



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 Three Fiscal Years Ended March 31, 2017

Workers' Compensation Board



Report 2017-S-64

August 2018

Executive Summary

Purpose

The objective of this performance audit was to assess the accuracy of the Workers' Compensation Board's (Board) reported assessable expenses and compliance with relevant statutes related to the administration of Sections 50(5) and 151 of the Workers' Compensation Law (WCL). We performed our audit pursuant to legislative mandates included in these statutes, which direct the State 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, 2014 through March 31, 2017.

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 payroll allocation errors in its 2014-15, 2015-16, and 2016-17 statements for the Self-Insurers (WCL Section 50(5)) assessment, resulting in a net underassessment of \$1,124,833. These errors were attributed to an incorrect departmental allocation of Board personal service and related expenses. Board officials agreed with our findings, and stated they will implement corrective procedures and make the necessary adjustment for the underassessment.
- The Board partially implemented the recommendations contained in our prior audit report (2015-S-12), stating the incomplete implementation was due to a misunderstanding and that, with the findings in this report, they will implement the remaining recommendation.

Key Recommendations

- Verify that personnel associated with the Self-Insurers program are accurately identified as such, and ensure required corrections to inaccurate records are made timely. Make necessary adjustments to future assessment(s) for the errors made to personal service expenses for the three fiscal years ended March 31, 2017 as a result of inaccurate records.
- Establish a consistent and accurate method to ensure the costs charged for personal service under the self-insurance assessment are representative of the Board's actual costs to administer the provisions of WCL Section 50(5).

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: Assessment of Costs to Administer the Workers' Compensation Program for the Fiscal Year Ended March 31, 2014 \(2015-S-12\)](#)

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

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

August 21, 2018

Ms. Clarissa M. Rodriguez
Chair
Workers' Compensation Board
328 State Street
Schenectady, NY 12305

Dear Ms. Rodriguez:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively. By so doing, it provides 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 Three Fiscal Years Ended March 31, 2017*. 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 (WCL). 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 (WCL 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.
- **Self-Insurers (WCL Section 50(5))** - The WCL allows an employer to be self-insured for the purpose of providing workers' compensation. 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 Administrative Assessment and Summary of Actual Program 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 appropriations 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 insurance carriers for the 2013-14 year and future ones. One change impacting the 2013-14 Section 151 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. Legislation also requires the Board to adjust future assessment rates as necessary. Another change impacting the 2013-14 Section 151 administrative assessment is the allocation of expenses to the Disability Benefits (WCL Section 228), Volunteer Firefighters (WCL Section 60), and Volunteer Ambulance Workers (WCL Section 60) programs, which is no longer required because the new rate-style assessment combines the assessment for these program areas under Section 151, which are assessed in aggregate. Costs for the Self-Insurers (WCL Section 50(5)) program are assessed separately. Prior to the legislation change, Board expenses that the State Comptroller was required to ascertain under WCL Section 151 were limited to administrative costs. Under the new legislation, other assessable cost areas are now included.

For the three fiscal years ending March 31, 2017, the Board's reported costs under WCL Section 151 were as follows:

- 2014-15: \$844,395,068, including Administrative expenses of \$195,252,647
- 2015-16: \$1,198,755,229, including Administrative expenses of \$197,984,297
- 2016-17: \$998,180,803, including Administrative expenses of \$204,277,748

Of these Administrative expenses shown above, the following was the portion assessed to the Self-Insurers program:

- 2014-15: \$7,555,377
- 2015-16: \$5,052,578
- 2016-17: \$5,606,701

The financial information that the Board provided, which is presented in the Exhibits attached to this report, provides a more detailed breakdown of the assessed expenses under both the Program (WCL Section 151) and the Self-Insurers (WCL Section 50(5)) program.

Audit Findings and Recommendations

Overall, we found that the Board has adequate procedures in place to accurately identify and report its assessable expenses for the three fiscal years ended March 31, 2017. However, we noted that the Board made some errors in its allocation of personal service expenses and related indirect costs in the Self-Insurers (WCL Section 50(5)) assessment as a result of inaccurate records. For the three fiscal years ended March 31, 2017, the Board underassessed \$1,124,833 of self-insurance-related expenses. The most significant error occurred with the 2015-16 assessment, which resulted in the Board failing to assess \$1,016,437 for self-insurance-related personal service expenses for that year. Board officials stated that they will implement procedures to correct the underlying issue that caused the errors.

