 months before using the device if they were from a doctor who didn't diagnose my injury?

A4: Yes, the intent of asking for medical records from 6 months before device use is to see if the injury happened before or after using the device. If your diagnosing doctor didn't see you during that time, you can submit records from other doctors, like the one who prescribed the device.



Medical Records and Diagnosis

Q5: How are Asthma and COPD cases handled if there's no clear diagnosis date in the records?

A5: If there's no specific diagnosis date, the earliest record from a doctor showing clinical symptoms of the condition, such as wheezing or shortness of breath, will be used as the diagnosis date.

Q6: How will the Settlement Administrator determine the date of first usage of a Recalled Device if I only have photographic evidence or recall program data?

A6: If you submit photos or recall data, the Settlement Administrator will use that evidence to determine the date of first use. The date should be between the device's manufacture date and your diagnosis date. It's recommended to have medical records for FEP claims, which should show your usage.

Q7: What format should medical records be in? Do they need to be certified?

A7: Medical records must be official and accurate, but certification isn't necessarily required.

Q8: If a new injury is diagnosed after the settlement date (April 29, 2024), will it still qualify for compensation?

A8: Yes. If a new Qualifying Injury is diagnosed after April 29, 2024 (and is not a worsening of a prior injury), it can be submitted for consideration under the EIF fund, provided it is diagnosed before December 10, 2024.

Q9: What happens if a claimant dies after the settlement date due to their qualifying injury?

A9: If a claimant dies from their qualifying injury, their claim may be eligible for additional compensation through the EIF (Extraordinary Injury Fund).

Usage and Proof Requirements

Q10: Is the settlement release valid if a claimant never qualifies for or receives compensation?



A10: No, the release is only valid if the claimant qualifies for and receives compensation. If they do not qualify, the release will not be enforced.

Q11: How are Asthma and COPD claims handled if we don't have the original diagnosis date?

A11: If the original diagnosis date isn't available, you can provide documentation showing that the condition worsened over time. This can be used to establish a "worsening injury" instead of a new diagnosis.

Q12: What's the difference between a clinical diagnosis and a qualifying diagnosis?

A12: A clinical diagnosis is any diagnosis made by a doctor based on symptoms and tests. A qualifying diagnosis meets specific legal criteria required for settlement compensation.

Q13: Can prescription refill records be used as proof for severity levels?

A13: No, prescription refill authorizations aren't the same as actual documented refills. You must show actual use to establish the severity of the condition.

Q14: What does "2 or more contemporaneous medical records" mean for proving tobacco or vaping history?

A14: You need two separate medical records from two different doctor visits that were made at the time of the visits. These records must state that you have never used tobacco or vaping products or that you quit at least five years before your qualifying injury.

Proof of Usage

Q15: Can medical records be used to support the first date of CPAP usage?

A15: Yes, medical records that mention the use of a CPAP machine can help establish your first date of use. It's recommended to include as much detail as possible, such as dates from your device provider or insurance records, to confirm the start of usage.

Q16: How is compliance with device usage calculated if I only have records showing when I started using it but none showing when I stopped?

A16: If your records show continued use for at least a year after you started, that will be enough to show compliance unless there's evidence showing that you stopped or used it intermittently.



Q17: Can I use photos of recalled devices as proof of use?

A17: Yes, but the photos must clearly show the device's serial number and manufacture date to be accepted as proof of use.

Q18: What if I used more than one recalled device but only have a photo of the latest one?

A18: For EPP claims, having a photo of the latest recalled device is acceptable proof of usage. However, for FEP claims, more detailed medical records may be required.

Q19: Can I submit a screenshot of my Philips Recall Program registration as proof of participation?

A19: Yes, you can submit a screenshot that includes the device's serial number to prove that you participated in the Philips Recall Program.