

Workers' Compensation Reform

About Workers' Compensation

Workers' Compensation is a century old "no-fault" social insurance system in which employers receive protection from civil liability and in exchange they provide indemnity (cash) benefits and medical care for employees who lose time from work as a result of a work related injury, accident, or exposure. Employers operating in New York State must purchase workers' compensation coverage for their employees, and can do so through the State Insurance Fund, a private carrier, or by obtaining authorization from the Board to self-insure.

How is the Workers' Compensation System Funded?

The administration of the workers' compensation system is funded through assessments – a surcharge on employers. Prior to changes made in the Business Relief Act this year, the methodology for determining each employer's surcharge differed depending on whether an employer was self-insured, covered by the State Insurance Fund, or covered by a private carrier.

Why Reform Was Needed

First, the assessment system was disjointed, inequitable and expensive to employers, as well as expensive and cumbersome to administer. This is so because until the 2013 reform (a) assessment methodology differed for each type of coverage obtained; (b) assessments were billed through up to 16 separate bills annually; and (c) the assessment structure resulted in one of the highest assessment collections in the country. Accordingly, reform was needed to simplify the system, and bring savings, consistency, fairness and transparency to employers.

Second, the Re-opened Case Fund (or 25-a Fund) was passing on increasing and previously unforeseen costs to employers. The fund was originally designed to shift the liability of stale claims away from insurance carriers in order to bring fiscal certainty to

the future liability of long-closed claims. However, in recent years, litigation and cost-shift strategies resulted in increasing costs to employers.

Third, insolvent Group Self-Insurance Trust members needed help to alleviate and ultimately resolve increasing burdens.

Fourth, the minimum weekly benefit to workers was only \$100.

To accomplish these goals, Governor Andrew M. Cuomo advanced and the Legislature passed the Business Relief Act as part of the 2013/14 enacted budget.

What Reform Does

The reform reduces costs for employers by simplifying the workers' compensation assessments process and closing the Reopened Case Fund. These savings are accomplished without impacting the rights of injured workers. Reform also increased the minimum benefit to workers from \$100 to \$150.

Helping New York State Employers

Simplifying the Assessment Methodology and Closing the Re-Opened Case Fund Reduces Costs to All Employers

Governor Andrew M. Cuomo's Business Relief Act brings New York State employers a 26% reduction in assessments – a \$300 million annual savings. This savings is a product of (a) closing the Re-opened Case Fund (the so called "25-a Fund"), and (b) creating a unified assessment methodology for all employers. A comparison of assessment rates illustrates the savings: in 2013, the assessment rate for employers was 18.8% of premium, whereas the 2014 rate will be 13.8% of premium.

Providing Additional Relief for Self-Insured Businesses

The Business Relief Act simplifies the method for collecting workers' compensation assessments by changing the assessment methodology from one that differed depending on the type of insurance obtained to one that treats all employers equally by basing assessments on premium. This change provides an estimated \$500 million one-time savings to self-insured employers.

The savings as a result of this reform to self-insured businesses, by region, are as follows:

| Region | Projected Savings |
|------------------|----------------------|
| Capital Region | \$18,748,413 |
| Central New York | \$25,788,853 |
| Finger Lakes | \$99,940,865 |
| Hudson Valley | \$14,695,105 |
| Long Island | \$1,528,248 |
| Mohawk Valley | \$4,672,260 |
| New York City | \$258,378,618 |
| North Country | \$6,959,474 |
| Southern Tier | \$38,947,703 |
| Western New York | \$30,340,462 |
| Statewide | \$500,000,000 |

Resolving Employer Group Self-Insurance Trust Liability

The insolvency of many Group Self Insurance Trusts in the latter part of the last decade saddled numerous employers with significant claims liabilities that their trusts could not pay. The Business Relief Act creates a mechanism to allow 10,000 businesses to reasonably settle their existing claim liabilities with the Workers' Compensation Board and simultaneously protects future benefits for injured workers.

Helping Injured Workers

Increasing the Minimum Benefit for Injured Workers

The Business Relief Act increases the minimum weekly benefit from \$100 to \$150.

Ongoing Efforts to Improve the Workers' Compensation System

Business Process Re-engineering

The New York State Workers' Compensation Board ("WCB") needed a comprehensive business process and technology overhaul. Many of the business processes at the WCB are decades old, effectuated through an outdated paper-based system. The Business Process Re-engineering project will implement (a) improved business processes, (b) upgraded technology, (c) industry best practice, and (d) performance management to drive improvement in the system for employers and injured workers.

Implementation of E-claims

Over 30 states use a national electronic standard for workers' compensation injury reporting. New York State will join this growing trend of electronic injury reporting in 2014. In doing so, the WCB is working closely with claim administrators to ensure a smooth transition to electronic filing. This change will (a) reduce paper forms and duplicate filings, (b) provide greatly expanded access to injury and payment data, (c) improve, simplify, and speed up case assembly and processing, and (d) allow the WCB to better regulate the workers' compensation system.

Update System Data for Improved Oversight and Policy Making

In response to significant data deficiencies in the workers' compensation system, the WCB has undertaken a concerted effort to identify and consolidate current data sets, identify and collect new data sets, and make data more readily available to the public and policy makers. Specifically, as part of this initiative, the WCB will build an enterprise data warehouse to store and analyze current and future data sets. The WCB will also publish a number of current data sets on Open New York — Governor Cuomo's revolutionary open data initiative website.