

Regulatory Flexibility Analysis for Small Businesses and Local Governments.

1. Effect of rule:

Small businesses and local governments whose only involvement with the workers' compensation system is that they are employers and are required to have coverage will not be affected by this rule. Small businesses cannot be individually self-insured but must purchase workers' compensation coverage from the State Insurance Fund or a private insurance carrier authorized to write workers' compensation insurance in New York or join a group self-insured trust. It is the entity providing coverage for the small employer that must comply with all of the provisions of this rulemaking, not the covered employer. The impact on the State Insurance Fund and all private insurance carriers is not covered in this document as they are not small businesses. Group self-insured trusts and third-party administrators hired by private insurance carriers may be small businesses, and these businesses may be slightly impacted by this regulation. All health practitioners authorized by the Chair to treat have to comply with the Medical Treatment Guidelines. Finally, local governments that own and/or operate a hospital may be affected by this rule.

The political subdivisions that are self-insured for workers' compensation coverage in New York State will have to comply with the provisions of this proposal. Those local governments who are not self-insured and do not own and/or operate a hospital will not be affected by this rule.

2. Compliance requirements:

The proposed rule does not impose new compliance requirements on the small businesses and local governments described above.

Adoption of the eye disorders, complex regional pain syndrome (CRPS) and traumatic brain injury (TBI) MTGs will require all medical providers to adhere to those Guidelines and request prior authorization, should the requested treatment deviate from the treatment recommended in the Guidelines. The process for requesting prior authorization and the forms used to request prior authorization are already in use.

3. Professional services: Small businesses and local governments affected by the rule will not need any new professional services to comply with this rule.

4. Compliance costs:

The proposed amendments are intended to reduce administrative costs to all parties by adding clarity and guidance in the treatment of injured workers. As with the earlier adopted Guidelines, the Board will offer support for this implementation through training. The Guidelines will be available on the Board's website and anyone will be able to download and print them free of charge. Hard copies may be requested from the Board without a fee.

5. Economic and technological feasibility: It is economically and technologically feasible for small businesses and local governments to comply with the proposed amendments. The proposed amendments do not add any technological requirements or economic challenges from the current Guidelines.

6. Minimizing adverse impact: As stated above, the implementation of the proposed amendments is expected to save money for all participants in the workers' compensation system by adding eye, CRPS, and TBI Guidelines.

7. Small business and local government participation: The Board has solicited comments for the proposed new MTGs on its website from all participants in the workers' compensation system, including small businesses and local governments. The proposed amendment is expected to reduce costs and consume fewer resources for all participants in the workers' compensation system including small businesses and local governments. The Board does not have a small employer or municipality database, but has sent an electronic communication describing the proposal to 8,066 subscribers for Board updates (health care providers and self-insured employers) on September 28, 2021.