We also found that the Board partially implemented the two recommendations contained in our prior audit report ([2015-S-12](#)), which covered the fiscal year ended March 31, 2014. Board officials explained that the incomplete implementation was due to a misunderstanding and that, with the findings in this report, they will implement the remaining recommendation.

Preparation of Administrative Assessment and Summary of Actual Program Costs to Administer the Workers' Compensation Program

We found the Board accurately prepared, in all material respects, the Administrative Assessment to Administer the Workers' Compensation Program as well as the Summary of Actual Program Costs for the three fiscal years ended March 31, 2017, which are presented as Exhibits to this report. However, we also noted that the Board used a different methodology for each of the three fiscal years when it ascertained the personal service and indirect costs relating to the self-insurance assessment. Board officials stated they will be more consistent in the future.

Recommendations

1. Verify that personnel associated with the Self-Insurers program are accurately identified as such, and ensure required corrections to inaccurate records are made timely. Make necessary adjustments to future assessment(s) for the errors made to personal service expenses for the three fiscal years ended March 31, 2017 as a result of inaccurate records.
2. Establish a consistent and accurate method to ensure the costs charged for personal service under the self-insurance assessment are representative of the Board's actual costs to administer the provisions of WCL Section 50(5).

Audit Scope, Objective, and Methodology

The objective of our performance audit was to assess the accuracy of the Board's reported assessable expenses and compliance with relevant statutes related to the administration of WCL Sections 50(5) and 151. Our audit covered the period April 1, 2014 through March 31, 2017.

To achieve our audit objective, we reviewed relevant laws, regulations, policies, and procedures and interviewed Board officials. We also reviewed and assessed 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. We examined transactions in each category of expense on the Exhibit. For categories with a high number of transactions, we selected judgmental samples, focusing on those with a higher dollar amount and those at a higher risk of fraud, waste, or abuse. 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.

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, WCL Sections 50(5) and 151 require the Comptroller and the Chair of the 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.

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

A draft copy of this report was provided to Board officials for their review and formal comment. Their comments were considered in preparing this final report and are attached at the end in their entirety. The Board agreed with our report's findings and recommendations and indicated they will take steps to implement the recommendations.

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 A

New York State Workers' Compensation Board Administrative Assessment and Summary of Actual Program Costs for the Fiscal Year Ended March 31, 2015

Category of Expenses	Section 50: Self-Insurers	Section 151: Workers' Compensation	Total Expenses
Administrative Assessment Costs			
Personal Service	\$3,137,589.00	\$74,373,238.86	\$77,510,827.86
Supplies and Materials	28,809.00	3,724,218.12	3,753,027.12
Travel	2,535.00	367,542.70	370,077.70
Contractual Services	2,523,429.00	53,925,934.51	56,449,363.51
Equipment	0.00	925,365.43	925,365.43
General State Charges	1,775,578.47	42,143,862.21	43,919,440.68
Indirect Expenses	87,436.19	2,067,310.56	2,154,746.75
ITS Charges		10,177,884.00	10,177,884.00
Subtotals	\$7,555,376.66	\$187,705,356.39	\$195,260,733.05
Adjustment		(8,086.00)	(8,086.00)
Total Administrative Assessment Costs		187,697,270.39	\$195,252,647.05
Other Expenses			
Interdepartmental Programs (DOH, DOL)		\$51,935,314.00	\$ 51,935,314.00
Special Funds Conservation Committee		\$15,628,445.00	\$15,628,445.00
Special Disability Fund (Unaudited)		\$581,578,662.00	\$ 581,578,662.00
Total Expenses	\$7,555,376.66	\$836,839,691.39	\$844,395,068.05
Total Collections and Other Revenue (Unaudited)			\$1,067,694,041.00
*Total Amount Collections Higher (Lower) Than Expenses			\$223,298,972.95

ITS = Office of Information Technology Services; DOH = Department of Health; DOL = Department of Labor.

*The expense and the revenue amount for 2014-15 was estimated to be \$893,000,000.

