

NYS Budget Bill and Effect of Group Self Insured Trusts: Workers' Compensation Board Update

The NYS Workers' Compensation Board held a conference call on April 12, 2011 to discuss the implications that the most recent NYS Budget Bill would have on the Group Self-Insurance (GSI) industry. A brief overview of the items discussed is below.

First, the content of the relevant sections of the bill were reviewed. Then the WCB summarized what these provisions would mean for:

Inactive Groups: any non- 50-5 assessments paid after 1/1/11 would be refunded.

Active Groups that Plan to Opt Out by Year End: must continue to pay all assessments until coverage ceases (before or on 12/31/11), and then all non- 50-5 assessment liability will end.

Continuing Self-Insurance Groups: must meet all new posting requirements, are not relieved of any assessment burden moving forward, will be treated like a private self-insurer for assessment purposes. Assessments would be reduced if the GSI ultimately ceased business via purchase of an ALP.

The WCB then addressed questions that had been submitted ahead of time, which had been pared down to 26 in number. Main answers and clarifications provided the following information:

- GSI's that don't meet new requirements must shut down by 12/31/2011, and must issue termination notices by 11/1/2011
- Included in the security calculation are two parts:
 - a. On 11/1/11, the GSI will put up security equal to the actuarial estimate dated 12/31/10. Updated security will be posted annually on 11/1, according to the previous year's actuarial estimate.
 - b. 11/1/12: continue old program (above). Moving forward, there will be annual incremental increases so that by 2014, security will cover current and 1 year prospective claims costs, as determined by SI-4 report. (SI-4 reports have traditionally been required of individual self-insurers. It is a list of all open claims showing outstanding reserves, amount of time lost from work, and a brief explanation of the reserve amount posted. The WCB routinely changes reserves to reflect their own reserve guidelines.)

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- Additional amount required to be posted with the WCB will cover all “other liabilities”, defined as 1 year prospective WCB assessments and allocated loss adjustment expenses (ALAE) for claims. This will be updated annually on 11/1. Further details will be provided in an upcoming WCB circular.
- Control over assets posted with the WCB is limited. Allowed investments are LOC, cash, Treasury Bills, and bonds. Any interest income earned will be returned to the GSI.
- GSI reporting requirements will include an SI-4 report, actuarial report, and audits annually
- Reserving guidelines will be applied in response to SI-4 reports, as they are for Private Self-Insurers.
- New exit fee for ALPs (or LPTs) is reduced to 12.1%
- The group administrator and the TPA functions must be performed by separate entities. This will be written into future regulations.
- 1/1/11 assessment bills will be adjusted and re-issued for defaulted GSIs, to take into account the change in assessment basis (from pure premium to prior year indemnity paid).
- The WCB will issue new regulations conforming to this legislation, and will make them available for public comment.
- Rate filings with the WCB will still be required.