



June 14, 2012

Mr. Robert E. Beloten
Chair
Workers' Compensation Board
20 Park Street
Albany, NY 12207

Re: 2011 Payment Examination Report

Dear Chair Beloten:

Our Office examined¹ Workers' Compensation Board (Board) payment requests during the period January 1, 2011 through December 31, 2011. The objective of our examination was to determine whether payment requests were appropriate in accordance with the Workers' Compensation Law (Law).

A. Results of Examination

Our examination identified 707 inappropriate payment requests totaling about \$61.1 million in overpayments and \$450,000 in underpayments for the period.

We shared a draft report with Board officials and considered their response (see Appendix A) in preparing this report. The comments of the State Comptroller on the Board's response are attached as Appendix B.

B. Background and Methodology

Workers' compensation insurance provides an injured worker with monetary relief and medical benefits, or in the case of death, survivor benefits to the worker's beneficiaries. These benefits are generally provided through policies with private insurance carriers, self-insurers, or the State Insurance Fund. In addition, the Board administers five sole custody funds (funds) to pay claimants and providers for compensation and medical service. These funds cover claimants when employers fail to have sufficient insurance, when claimants become disabled while collecting unemployment insurance, or when carriers or self-insured employers are entitled to relief under the Law from expenses associated with long-term disabilities.

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

The Special Funds Conservation Committee (SFCC) is a private concern established by the insurance carriers to maintain and conserve the assets of two of the five funds. Employees of the SFCC review claims for appropriateness before forwarding them to the Board for approval. Board staff is responsible for approving claims and processing payment requests from all five funds. All payment requests are subject to the audit and approval of the Office of the State Comptroller prior to payment. During the period, we approved about 824,000 payment requests for \$866 million from all five funds.

To accomplish our objectives, we selected payment requests daily for examination using filters embedded in the Board's payment system. The filters were designed to identify high-risk payment requests, considering such factors as dollar amount, type of payment, and potential for duplicate payment. During the period, we examined 19,532 payment requests valued at \$286.4 million. We determined whether each filtered payment request was: adequately supported; payable to the correct payee; not a duplicate of a prior payment; and appropriate according to the Workers' Compensation Law, including established medical fee schedules. The medical fee schedules set the limit for reimbursement to medical providers, insurance carriers, and claimants.

C. Details of Findings

Our examination identified 707 inappropriate payment requests totaling about \$61.1 million in overpayments and \$450,000 in underpayments during the examination period. Specifically, we returned to the Board:

- 383 payment requests for more than \$1.3 million in overpayments because the charges did not match the appropriate fee schedules. In one case, the Board approved a payment request for \$98,011 for a hospital stay when the fee schedule allowed only \$24,132 for the stay.
- 44 payment requests for about \$382,000 in overpayments due to computation errors. In one instance, the SFCC computed the amount payable for implants at \$68,690 based on the hospital's list price instead of the hospital's cost of \$24,997, as required. In another case, the SFCC added a hospital's list price for implants to its cost, nearly doubling the amount of the payment request.
- 11 payment requests for about \$58.1 million in overpayments because of data entry errors. In one instance, a Board employee data-entered a document's control number into the dollar amount field in the payment system. This resulted in a payment request for \$6.9 million instead of \$114. In another example, a Board employee incorrectly input the wrong numbers into the 'amount' and 'number of weeks' fields in the payment system. The system then calculated a payment request for over \$51 million instead of \$849.
- 24 duplicate payment requests for about \$290,000 in overpayments.

- 50 payment requests for about \$924,000 in overpayments relating to unsupported payment requests.
- 11 payment requests for about \$57,000 for other miscellaneous reasons.
- 184 payment requests for about \$450,000 in underpayments.

The Board generated about 20 percent of these errors and the SFCC about 80 percent. Board employees approved all these errors and submitted the related payment requests to OSC for audit and approval.

Based on discussions with our office, in November 2011 the Board and the SFCC initiated improvements to their processes for submitting payment requests to the Comptroller's Office for audit. This included enhancing the payment system to capture correct fee schedule amounts, providing guidance to employees to reduce data computation errors, and enhancing the quality review process to more readily identify data entry errors. As a result of these changes, the monthly average of stopped payment requests decreased from 52 per month in the period January through October to 35 per month in November and December.

