PROPOSED REGULATION OF THE BOARD FOR THE ADMINISTRATION OF THE SUBSEQUENT INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS

LCB File No. R122-15

EXPLANATION: Matter in ***italics*** is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-3 and 8-19, NRS 616B.554 and 616B.557; §§4 and 5, NRS 233B.040; NRS 233B.050; NRS 233B.100; §§6 and 7, and NRS 233B.120.

A REGULATION relating to industrial insurance; authorizing reimbursement from the Subsequent Injury Account for Self-Insured Employers for the purchase of an annuity or payment of a lump sum; revising provisions governing the rating of permanent physical impairments; providing for petitions to the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers to adopt, amend or repeal regulations; providing for petitions to the Board for the issuance of a declaratory order or advisory opinion concerning the applicability of a statute, regulation or decision of the Board; providing procedures for service upon self-insured employers, the Administrator of the Division of Industrial Relations of the Department of Business and Industry and the Board; amending provisions governing requests for continuances; and providing other matters properly relating thereto.

Section 1. Chapter 616B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. ***1. A self-insured employer who purchases an annuity to satisfy, in whole or in part, an application for a subsequent injury approved by the Board may apply to the Board for reimbursement from the Subsequent Injury Account for Self-Insured Employers for the purchase of the annuity for the benefit of the injured employee, capped by the cost of the annuity.***

2. Except as otherwise provided in subsection 3, if the Board approves an application for reimbursement submitted pursuant to subsection 1, the self-insured employer may be reimbursed from the Subsequent 1njury Account for Self-Insured Employers in an amount not to exceed the amount of compensation received by the injured employee from the annuity. Reimbursement may be sought annually on the anniversary date of the purchase of the annuity, or more frequently with good cause shown, but the aggregate amount of reimbursement paid to the self-insured employer must not, at any time, exceed the aggregate amount of the compensation that has been received by the injured employee from the annuity, capped at the cost of the annuity.

3. The Board will not approve an application for reimbursement of an annuity submitted pursuant to subsection 1 for:

(a) Any amount which exceeds the purchase price of the annuity;

(b) Attorney's fees relating to the purchase of the annuity; or

(c) Any administrative expenses or other expenses relating to the purchase of the annuity, including, without limitation, expenses for the copying of records.

4. As used in this section, "good cause" includes, without limitation, a financial exigency or extraordinary circumstance.

Sec. 3. *1. For the purpose of determining whether a preexisting injury is a permanent physical impairment:*

(a) As provided in NRS 616B.557, subsection 3, when read in conjunction with the other subsections of NRS 616B.557, creates a threshold requirement that cannot be satisfied by adding the permanent impairment rating for two or more body parts, organ systems or organ function to reach a six percent whole person impairment rating. A condition is not a "permanent physical impairment" unless it would support a rating of permanent impairment of six percent or more of the whole person if evaluated according to the AMA Guides to the Evaluation of Permanent Impairment.

(b) The AMA Guides defines impairment as "a loss of use, or derangement of any body part organ system or organ function." A permanent impairment is defined as "an impairment that has reached maximum medical improvement, meaning it is well stabilized and unlikely to change substantially in the next year with or without medical treatment."

(c) The Combined Values Chart states; "If impairments from two or more organ systems are to be combined to express a whole-person impairment, each must first be expressed as a whole-person impairment percent." The term "impairment" is plainly used to refer to a singular body part and "impairments" to refer to multiple body parts.

(d) The Board will use the AMA Guides to determine the definition of a six percent pre-existing permanent physical impairment requirement contained in NRS 616B.557. Multiple, unrelated body parts in the preexisting condition, will not be considered as one impairment, and each body part will have to satisfy the definition of a "permanent physical impairment" in order for all body parts under a claim to qualify for reimbursement.

(e) 1f the preexisting injury of an employee arose out of and in the course of his or her employment and the employee has been assigned a permanent physical impairment rating which is no longer appealable, the Board may choose to accept the rating for the preexisting injury if the rating was assigned based on the American Medical Association's Guides to the Evaluation of Permanent Impairment in effect on the date when the preexisting injury was rated;

(f) If an application against the Subsequent Injury Account for Self-Insured Employers has been submitted to the Board but the preexisting injury arising out of and in the course of the worker's employment has not been rated, the Board may decline to rule on the application until a determination has been made concerning the preexisting injury in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment in effect on the date when the subsequent injury is rated; and

(g) If an application against the Subsequent Injury Account for Self-Insured Employers has been submitted to the Board and a rating has been assigned to a preexisting injury arising out of and in the course of the worker's employment but the rating is not deemed final, the Board may decline to rule on the application until the rating has been finalized in accordance with the American Medical Association's Guides to the Evaluation of Permanent Impairment in effect on the date when the preexisting injury is rated.

2. The Board is not bound by any agreement between an injured employee and a self-insured employer concerning:

(a) The rating of permanent impairment assigned to a preexisting condition or a subsequent injury;

(b) Which version of the American Medical Association's Guides to the Evaluation of Permanent Impairment should be used to assign a rating of permanent impairment to a preexisting condition or subsequent injury; or

(c) Apportionment of the percentage of disability between the preexisting condition and the subsequent injury.

Sec. 4. *1. An interested person may petition the Board to adopt, amend or repeal a regulation governing the administration of the Subsequent Injury Account for Self-Insured Employers by the Board.*

2. A petition filed with the Board pursuant to this section must include:

(a) The name and mailing address of the petitioner;

(b) A clear and concise statement of the regulation to be adopted, amended or repealed;

(c) The reason for the adoption, amendment or repeal of the regulation; and

(d) The legal authority for the adoption, amendment or repeal of the regulation.

