

Regulatory Flexibility Analysis for Small Businesses and Local Governments (RFA)

1. Effect of rule

Medical providers authorized by the Chair of the Workers' Compensation Board (Chair) to treat claimants (some of whom may be small businesses) will be affected by this rule. Additionally, group self-insured trusts and third-party administrators hired by private insurance carriers and self-insured employers may also be impacted, as well as political subdivisions or other local governments who are self-insured. Most small business employers are not self-insured and thus would not be affected by this rule.

The proposed rule updates fee schedules that apply to all medical providers, insurance carriers, self-insured employers, group self-insurance trusts, and third-party administrators involved in the New York State workers' compensation system.

2. Compliance requirements

The workers' compensation fee schedules are mandatory for all medical providers, insurance carriers, self-insured employers, group self-insurance trusts, and third-party administrators. Medical providers will be required to bill in accordance with the updated fee schedules and payers will be required to pay according to them.

3. Professional services

It is believed that no professional services will be needed by small businesses or local governments to comply with the proposed regulation.

4. Compliance costs

Some, but not all fees that medical providers may charge for services are increasing, which is estimated to result in an overall increase in costs to the workers' compensation system in the low single digits (no more than 2-3%) as a result of carriers paying slightly more for these services. Because it has been more than six years since the last update to the medical fee schedules, and certain services have notably lagged behind the fees for other services, a change is necessary, and this reflects the cost of ensuring that good quality care is given to injured workers.

While the changes to the fee schedules do not impact the cost of purchasing the fee schedules, increases in the associated royalty fees imposed by the American Medical Association (AMA) and the American Society of Anesthesiologists (ASA) will result in an increase in the cost for the additional licenses for the Electronic Format File Download (to \$46 from the current \$25) as the current rate of \$25 per additional user does not cover the cost of the royalty fees that must be paid to the AMA and ASA for the additional use. There will be no increase to the cost for the hard copy or eBook versions of the fee schedules at this time; however, costs of these versions may be reviewed and reassessed in the future due to the rising costs of production and the increased royalty fees. Any increased costs for the fee schedule will be solely due to increased costs associated with

the production and licensing of the fee schedules and would have occurred irrespective of changes being made to the fee schedules.

5. Economic and technological feasibility

There are no additional implementation or technology costs to comply with the change in fee schedules. The fee schedules will be available in hard copy and electronically.

6. Minimizing adverse impact

The Chair is required to prepare and establish these fee schedules by statute. The Chair did consider different fee increases, but the above-referenced targeted increase to a limited number of billing codes was determined to be the optimal increase that ensures that medical providers are paid a fair rate and can continue providing quality medical care to treat injured workers.

7. Small business and local government participation

The Workers' Compensation Board (Board) regularly receives input from both medical societies and organizations in New York State, as well as individual providers and practices.

The Board does not have a small employer or municipality database, but has sent an electronic communication describing the proposal to its health care provider and employer subscribers for Board updates.

The Board will also duly consider all public comments received from small businesses or local governments during the public comment period.