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**Department of Financial Services**

***Office of the General Counsel***

DEPARTMENT OF FINANCIAL SERVICES

STATEMENT OF ESTIMATED REGULATORY COSTS

**Instructions.**

If the answer to questions 18 or 19 on the Department’s Mandatory Regulatory Analysis form is “yes,” pursuant to section 120.541(2), F.S., you MUST complete a Statement of Estimated Regulatory Costs (SERC). Failure to fully answer all the questions on the SERC is a material failure to follow rulemaking procedures and may subject the Department to a rule challenge and payment of attorney’s fees.

Note: Regardless of what the answers to A. (1) – (3) are, you must provide the economic analysis you completed to obtain those answers.

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RULE: \_\_69L-7.100, F.A.C.\_\_\_

A. Based on the economic analysis presented below, answer whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of $1 million in the aggregate within 5 years after implementation[[1]](#footnote-1) of the rule?

 Economic growth: Yes \_\_\_\_\_ No \_\_X\_\_\_

 Private-sector job creation or employment: Yes \_\_\_\_\_ No \_X\_ Private-sector investment: Yes \_\_\_\_\_ No \_X\_\_\_\_

The rule will most likely have a neutral effect on economic growth, private-sector job creation or employment, and private-sector investment. The rule will decrease total workers’ compensation costs by an estimated $15 million and be reflected in potentially lower workers’ compensation rates paid by employers.

(2) Is likely to have an adverse impact on any of the following in excess of $1 million in the aggregate within 5 years after the implementation\* of the rule?

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets):

Yes \_\_\_\_\_ No \_X\_\_\_\_

 Productivity: Yes \_\_\_\_ No \_\_X\_\_\_

 Innovation: Yes \_\_\_\_\_ No \_\_X\_\_\_

The rule will most likely have a neutral effect on economic growth, private-sector job creation or employment, and private-sector investment. The rule will decrease total workers’ compensation costs by an estimated $15 million and be reflected in potentially lower workers’ compensation rates paid by employers.

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of $1 million in the aggregate within 5 years after the implementation\* of the rule?

 Yes \_\_\_\_\_\_ No \_\_\_X\_\_\_\_

Economic analysis completed for questions (1) – (3):

The National Council on Compensation Insurance (NCCI) has conducted an actuarial analysis of the impact the proposed revision to the Florida Workers’ Compensation Reimbursement Manual for Ambulatory Surgical Centers would have on workers’ compensation rates in Florida (attached). The NCCI estimates that the change in maximum reimbursement allowances would result in an overall Florida Workers’ Compensation system cost decrease of -0.4% (-15M).

B. Provide both:

(1) A good faith estimate of the number of individuals and entities likely to be required to comply with the rule.

There are, 891 workers’ compensation claim administrators (407 insurers, 385 self-insurers, and 99 third party administrators) in Florida, as of May 11, 2022, will be affected by the rule changes for the purposes of issuing proper reimbursements.

(2) A general description of the types of individuals likely to be affected by the rule.

It is anticipated that this rule will impact Ambulatory Surgical Centers, carriers, self-insurers, third party administrators, and bill review companies.

C. Provide a good faith estimate of:

(1) The cost to the Department to implement and enforce the rule.

 \_\_\_X\_\_ None. To be done with the current workload and existing staff.

 \_\_\_\_\_ Minimal (provide a brief explanation below).

 \_\_\_\_\_ Other (provide an explanation for the estimate and methodology used).

 (2) The cost to any other state and local government entity to implement and enforce the rule.

 \_\_X\_\_\_ None. The rule will only affect the Department.

 \_\_\_\_\_ Minimal (provide a brief explanation below).

 \_\_\_\_\_ Other (provide an explanation for the estimate and methodology used).

(3) Any anticipated effect on state or local revenues.

 \_X\_\_\_ None

 \_\_\_\_\_ Minimal (provide a brief explanation below).

 \_\_\_\_\_ Other (provide an explanation for the estimate and methodology used).

D. Provide a good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule.

 \_\_\_\_\_ None. The rule will only affect the Department.

 \_\_X\_\_\_ Minimal (provide a brief explanation below).

 \_\_\_\_ Other (provide an explanation for the estimate and methodology used).

The transactional costs should be minimal as carriers, Ambulatory Surgical Centers, third-party administrators, and medical bill review companies would update their existing billing systems with the new maximum reimbursement allowances.

E. Provide an analysis of the impact on small business and small counties and small cities:

(1) "Small business" is defined by section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, have a net worth of not more than $5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the $5 million net worth requirement shall include both personal and business investments.

Analysis of impact on small business:

To the extent that small businesses are required to comply with workers’ compensation coverage requirements, the cost impact identified in the NCCI actuarial analysis would be absorbed and paid through lower workers’ compensation insurance rates.

