

§356. Funding of Supplemental Benefits Fund

1. Assessment.

[PL 2001, c. 448, §6 (RP).]

1-A. Assessment. The committee may levy an assessment against insurers to provide funds to meet the obligations of the fund for reimbursement pursuant to section 213, subsections 3 and 4. The committee may also delegate its duties and powers under this section to a service agent pursuant to section 355-C, subsection 7.

A. To the extent practicable, the committee shall make an assessment on June 1st of each year in which the fund is obligated to make reimbursement. The amount of the assessment must be an amount estimated to be sufficient to reimburse qualified insurers during the next 12 months. Supplementary assessments may be levied during the 12-month period if exigent conditions arise and the balance in the fund is inadequate to discharge reimbursements in a timely manner. No more than 2 supplementary assessments may be levied in any 12-month period. [PL 2001, c. 448, §6 (NEW).]

B. The assessment must be distributed between insurance carriers and self-insured employers in direct proportion to the pro rata share of disabling cases attributable to each of the payor classifications for the most recent calendar year for which data are available. The distribution of the assessment must be determined on a basis consistent with the information reported by the Department of Labor, Bureau of Labor Standards, Research and Statistics Division in its annual "Characteristics of Work-Related Injuries and Illnesses in Maine" publication. Any segment of the market identified in the publication as "not insured" must be excluded from the calculation of proportionate shares.

(1) In consultation with the Director of the Bureau of Labor Standards, the committee shall determine a date prior to the required assessment to establish a distribution. On or before May 1st of each year, the Department of Professional and Financial Regulation, Bureau of Insurance shall provide to the committee the amounts of gross direct workers' compensation premiums written by each licensed insurance carrier and the amount of aggregate benefits paid by each individual and group self-insurer for the preceding calendar year. [PL 2001, c. 448, §6 (NEW).]

C. An assessment against insurers must be based on premiums charged to employers pursuant to section 154, subsection 3, paragraph B-1. The assessment must be stated as a percentage of each employer's premium base. Insurers shall apply the percentage to premiums collected beginning on July 1st. If a supplementary assessment is levied, the committee shall notify insurers of the new percentage and the insurers shall apply the new percentage to premiums written beginning on the 31st day following notification.

(1) The total value of assessments collected from insurers pursuant to this section must be credited to the fund. Each insurer that collects workers' compensation premiums or assessments shall file with the committee on a form prescribed by the committee a return certified by the insurer's chief financial officer specifying assessment collections relating to the calendar quarter next preceding the 15th day of April, July, October and January of each year in which an assessment is applicable. Affiliated insurers may consolidate payments made to the fund if each carrier is licensed and premium reports respecting that insurer are individually reported within the consolidated return. Payment of amounts collected pursuant to this section must be remitted to the fund at the time the premium return is filed with the committee.

(2) The Department of Professional and Financial Regulation, Bureau of Insurance shall report to the board, the committee and any service agent all newly authorized workers' compensation carriers in order to facilitate notification to those carriers of their obligation under this section.

(3) Any insurance carrier subject to this section that willfully fails to pay an assessment in accordance with this section commits a civil violation for which a forfeiture of not more than \$500 may be adjudged for each day following the due date for which the payment is not made. [PL 2001, c. 448, §6 (NEW).]

D. Except for newly approved workers' compensation self-insurers, each self-insurer must be assessed a dollar amount based on the proportion that the self-insurer's aggregate benefits paid as reported pursuant to section 154, subsection 5 bears to the aggregate benefits paid by all self-insurers as so reported. If a supplementary assessment is levied, the committee shall notify self-insurers 30 days prior to the date upon which the assessment is due.

(1) The total value of assessments collected from self-insured employers under this section must be credited to the fund. Each self-insurer shall file with the committee on a form prescribed by the committee a return certified by the self-insurer's chief financial officer attesting to the accuracy of the amount owed to the fund. Payment of the assessment must be remitted to the fund at the time the return is filed with the committee. The form and payment are due on the later of July 1st and 30 days after the committee levies the assessment.

(2) The Department of Professional and Financial Regulation, Bureau of Insurance shall report to the board, the committee and any service agent all newly approved workers' compensation self-insurers in order to facilitate notification to those self-insurers of their obligation under this section. A newly approved self-insurer that has historically purchased a policy or policies of workers' compensation covering workers' compensation exposures in this State shall pay assessment to the fund based on the assessment percentage applicable to insurers until the self-insurer has paid benefits for 12 months.

(3) A self-insurer subject to this section that willfully fails to pay an assessment in accordance with this section commits a civil violation for which a forfeiture of not more than \$500 may be adjudged for each day following the due date for which the payment is not made. [PL 2001, c. 448, §6 (NEW).]

E. Rates and premiums charged for workers' compensation policies may not be considered excessive if a surcharge calculated pursuant to this section is made to recoup assessments paid to the fund. Any surcharge so made must be specifically identified upon the policies or other evidence of coverage. Such surcharges are not subject to premium taxes. [PL 2001, c. 448, §6 (NEW).]
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2. Death of an employee.

[PL 2001, c. 448, §6 (RP).]

3. Records and reports.

[PL 2001, c. 448, §6 (RP).]

4. Appropriation of money received.

[PL 2001, c. 448, §6 (RP).]

5. Inspections.

[PL 2001, c. 448, §6 (RP).]

6. Civil action. Whenever any insurer fails to pay any assessment due under this section within the time limit, the Attorney General shall enforce payment by civil action against that insurer for the amount of the assessment in the Superior Court in and for the county or the District Court in the division in which that insurer has the insurer's place of business, or in the Superior Court of Kennebec County. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

7. Insurer defined. For the purposes of this section, "insurer" means an insurance company or association that does business or collects premiums for workers' compensation insurance in this State or an individual or group self-insurer under this Act, including the State and other public or governmental authority.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). PL 1995, c. 560, §G26 (AMD). PL 2001, c. 448, §6 (AMD).

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