

Regulatory Impact Statement for changes to 12 NYCRR 355.4(b); 363.1; 363.11; 363.13; 363.15; 363.16

1. Statutory Authority: Workers' Compensation Law (WCL) §117(1) and 142 authorizes the Chair of the Workers' Compensation Board (Board) to adopt reasonable rules consistent with, and supplemental to, the provisions of the WCL.

2. Legislative Objectives: To establish clear requirements and procedures for regulated entities to follow with respect to the disability benefit system.

3. Needs and Benefits: The proposal seeks to update and clarify the disability benefits process, as well as align more closely with the PFL regulations. The proposed amendments provide greater clarity to procedures that statutory disability insurance carriers and self-insured employers must follow in order to comply with the WCL. The proposal also adds a definition of disability related to pregnancy and childbirth, for four weeks prior to the due date and for six weeks after giving birth (eight weeks in the case of a Caesarian section), which streamlines the application and documentation process for claimants who give birth. The proposal provides clear instructions regarding denial of claims to improve the notice given to claimants and to clarify when and how a claim may be denied and appealed. They also remove language in the regulations that is duplicated in the statute, and conform the regulations to a change in WCL § 202[2], which now states that employers of personal or domestic employees are covered employers if one or more personal or domestic employees work a minimum of twenty hours per week (formerly forty hours per week) on at least thirty days in a calendar year.

These changes seek to remedy some issues with the disability benefits process that the Board has seen over the years, make the process easier and cleaner for employees applying for these benefits and make the process clearer to insurance carriers and self-insured employers, as well.

4. Costs: The proposed amendments are anticipated to reduce costs overall by making the disability benefits application process clearer and easier for claimants to use and provide carriers with clearer guidelines and requirements to follow to reduce disputes over claims and make claims processing more efficient.

5. Local government mandates: The proposed amendments do not impose any additional program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: The proposed amendments update the application forms for disability benefits and create a new form that must be completed only if the decision on an application for disability benefits is not done within 18 days of receipt of a completed request for disability benefits. The proposal also adds an employer section to the disability benefits application, which employers will need to fill out within three business days.

7. Duplication: The proposal does not duplicate or conflict with any state or federal requirements.

8. Alternatives: An alternative would be to leave the current regulations in place. However, the current regulations conflict with the statute in multiple places, which left outdated will lead to confusion. Additionally, the proposal aims to increase clarity and efficiency in the disability benefits process that the current regulations do not address.

9. Federal standards. There are no applicable Federal Standards.

10. Compliance schedule: Insurers, self-insured employers, and covered employers will need to comply with the proposed regulation when it is adopted.