Recommendations

- 1) Continue to implement internal controls necessary to reduce errors identified in this report.*

We thank the management and staff of the Workers' Compensation Board 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 further response unless you feel otherwise.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

cc: Uluss Thompson
Mary Beth Woods



ANDREW M. CUOMO
GOVERNOR

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WORKERS'
COMPENSATION
BOARD

ROBERT E. BELOTEN
CHAIR

JEFFREY FENSTER
EXECUTIVE DIRECTOR

May 9, 2012

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

Dear Mr. McHugh:

This letter serves as a response to your recent report related to the payments made from five Workers' Compensation Board's (WCB) special funds for the calendar year 2011. As you know, three Office of the State Comptroller (OSC) staff, paid for by the WCB, maintain a full time presence at the WCB as an integral part of the review process for payments requested to be made from the various special funds. The Special Funds Conservation Committee (SFCC) is a private concern established to safeguard the assets of two of the five funds.

*

Comment
1

To summarize the payment review process, SFCC staff makes payment requests to the WCB where they believe a payment is statutorily warranted. WCB staff review these requests for appropriate documentation and submit appropriately documented requests to OSC staff for a final check before payments are made. For the period under review, roughly 824,000 payment requests totaling \$866 million were processed. It is important to note that your report is not the result of an independent audit of this process, but simply a summary of the OSC staff's experience during the 2011 calendar year.

During the 2011 calendar year OSC staff identified 707 processing errors. As per the report, the WCB generated about 20% of these errors and the SFCC about 80%. Thus, WCB staff made an error in less than 0.02% of payment requests.

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Comment
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The report states that these 707 errors accounted for \$61 million in prevented overpayments and \$450,000 in prevented underpayments. Although the WCB recognizes the magnitude of these findings, it is important to note that the majority of the prevented overpayments (in terms of the dollar amount of potential overpayments) were the result of two data entry or "fat finger" errors. One data entry error resulted in an overpayment request of \$51 million and the other resulted in an overpayment request of \$6.9 million. As with all of the identified errors, the process with OSC staff

Mr. Bernard J. McHugh
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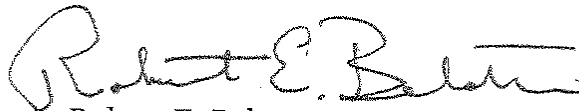
worked and the overpayments were prevented. Excluding these two data entry errors, the error rate on the \$866 million in payment requests is less than 0.4%.

As noted in your report, late in 2011 the WCB and the SFCC improved our processes for submitting payment requests. This included enhancing the payment system to capture correct fee schedule amounts, providing guidance to employees to reduce data computation errors and enhancing the quality review process to more readily identify data entry errors. As a result of these enhancements, there has already been a marked improvement in terms of the findings of the on-site staff (as noted in your report).

Finally, the one recommendation made in the report reads: "Continue to implement internal controls necessary to reduce errors identified in this report." In addition to the changes already implemented, the WCB will also pursue enhancements to its financial management system designed to further reduce potential payment errors. For example, a "hard cap" will be placed on the amount of any one payment, so that potentially significant overpayments would be flagged for supervisory review.

We appreciate the effort of your staff in reviewing the payments made from the special funds and welcome this opportunity to provide a response to your report. Please let us know if you have any questions or require any further information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert E. Beloten". The signature is fluid and cursive, with the first name "Robert" being more prominent and the last name "Beloten" following in a similar style.

Robert E. Beloten
Chair

State Comptroller Comments on Auditee Response

1. The Comptroller's office is pleased that the Board places value on the work of its auditors. It is important to note that the auditors' activities related to the Board's payments are fulfilling the Comptroller's constitutional and statutory requirement to audit all State expenditures prior to payment, and not as an integral part of the Board's review process as a final check before payment is made. The Board has a responsibility to present to the Comptroller for audit only those payments that are appropriate to pay.
2. The Comptroller's office uses a risk-based approach in fulfilling the Comptroller's constitutional and statutory requirement to audit all State expenditures prior to payment. Because the Comptroller's audit approach is not based on a statistical sample, the results cannot be projected to the entire population of claims the Board processed. While SFCC reviews the appropriateness of claims for two of the five funds, the Board retains responsibility for approving claims and processing payment requests for all five funds. Therefore, the 707 inappropriate payment requests valued at \$61.5 million equate to four percent of the number, and 21 percent of the dollar value (one percent if you eliminate the two multi-million dollar errors), of payment requests examined. If the Board continues to improve its controls, these error rates will decline.