

Regulatory Impact Statement

1. Statutory Authority:

The Chair of the Workers' Compensation Board (Chair) is authorized to amend Part 324 of Title 12 NYCRR. Workers' Compensation Law (WCL) § 117 (1) authorizes the Chair to make reasonable regulations consistent with the provisions of the WCL. WCL § 141 authorizes the Chair to enforce all provisions of the chapter and make administrative regulations and orders providing in part for the receipt, indexing, and examining of all notices, claims and reports.

WCL §§ 13 and 13-a establishes employer liability for the provision of medical treatment and care for an injured employee and authorizes the Chair to prepare and establish a schedule for the state of charges and fees for medical treatment and care. Concomitant with an employer's liability to provide medical treatment and care for an injured employee and the Chair's authority to establish a medical fee schedule is the need for guidelines setting forth standards of appropriate treatment and care for injured or ill employees.

2. Legislative Objectives:

The Chair of Workers' Compensation Board is authorized to adopt reasonable rules consistent with and supplemental to the Workers' Compensation Law (Workers' Compensation Law §§ 117[1] and 141).

Consistent with Workers' Compensation Law §§ 13 and 13-a (5), the Board may establish Medical Treatment Guidelines that set forth what is appropriate medical care and procedures that are pre-authorized (*Kigin v. NYS Workers' Compensation Board*, 24 NY3d 459 [2014]).

3. Needs and Benefits:

The purpose of the 12 NYCRR Part 324 (the Medical Treatment Guidelines, Guidelines or MTG) was to create medical guidelines for the treatment of injured workers using the most effective evidence-based modern diagnostic and treatment techniques. The MTGs are standards of medical treatment that serve several important functions within the workers' compensation system. The Guidelines seek to: 1) set a single standard of medical care for injured workers; 2) expedite quality care for injured workers; 3) improve the medical outcomes for injured workers; 4) speed return to work by injured workers; 5) reduce disputes between payers and medical providers over treatment issues; 6) increase timely payments to medical providers; and 7) reduce overall system costs.

In keeping with the goals of the MTGs, the new Guidelines proposed here address eye disorders, complex regional pain syndrome (CRPS), and traumatic brain injuries (TBIs). The addition of these Guidelines will provide greater clarity and guidance for providers as well as injured workers to reflect the most effective and modern treatment techniques.

4. Costs:

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.

It should be noted that all parties will be able to use the Guidelines without having to pay a licensing fee.

5. Local Government Mandates:

The rule only imposes a mandate on local governments that are self-insured or that own and/or operate a hospital. The mandates on local governments are the same as those imposed on private self-insured employers, insurance carriers, the State Insurance Fund, third party administrators, medical professionals, private hospitals. Self-insured local governments and those that own and/or operate a hospital will need to comply with the requirements in the rule the same as a private self-insured employer or insurance carrier or

private hospital. It is expected that the rule will generate reduced medical costs and therefore lower workers' compensation costs for all employers, including local governments.

6. Paperwork Requirements:

The proposed amendments to the regulations should not affect paperwork associated with medical treatment. There will be no change to the method and manner of the forms used as a result of this proposal.

7. Duplication:

The proposed regulation does not duplicate or conflict with any state or federal requirements.

8. Alternatives:

One alternative was to not update the MTGs to add eye injury, CRPS, or TBI MTGs. However, the Board recognizes that the guidelines should be updated to reflect advances in medicine since they were last amended.

9. Federal Standards:

There are no federal standards applicable to this proposed regulation.

10. Compliance Schedule:

Participants will be able to comply with the proposed regulation when they take effect, and the Board expects that the participants will also have time to incorporate the eye injury, CRPS, and TBI Guidelines into their policies, procedures and practices.