Exhibit B

New York State Workers' Compensation Board Administrative Assessment and Summary of Actual Program Costs for the Fiscal Year Ended March 31, 2016

Category of Expenses	Section 50: Self-Insurers	Section 151: Workers' Compensation	Total Expenses
Administrative Assessment Costs			
Personal Service	\$1,867,574.35	\$ 77,489,550.85	\$79,357,125.20
Supplies and Materials	27,720.79	2,406,513.77	2,434,234.56
Travel	1,291.93	400,556.88	401,848.81
Contractual Services	2,065,141.18	52,696,825.84	54,761,967.02
Equipment	0.00	1,043,579.03	1,043,579.03
General State Charges	1,043,600.55	43,369,622.74	44,413,223.29
Indirect Expenses	47,249.63	1,932,069.16	1,979,318.79
ITS Charges		13,593,000.00	13,593,000.00
Subtotals	\$5,052,578.43	\$192,931,718.27	\$197,984,296.70
Other Expenses			
Interdepartmental Programs (DOH, DOL)		50,782,497.00	50,782,497.00
Special Funds Conservation Committee		13,481,773.00	13,481,773.00
Special Disability Fund (Unaudited)		532,424,162.00	532,424,162.00
Fund for Reopened Cases (Unaudited)		404,082,500.00	404,082,500.00
Total Expenses	\$5,052,578.43	\$1,193,702,650.27	\$1,198,755,228.70
Total Collections and Other Revenue (Unaudited)			\$1,148,966,957.00
*Total Amount Collections Higher (Lower) than Expenses			\$(49,788,271.70)

ITS = Office of Information Technology Services; DOH = Department of Health; DOL = Department of Labor.

*The expense and the revenue amount for 2015-16 was estimated to be \$1,131,000,000.

Exhibit C

New York State Workers' Compensation Board Administrative Assessment and Summary of Actual Program Costs for the Fiscal Year Ended March 31, 2017

Category of Expenses	Section 50: Self-Insurers	Section 151: Workers' Compensation	Total Expenses
Administrative Assessment Costs			
Personal Service	\$1,863,167.08	\$ 81,096,195.25	\$82,959,362.33
Supplies and Materials	27,668.79	453,223.65	480,892.44
Travel	4,281.52	332,446.86	336,728.38
Contractual Services	2,567,785.33	49,995,414.77	52,563,200.10
Equipment	0.00	468,584.44	468,584.44
General State Charges	1,093,865.39	48,368,344.01	49,462,209.40
Indirect Expenses	49,932.88	2,150,838.08	2,200,770.96
ITS Charges		15,806,000.00	15,806,000.00
Subtotals	\$5,606,700.99	\$198,671,047.06	\$204,277,748.05
Other Expenses			
Interdepartmental Programs (DOH, DOL)		55,505,000.00	55,505,000.00
Special Funds Conservation Committee		13,582,510.00	13,582,510.00
Special Disability Fund (Unaudited)		532,132,556.00	532,132,556.00
Fund for Reopened Cases (Unaudited)		192,682,989.00	192,682,989.00
Total Expenses	\$5,606,700.99	\$992,574,102.06	\$998,180,803.05
Total Collections and Other Revenue (Unaudited)			\$1,243,829,143.00
*Total Amount Collections Higher (Lower) than Expenses			\$245,648,339.95

ITS = Office of Information Technology Services; DOH = Department of Health; DOL = Department of Labor.

*The expense and the revenue amount for 2016/17 was estimated to be \$1,098,000,000.

Agency Comments



ANDREW M. CUOMO
Governor

CLARISSA M. RODRIGUEZ
Chair

August 14, 2018

Brian Reilly, CFE, CGFM
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236

Dear Mr. Reilly:

This letter is in response to your July 2018 draft report 2017-S-64 on the *Assessment of Costs to Administer the Workers' Compensation Program for the Three Fiscal Years Ended March 31, 2017*.

As the report indicates, the Workers' Compensation Board (Board) agrees with the findings related to the net underassessment of the self-insurers in the three fiscal years evaluated in the audit. Based on these recommendations, an adjustment will be made in the upcoming fiscal year. In addition, the Board also agrees to implement the remaining recommendations from the previous audit 2015-S-12.

Thank you for the opportunity to comment on the draft report. We appreciate the time and effort you and your team invested in the audit. Please let us know if you have any further comments or require additional information.

Sincerely,

Clarissa M. Rodriguez
Chair