



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Assessment of Costs to Administer the Workers' Compensation Program for the Fiscal Year Ended March 31, 2014

Workers' Compensation Board



Report 2015-S-12

October 2016

Executive Summary

Purpose

The purpose of this performance audit is to determine whether the Workers' Compensation Board (Board) has adequate procedures in place to accurately report its assessable expenses related to the administration of Sections 50(5) and 151 of the Workers' Compensation Law. We performed our audit pursuant to legislative mandates included in these statutes, which direct the Comptroller and the Chair of the Board to ascertain the annual amount of expenses incurred in the administration of these Laws. Our audit covered the period April 1, 2013 through March 31, 2014.

Background

The primary responsibility of the Board is to ensure that employees who are unable to work due to injury or illness are compensated under programs covering both occupational and non-occupational disabilities and sickness. Coverage for these benefits, with limited exception, is to be provided by their employers. The Board is also responsible for tracking its costs to administer the Workers' Compensation Program (Program) and assessing these costs on participating insurance carriers, self-insurers, and self-insured political subdivisions of the State.

Key Findings

- The Board has adequate procedures in place to ensure that it accurately identifies and reports its assessable expenses in all material respects.
- The Board made minor payroll allocation errors that had no net impact on the total assessment of about \$212 million. These errors occurred because some workers were charged to the wrong department payroll. Board officials agreed with our findings and stated they have corrected the errors.
- The Board implemented the recommendations contained in our prior audit report (2014-S-43).

Key Recommendations

- Ensure that the appropriate corrections are made to the FY 2014-2015 assessment.
- Continue working with the Office of General Services' Business Service Center to ensure that personal service costs reconcile to employee payroll expenses and are allocated appropriately for future assessments.

Other Related Audits/Reports of Interest

[Workers' Compensation Board: Assessment of Costs to Administer the Workers' Compensation Program for the Two Fiscal Years Ended March 31, 2013 \(2014-S-43\)](#)

[Workers' Compensation Board: Internal Control System Components \(2015-S-46\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

October 26, 2016

Mr. Kenneth J. Munnelly
Chair
Workers' Compensation Board
328 State Street
Schenectady, NY 12305

Dear Mr. Munnelly:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively, and by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Assessment of Costs to Administer the Workers' Compensation Program for the Fiscal Year Ended March 31, 2014*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law and the legislative mandates included in Sections 50(5) and 151 of the Workers' Compensation Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

Background

The Workers' Compensation Board (Board) was established under Article 8, Section 140 of the Workers' Compensation Law. The Board has 13 members appointed by the Governor with the advice and consent of the Senate. The primary responsibility of the Board is to ensure that employees who are unable to work due to injury or illness are compensated under programs covering both occupational and non-occupational disabilities and sickness. The Board also ensures that required payments are made for those covered under the Volunteer Firefighters' Benefit Law and the Volunteer Ambulance Workers' Benefit Law and certain injuries sustained by civil defense volunteers.

Coverage for these benefits, with limited exception, is to be provided by employers. Costs to administer the Workers' Compensation Program (Program) are recovered via assessments by the Board on participating insurance carriers, the State Insurance Fund, self-insurers, and self-insured political subdivisions of the State. The Board and the State Comptroller are required by law to ascertain the expenses. Expenses include direct costs of personal service, maintenance and operation, employer fringe benefit contributions, rental for space in State-owned or State-leased buildings, and the services and expenses of central service agencies. Each program is described below:

