

Regulatory Impact Statement

1. Statutory Authority:

The Chair of the Workers' Compensation Board (Chair) is authorized to amend Part 300 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.

2. Legislative Objectives:

WCL § 23 establishes procedures for administrative appeal from a decision of a compensation claims referee and from a decision of the Board. WCL § 123 provides the Board with authority to reopen closed cases. Concomitant with such procedures and authority is the need for clarification of the procedures for applications for administrative appeal and/or the reopening of cases.

3. Needs and Benefits:

The purposes of 12 NYCRR Part 300.13 (Administrative Review, full board review, and application for board reconsideration) and 12 NYCRR Part 300.14 (Application for rehearing) were to establish the procedures for applications for administrative appeal and/or the reopening of cases. In keeping with such purpose, the amendments and additions proposed here clarify the identity of necessary parties of interest, clarify the manner in which applications may be denied, clarify the procedure for submission of rebuttals, make the provisions of 12 NYCRR Part 300.14 applicable to applications for reopening as well as rehearing, and clarify the procedures for such applications.

4. Costs:

As this rule imposes no new, additional, actions on regulated parties, but merely clarifies procedures already in place, there should be no additional costs to the regulated parties or the Board. It is anticipated that

the proposed amendments will reduce administrative costs to all parties by adding clarity and guidance in the making of applications for administrative appeal and/or to reopen closed cases.

5. Local Government Mandates:

The rule only imposes a mandate on local governments that are self-insured. The mandates on local governments are the same as those imposed on claimants, self-insured employers, uninsured employers until the liability of the uninsured employer's fund is established, private insurance carriers, the State Insurance Fund, Special Funds, no-fault carriers when granted standing by being allowed to fully participate in a hearing, and any surety, including but not limited to the uninsured employer's fund, and the liquidation bureau, and third party administrators. Self-insured local governments will need to comply with the requirements in the rule the same any other person or entity making an application for administrative appeal and/or to reopen a closed case. As self-insured local governments must currently comply with such requirements, they will incur no additional costs.

6. Paperwork Requirements:

The proposed amendments to the regulations will affect paperwork associated with applications for administrative appeals and/or to reopen closed cases only to the extent of clarifying the procedures for making such applications.

7. Duplication:

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

8. Alternatives:

One alternative was to not add these clarifications and keep the procedures as is. However, the Board recognizes that these procedures lacked clarity and guidance, and the new procedures provide that for these applications.

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.