

Assessment of Public Comment

The 45-day public comment period with respect to Proposed Rule I.D. No. WCB411400004 commenced on October 15, 2014, and expired on December 1, 2014. The Chair and the Workers' Compensation Board (Board) accepted formal written public comments on the proposed rule through December 5, 2014.

The Chair and Board received three written comments. These comments were reviewed and assessed. The comments are discussed below.

An attorney representing self-insured employers suggested a wording change to section 318.2 (a) to remove "part of the standard" to avoid unintended tax consequences. The Board accepted this change.

A Safety Group insured by the State Insurance Fund suggested the elimination of multiple methodologies in applying the rate to payers. It suggests regulations should not be made permanent until a mechanism can be established to collect directly from employers. However the Board notes that the permanent nature of these regulations do not prohibit the Board from pursuing direct employer payment. In fact, the Board is in the midst of an extensive Business Process Reengineering. This will include the collection and review of various data elements previously not available which may support a direct employer collection of assessments. The Board has complied with the intent of the legislation by establishing one rate for all categories of payers. Based on a standard methodology of premium or premium equivalent for payers, the Board is confident that this methodology is as consistent as possible. Accordingly, the Board did not make any changes in response to this comment.

A comment from an association of insurance carriers requests that the following language be added to 318.1 and 318.9: "that are imposed upon and collected from all affected employers". The Board has accepted this change.

The same commenter also suggested changing the term “payer” to “remitter.” The Board has accepted this change.

The same commenter requested that the Board change the language to have employers remit directly to the Board. As noted above, the permanent nature of these regulations do not prohibit the Board from pursuing direct employer payment. In fact, the Board is in the midst of an extensive Business Process Reengineering. This will include the collection and review of various data elements previously not available which may support a direct employer collection of assessments. Accordingly no change has been made in response to this comment. But changes to the process may occur in the future.

CHANGES TO THE REGULATION:

The Regulation that is being adopted contains the following insubstantial changes from the proposed rule published in the October 15, 2014, State Register:

- In section 318.1, “that are imposed upon and collected from all employers” has been added to the first sentence. That sentence now reads: “The regulations contained herein are intended to support the Board in fulfilling its legislative mandate to fund administrative costs and special fund payments that are imposed upon and collected from all affected employers provided for in the Workers’ Compensation Law (WCL).”
- In section 318.1, in the second sentence, “payers” has been changed to “remitters.”
- In section 318.2, “part of the standard” was deleted from the phrase “part of the standard premium.” The sentence now reads: “The amounts collected and remitted to the Board for assessments will not be considered premium.”
- In section 318.8, subdivision (b), the phrase “that are imposed upon and collected from all affected employers” has been added. Subdivision (b) now reads: “Until such time as the Board can establish a

direct employer payment process, the remittance to the Board of all required assessments that are imposed upon and collected from all affected employers shall be as follows:”

- In section 318.9, “payer” was changed to “remitter” in six places.
- In 318.10, subdivision (c), “payer” was changed to “remitter” in two places.