- **Workers' Compensation (Section 151)** – The Board receives and processes workers' compensation claims. The Board adjudicates these claims and makes findings and awards to injured claimants. All costs incurred by the Board in administering the Program are recovered by assessing all companies writing workers' compensation policies and those firms and municipalities authorized as self-insurers. Depending on the type of insured employer, the specific amount assessed each company is based on either its proportionate share of the total compensation paid, direct written premium, standard premium, or pure premium as prescribed in the respective sections of the Law.
- **Disability Benefits (Section 228)** – The Disability Benefits Program provides eligible employees with cash payments to partially replace earnings lost during periods of temporary incapacity caused by off-the-job sickness or injury. Coverage is required to be provided by all employers, with certain exceptions for agricultural and governmental employers. Municipalities may elect to self-insure. Employers must either provide statutory coverage or participate in a plan that provides benefits that are at least as favorable as statutory coverage. The Board must approve all plans. To recover its costs of administering the Disability Benefits Program, the Board assesses all insurance companies and self-insurers providing coverage for disability benefits. The individual assessments are based on each provider's portion of the total payroll for all employees who were covered during the calendar year preceding the assessment. The term "payroll" includes the first \$7,000 of each employee's earnings.
- **Volunteer Firefighters (Section 60) and Volunteer Ambulance Workers (Section 60)** – The Volunteer Firefighters' and the Volunteer Ambulance Workers' Benefit Laws provide that volunteer firefighters and ambulance workers be covered for injuries they sustain when performing their authorized duties. Each Law specifies that all costs related to

administration are to be recovered from insurance carriers providing coverage to members of volunteer fire departments and volunteer ambulance workers. Determination of such costs is to be based on each carrier's proportionate share of the total indemnity benefit payments for that fiscal year.

- **Self-Insurers (Section 50)** – The Workers' Compensation Law allows an employer to be self-insured for the purpose of providing workers' compensation. In these cases, the employer must furnish proof of financial ability to pay such compensation. The self-insurer is required to deposit securities, cash, a Letter of Credit, or a surety bond with the Board to cover its potential liability. The Board also determines the amount of security each self-insurer will deposit. A portion of the administrative costs and the costs of the defaulted self-insured are assessed to the self-insurers based on their individual reported annual indemnity paid as a percentage of the self-insurers as a whole.

The Board prepares its Consolidated Statement of Costs to Administer the Workers' Compensation Program on a modified cash basis of accounting. Generally, cash receipts are recognized when received and cash disbursements are recognized when paid. However, the Board includes disbursements made during each April through June against outstanding encumbrances of the previous fiscal year as assessable costs for that prior year.

Legislation passed on March 29, 2013 changed the process to assess expenses to the insurance carriers. One change impacting the 2013-2014 administrative assessment eliminated the annual estimated quarterly billings followed by a fifth and final bill that adjusted the amount carriers paid to the actual expenses incurred for these programs. Instead, the revised process utilizes a rate-style assessment to bill carriers effective January 1, 2014. For the fiscal year ended March 31, 2014, the Board's total billed assessments were \$280,923,900. Another change impacting the 2013-2014 administrative assessment relates to the allocation of expenses to the Disability Benefits (Section 228), Volunteer Firefighters (Section 60), and Volunteer Ambulance Workers (Section 60) programs, which is no longer required because the new rate-style assessment combines these program areas under the Workers' Compensation Program (Section 151) which are billed in aggregate. Self-Insurers (Section 50(5)) are billed separately. Therefore, the financial information that the Board developed, and which is presented in the Exhibit and Schedules attached to this report, has also changed to show the consolidation of programs under Workers' Compensation (Section 151) and Self-Insurers (Section 50(5)).

Audit Findings and Recommendations

Overall, we found that the Board had adequate procedures in place to accurately identify and report its assessable expenses for the fiscal year ended March 31, 2014. However, we noted that the Board made some minor errors in its allocation process for personal service expenses and related indirect costs that had no effect on the total expenses assessed to carriers. Board officials stated that they have corrected these errors. We also found that the Board fully implemented the three recommendations contained in our prior audit report (2014-S-43), which covered the two fiscal years ended March 31, 2013.

Preparation of Consolidated Statements of Costs to Administer the Workers' Compensation Program

We found the Board accurately prepared, in all material respects, the Consolidated Statement of Costs to Administer the Workers' Compensation Program for the year ended March 31, 2014, which is presented as an Exhibit to this report. The Board also provided the supplementary information included in this report, some of which was not audited by us. Specifically, the State Comptroller is required by law to ascertain the assessable expenses. Therefore, we focused our work on the assessable expenses and did not audit the Supplementary Information – Receipts Schedule included in this report.