The amount of workers’ compensation premium paid by an employer is dependent on the employer’s payroll, its classification code rates, and other risk adjustment factors. Below are premium calculations for 3 types of businesses based upon their respective level of risk. Employer 1 employs office and administrative staff and is assigned class code 8810. Employer 2 is a “traditional” restaurant that provides wait service and is assigned class code 9082. Employer 3 is a roofing company and is assigned class code 5551. Each employer employs 10 workers. According to the Occupational Employment and Wages data, published by the U.S. Department of Labor, Bureau of Labor Statistics, for May 2021, the average salary for an office worker in Florida is $40,170.00; $28,450.00 for a restaurant worker, and $40,820.00 for a roofer.

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| **69L-7.100, F.A.C. - Florida Workers' Compensation Reimbursement** **Manual for Ambulatory Surgical Centerss** |
|
| Example Employer | Payroll | Class Code | Rate per $100 in payroll | Premium = (payroll/100) \* (rate) | Rate per $100 w/ -0.4% rate decrease | New Premium with -0.4% rate decrease |
| Small Business 1 | $401,700.00  | 8810 | 0.17 | $682.89  | 0.169 | $680.16  |
| Small Business 2 | $284,500.00  | 9082 | 1.67 | $4,751.15  | 1.663 | $4,732.15  |
| Small Business 3 | $408,200.00  | 5551 | 13.30 | $54,290.60  | 13.247 | $54,073.44  |
| **Small Business Totals** | **$1,094,400.00**  |  |  | **$59,724.64**  |  | **$59,485.74**  |

SB 1 has an $2.73 decrease in its annual premium. SB 2 has an $19.00 decrease in its annual premium. Employer 3 has an $217.16 decrease in its annual premium.

 (2) A "small city" is defined by section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

Analysis of impact on small counties and small cities:

To the extent that small cities and counties are required to comply with workers’ compensation coverage requirements, the cost impact identified in the NCCI actuarial analysis would be absorbed and paid through lower workers’ compensation insurance rates.

The amount of workers’ compensation premium paid by an employer is dependent on the employer’s payroll, its classification code rates, and other risk adjustment factors. Below is a premium calculation for a small city. The payroll and class code data in this analysis is from an actual self-insured small city. This data is reported to the Division of Workers’ Compensation for trust fund assessment purposes.

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| --- |
| **69L-7.100, F.A.C. - Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers** |
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| Small City Payroll | Class Code | Rate per $100 in payroll | Premium = (payroll/100) \* (rate) | Rate per $100 w/ -0.4% rate decrease | New Premium with -0.4% rate decrease |
| $134,048.00  | 5509 | 10.17 | $13,632.68  | 10.129 | $13,578.15  |
| $138,787.00  | 7520 | 3.58 | $4,968.57  | 3.566 | $4,948.70  |
| $296,674.00  | 7539 | 1.74 | $5,162.13  | 1.733 | $5,141.48  |
| $225,164.00  | 7580 | 2.47 | $5,561.55  | 2.460 | $5,539.30  |
| $75,284.00  | 7704 | 5.19 | $3,907.24  | 5.169 | $3,891.61  |
| $33,962.00  | 8292 | 4.25 | $1,443.39  | 4.233 | $1,437.61  |
| $570,655.00  | 8810 | 0.17 | $970.11  | 0.169 | $966.23  |
| $117,746.00  | 9015 | 3.89 | $4,580.32  | 3.874 | $4,562.00  |
| $202,044.00  | 9102 | 4.13 | $8,344.42  | 4.113 | $8,311.04  |
| $231,293.00  | 9410 | 2.61 | $6,036.75  | 2.600 | $6,012.60  |
| **$2,025,657.00**  |  |  | **$54,607.16**  |  | **$54,388.73**  |

The small city has an decrease of $218.43 in its annual premium.

F. Provide any additional information that the Department determines may be useful.

 \_\_\_\_\_ None.

 Additional Information:

The costs attributable to the amendments to the rule are due to the change in reimbursement rates contained in the manual incorporated by the rule. Those rates are set by a Three-Member Panel pursuant to section 440.13(12)(a), Florida Statutes. The Three-Member Panel approved the maximum reimbursement allowances on April 27, 2022.

G. State whether any lower cost regulatory alternatives were submitted.

 Yes \_\_\_\_\_ No \_X\_\_\_\_

If yes, provide a description of each and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.

 \_\_\_\_\_ A regulatory alternative was received from \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 \_\_\_\_\_ Adopted in its entirety.

 \_\_\_\_\_ Rejected. Describe what alternative was rejected and provide a

statement of the reasons for rejecting that alternative.

1. This includes adverse impacts and regulatory costs estimated to occur within 5 years after the effective date of the rule. However, if any provision of the rule is not fully implemented upon the effective date of the rule, the adverse impacts and regulatory costs associated with such provision must be adjusted to include any additional adverse impacts and regulatory costs estimated to occur within 5 years after implementation of the provision. (Section 120.541(5), F.S.) [↑](#footnote-ref-1)