



STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**

August 1, 2018

Kenneth R. Theobalds  
Chairman  
New York State Insurance Fund  
199 Church Street  
New York, NY 10007

Re: Report 2017-SIF-02

Dear Chairman Theobalds:

We examined<sup>1</sup> select penalties and interest expenses related to medical and compensation payments the New York State Insurance Fund (NYSIF) made during the period January 1, 2010 through December 31, 2016. During our examination period, NYSIF reported making 10.2 million medical payments totaling \$3.3 billion and 11.2 million compensation payments totaling \$8.4 billion. Our objective was to determine the extent to which NYSIF was penalized by the Workers' Compensation Board (WCB) for late payment of medical and compensation claims.

**A. Results of Examination**

Based on data reported by NYSIF and WCB, we found NYSIF paid more than \$4.1 million in penalties and interest for making late medical and compensation payments. This included 35,130 penalties totaling \$1.2 million for late payments to medical providers and 898 penalties totaling \$2.2 million for late compensation payments to injured workers. Additionally, NYSIF paid combined interest of \$833,335 to medical providers and injured workers for late medical and compensation payments.

NYSIF processes the vast majority of its payments without incurring penalties or interest. NYSIF officials recognize the importance of making timely payments and agree the penalties and interest paid are too high. However, they point out that it would be impossible to eliminate certain penalty and interest costs, such as when NYSIF disputes the billed amount and the WCB subsequently determines the original billed amount was correct and is then due and owing. Nonetheless, injured workers and medical providers depend on timely payments to meet financial obligations. Furthermore, paying on time helps ensure medical providers continue to accept new workers' compensation patients. Finally, reducing the number and amount of penalties would save money for NYSIF and its customers. We note NYSIF has begun using a new reporting system that

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<sup>1</sup> We performed our examination in accordance with the State Comptroller's authority set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8(1) and (7), and Article VII, Section 111 of the State Finance Law.

enables managers and supervisors to review all late payments, which may help NYSIF identify improvement opportunities.

## **B. Background and Methodology**

The Workers' Compensation Law (Law) authorizes medical providers and injured workers to report late medical and compensation payments to the WCB when insurance carriers exceed the time limits established in the Law for such payments. The WCB may impose a penalty on insurance carriers for reported late payments, and the Law requires insurance carriers to pay interest on late payment amounts. Penalties are paid to the WCB and injured workers, and late payment interest is paid to medical providers and injured workers. No penalties are imposed by the WCB on late payments if they are not reported. Therefore, the assessed penalties may not reflect all late medical and compensation payments NYSIF made during our examination period.

To accomplish our objective, we obtained penalty and interest data from NYSIF and WCB, reviewed select medical and compensation claims NYSIF paid, interviewed NYSIF and WCB officials, and reviewed a sample of penalty and interest payments.

We provided NYSIF a draft copy of this report and considered their comments (Attachment A) in preparing this final report. NYSIF officials generally agreed with our recommendation, stating they have implemented several improvements to reduce penalties and interest payments and will continue to focus on further minimizing penalties and interest.

### **Recommendation**

*Continue to identify and implement strategies to reduce the amount of late payments resulting in penalties and interest.*

We thank the management and staff of the New York State Insurance Fund for the courtesies and cooperation extended to our auditors. Since your response to the draft report is in agreement with this report, there is no need for a further response unless you feel otherwise. If you choose to provide a response, we would appreciate receiving it by August 31, 2018.

Sincerely,

Bernard J. McHugh  
Director of State Expenditures

Encl: Attachment A

cc: Eric Madoff, Executive Director and CEO  
William O'Brien, General Attorney  
Peter Cusick, Deputy Counsel



New York State Insurance Fund

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July 18, 2018

Bernard J. McHugh  
Director of State Expenditures  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Re: Draft Report 2017-SIF-02

Dear Mr. McHugh:

The New York State Insurance Fund ("NYSIF") writes in response to Office of the State Comptroller ("OSC") Draft Report 2017-SIF-02. The report concerns "the extent to which NYSIF was penalized by the Workers' Compensation Board (WCB) for late payment of medical and compensation claims" in the seven year period from January 1, 2010 through December 31, 2016. While not absolutely perfect, and NYSIF continually works to improve, NYSIF believes the report confirms that NYSIF's performance was exemplary.

NYSIF believes it is very important to pay valid compensation and medical claims timely, strives to achieve that, and focuses attention and resources on that goal. As the report notes, "NYSIF processed the [vast] majority of its payments without incurring penalties or interest," and that "it would be impossible to completely eliminate certain penalty and interest costs" in certain situations. Further, the sheer volume of the number of payments (21.4 million in the period examined) makes perfection difficult to achieve.

Nonetheless, in the examined seven year period, NYSIF made 99.992 percent of compensation payments without penalty. In dollar terms, penalties and interest in the period for compensation and medical payments were only 35 thousandths of one percent (0.035 percent) of the total compensation and medical payments made (\$4.1 million versus \$11.7 billion).

NYSIF continues to take steps to yet further reduce such penalties. In 2016, NYSIF provided training with periodic follow-up on the importance of paying awards timely; reports are provided to supervisors, who review penalties and provide further individualized training where necessary. NYSIF has created and supervisors monitor automated diaries to their respective staff indicating an award has been received and payment must be made within a designated time period. Also, NYSIF has implemented a new, faster and more efficient process to file objections to a medical bill, which would reduce penalties regarding medical bills.

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OSC's Recommendation

OSC recommends that NYSIF "[c]ontinue to identify and implement strategies to reduce the amount of late payments resulting in penalties and interest." NYSIF agrees, and has and is doing so. As described above, NYSIF has implemented several improvements to further reduce penalties and interest payments, and NYSIF will continue to focus on further minimizing penalties and interest to the extent possible. NYSIF's new Claims Center system is continuously being updated and improved; a potential penalty alert notification system is in the planning stages and will be incorporated in a future release.

Yours truly,



William O'Brien  
General Attorney

cc: Kenneth R. Theobalds  
Eric Madoff