We also noted that the Board overstated the personal service and indirect cost expense lines relating to self-insurance carriers (Section 50) by \$512,290 and understated such expenses for the Workers' Compensation Program (Section 151) by the same amount. The Board allocated these items incorrectly for five employees as a result of using an outdated report to determine which employees should be allocated to each program. Board officials stated they have corrected these errors and the personal service allocation report.

Recommendations

1. Ensure that the appropriate corrections are made to the FY 2014-2015 assessment.
2. Continue working with the Office of General Services' Business Service Center to ensure that personal service costs reconcile to employee payroll expenses and are allocated appropriately for future assessments.

Audit Scope and Methodology

We audited whether the Board has adequate procedures in place to accurately report its assessable expenses pursuant to Sections 50(5) and 151 of the Workers' Compensation Law. Our audit covered the period April 1, 2013 through March 31, 2014.

We conducted our performance audit in accordance with generally accepted government auditing

standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. The Comptroller also appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. In addition, and more specific to this audit, Sections 50(5) and 151 of the Workers' Compensation Law require the Comptroller and the Chair of the Workers' Compensation Board to ascertain the total amount of expenses incurred in the administration of these laws. Ascertaining the expenses requires reliance on the State's accounting system, which is maintained in part by the Comptroller. These duties may therefore be considered management functions for purposes of evaluating threats to organizational independence under generally accepted government auditing standards. Because the focus of our performance audit was primarily on the Board's efforts to identify and report appropriate costs and not on calculating the costs themselves, in our opinion, these threats and functions do not affect our ability to conduct an independent audit of the Board's performance.

To achieve our audit objective we reviewed relevant laws, regulations, policies, and procedures and also interviewed Board officials. We also examined the Board's internal controls related to preparing the appropriate cost reports. We also applied audit procedures to the annual assessment statements prepared by the Board. These audit procedures included analytical reviews to identify areas of risk and unique transactions that warranted additional consideration, as well as tests of selected transactions and such other procedures as we considered necessary in the circumstances. We also substantiated the assessable costs presented in these statements by tracing them to financial records maintained by the Board and by the State Comptroller.

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; Article II, Section 8 of the State Finance Law; and the legislative mandates included in Sections 50(5) and 151 of the Workers' Compensation Law.

Reporting Requirements

We provided a draft copy of this report to Workers' Compensation Board officials for their review and formal comment. We considered the Board's comments in preparing this report and have attached them in their entirety to it. In their response, officials indicated that the Board has clearly defined procedures to ensure assessable expenses are adequately identified and reported. Further, the Board will continue to work to ensure that personal service costs are reconciled and allocated properly for assessment purposes.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Chair of the Workers' Compensation Board shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit

New York State Workers' Compensation Board
Consolidated Statement of Costs to Administer the Workers' Compensation
Program for the Fiscal Year Ended March 31, 2014

	Section 151: Workers' Compensation Carriers	Section 50: Self-Insurers	Totals
Total Cash Disbursements	\$185,022,204	\$27,305,589	\$212,327,793
Less: Total Cash Receipts	3,364,320	0	3,364,320
Net Disbursements	\$181,657,884	\$27,305,589	\$208,963,473
Adjustments - DOH	0	0	0
Total Current Assessment	\$181,657,884	\$27,305,589	\$208,963,473
Prior Period Adjustments			
Miscellaneous Adjustments	(4,206,519)	(447,398)	(4,653,917)
Uninsured Employers Fund Assessment	0	0	0
Total Assessable Expenses	\$177,451,365	\$26,858,191	\$204,309,556

Note. DOH – Department of Health.

Supplementary Information – Disbursements

New York State Workers' Compensation Board
Distribution of Administrative Cash Disbursements by Insurer Category
for the Fiscal Year Ended March 31, 2014

	Section 151: Workers' Compensation Law	Section 50: Self-Insurers	Total Expenses
Direct Cash Disbursements			
Personal Service	\$82,311,111	\$2,892,684	\$85,203,795
Maintenance and Operations			
Supplies & Materials	3,660,524	163,728	3,824,252
Travel	434,940	17,242	452,182
Contractual Services	47,777,435	5,127,733	52,905,168
Equipment	2,350,981	82,617	2,433,598
Contractual Services - SI	0	17,317,584	17,317,584
Subtotals	\$54,223,880	\$22,708,904	\$76,932,784
General State Charges	45,927,942	1,614,060	47,542,002
Total Direct Cash Disbursements	\$182,462,933	\$27,215,648	\$209,678,581
Indirect Expenses	2,559,271	89,941	2,649,212
Total Cash Disbursements	\$185,022,204	\$27,305,589	\$212,327,793

Supplementary Information – Receipts (Unaudited)

New York State Workers' Compensation Board
Cash Receipts by Insurer Category
for the Fiscal Year Ended March 31, 2014

Type of Cash Receipt	Section 151: Workers' Compensation Law	Section 50: Self- Insurers	Totals
Hospital Arbitration Post - Section 13g-6n	\$4,333	\$0	\$4,333
Medical Arbitration Post - Section 13g-4	24,923	0	24,923
Chiropractic Arbitration Post - Section 13l-6n	759	0	759
Psychology Arbitration Post - Section 13m-7n	1,744	0	1,744
Podiatry Arbitration Post - Section 13k-6	0	0	0
Unnecessary Delay of Claims 25-3c - WC	8,450	0	8,450
Unnecessary Delay of Claims 25-3c - DB	0	0	0
Hospital Records Penalty - Section 13g	600	0	600
Failure To Make Payment - Section 25-2bh	16,600	0	16,600
Failure To File C-2 - Section 110c	0	0	0
Failure To File Medical Report – Section 12.300	0	0	0
Adjournment Penalty - Section 25-3d	23,750	0	23,750
Fraudulent Practices - Section 114-a3	195,995	0	195,995
Finance Charges - Section 55	0	0	0
Medical Bureau License Fees	9,200	0	9,200
Laboratory License Fees	2,500	0	2,500
IME Reg Fees	2,100	0	2,100
Subpoena Fees	12,213	0	12,213
Photocopy Fees	235,227	0	235,227
Publication Fees	1,294	0	1,294
General Refunds	2,750,513	0	2,750,513
Surplus Equipment Sales	0	0	0
Parking Fees	0	0	0
Failure To File GP	0	0	0
Reimbursements - Section 50-5f	0	0	0
Wifi Royalties	2,748	0	2,748
Interest Fund - 339-B7	71,371	0	71,371
Total Cash Receipts	\$3,364,320	\$0	\$3,364,320

Supplementary Information – Miscellaneous Adjustments

New York State Workers' Compensation Board
Miscellaneous Adjustments to Assessments by Insurer Category
for the Fiscal Year Ended March 31, 2014

Applicable to Workers' Compensation Assessments	Section 151: Workers' Compensation	Section 50: Self-Insurers	Total Expenses
DOH - Inpatient Hospital Rates	\$0	\$0	\$0
Assessment Adjustments	(4,206,519)	(447,398)	(4,653,917)
UEF Adjustments	0	0	0
Total Adjustments	(\$4,206,519)	(\$447,398)	(\$4,653,917)

Note. DOH – Department of Health; UEF – Uninsured Employers Fund.

Agency Comments



ANDREW M. CUOMO
Governor

KENNETH J. MUNNELLY
Chair

October 11, 2016

John Buyce, CPA, CIA, CGFM
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236-0001

Dear Mr. Buyce:

This letter serves as a response to your September 2016 draft report on the *Assessment of Costs to Administer the Workers' Compensation Program for the fiscal year ended March 31, 2014*.

We appreciate the time and effort you and your team invested in the audit. As your report indicates, the Workers' Compensation Board has implemented the recommendations contained in the prior audit. We have clearly defined procedures in place to ensure assessable expenses are adequately identified and reported in all material respects. With respect to the minor payroll allocation errors noted, we will continue to work to ensure that personal service costs are reconciled and allocated properly.

Thank you for the opportunity to comment on your audit. Please let us know if you have any further comments or require any additional information.

Sincerely,

Kenneth J. Munnelly
Chair