3. If the petitioner chooses to initiate the action by hard copy, the original petition and seven copies of the petition must be filed with the Board by:

(a) Personal service;

(b) Certified mail, return receipt requested;

(c) Registered mail; or

(d) Any electronic means permitted by these regulations.

4. Not later than 5 days after the petition is filed with the Board, the petitioner shall serve a copy of the petition on the Administrator by:

(a) Personal service;

(b) Certified mail, return receipt requested;

(c) Registered mail; or

(d) Any electronic means permitted by these regulations.

Sec. 5. ***1. Except as otherwise provided in subsection 2, the Board will hold a hearing to consider a petition filed with the Board pursuant to section 4 of this regulation not later than 45 days after the petition is filed.***

2. ***The Board may refuse to hold a hearing on a petition that does not satisfy the requirements of Section 5 of this regulation.***

3. ***If the Board schedules a hearing on a petition filed pursuant to Section 5 of this regulation, the Administrator may file with the Board a recommendation concerning the disposition of the petition not later than 15 days before the date of the hearing. Upon filing a recommendation with the Board, the Administrator shall serve a copy of the recommendation on the petitioner.***

4. ***Any other person who believes that he or she has standing to intervene because he or she may be directly and substantially affected by the hearing may seek an order for leave to intervene in the hearing by filing with the Board a written motion to intervene. The motion to intervene must set forth the legal and factual basis in support of standing to file the motion. The motion shall also set forth separately, the legal and factual basis of the intervenor's position in favor of or opposition to the petition. The motion must be filed with the Board not later than 20 days before the date of the hearing by:***

(a) ***Personal service;***

(b) ***Certified mail, return receipt requested;***

(c) ***Registered mail; or***

(d) Any electronic means permitted by these regulations.

5. ***The Board may consider a motion to intervene filed with the Board pursuant to subsection 4. If the motion to intervene is granted, however, the intervenor may thereafter participate as a party to the proceedings and the Board will take into consideration the intervenor's position on the merits of the petition filed pursuant to Section 5 of this regulation.***

6. ***In a hearing on a petition filed pursuant to Section 5 of this regulation, the Board is not bound by the technical rules of evidence, and any informality in the proceeding or in the manner of taking testimony does not invalidate any order, decision, ruling or regulation made, approved or confirmed by the Board. The rules of evidence of courts of this State will be followed generally, but may be relaxed at the discretion of the Board if deviation from the technical rules of evidence will aid in determining the facts.***

7. ***After the hearing, the Board will serve written notice of its decision on the petitioner, the Administrator and any intervener. The notice of the decision will include a brief statement of the Board's decision and reasons supporting the decision.***

8. If the Board grants a petition to adopt, amend or repeal a regulation, the Board will adopt, amend or repeal the regulation in accordance with the provisions of Chapter 233B of the Nevada Revised Statutes.

9. ***If the petitioner or an intervener is dissatisfied with the decision of the Board, the petitioner or intervener may seek judicial review of the decision in the District Court not later than 30 days after service of notice of the decision on the party seeking judicial review.***

Sec. 6. ***1. Except as otherwise provided in subsection 5, any interested person may petition the Board for the issuance of a declaratory order or advisory opinion concerning the applicability of a statute, regulation or decision of the Board.***

2. ***A petition filed with the Board pursuant to this section must include:***

(a) The name and mailing address of the petitioner;

(b) The reason for the petition and a statement of the facts and law supporting the petition; and

(c) A clear and concise statement of the question to be decided by the Board and the relief sought by the petitioner.

3. If the petitioner chooses to initiate the action by hard copy, the original petition and seven copies of the petition must be filed with the Board by:

(a) Personal service;

(b) Certified mail, return receipt requested;

(c) Registered mail; or

(d) Any electronic means permitted by these regulations.

4. Not later than 5 days after the petition is filed with the Board, the petitioner shall serve a copy of the petition on the Administrator by:

(a) Personal service;

(b) Certified mail, return receipt requested;

(c) Registered mail; or

(d) Any electronic means permitted by these regulations.

5. A person may not petition the Board for the issuance of a declaratory order or advisory opinion concerning the applicability of a statute, regulation or decision of the Board if the applicability of the statute, regulation or decision of the Board is at issue in any administrative, civil or criminal proceeding in which the person is a party.

Sec. 7. ***1. The Administrator may file with the Board a response concerning the disposition of a petition filed with the Board pursuant to Section 6 of this regulation not later than 45 days after service of the petition on the Administrator. Not later than 5 days after filing a response with the Board, the Administrator shall serve a copy of the response on the petitioner.***

2. ***After providing written notice to the petitioner and the Administrator, the Board may:***

(a) Refuse to consider the petition if it does not satisfy the requirements of Section 6 of this regulation.

(b) Conduct an informal hearing to determine any preliminary matters that might expedite the disposition of the petition and issue reasonable orders that govern the conduct of a hearing on the merits of the petition.

(c) Request that the petitioner submit additional information or arguments concerning the petition and allow the Administrator to file a response to any such additional information and arguments. Upon filing a response with the Board, or at such other time as may be prescribed by the Board, the Administrator shall serve a copy of the response on the petitioner.

(d) Enter any reasonable order to assist in the review of the petition.

(e) In reaching a decision, consider any other decisions issued by the Board which are relevant to the interpretation of the statute, regulation or decision in question.

3. Once the briefing cycle is completed, the Board:

(a) may conduct a formal hearing on the petition or instead decide the matter based on the pleadings; and

(b) Within 10 days after the briefing cycle is completed, the Board will give notice of the date the formal hearing has been set or give notice that the petition will be decided without a formal hearing.

4. Within 45 days of the date the formal hearing is concluded on the petition or within 45 days of the date the Board gives notice the matter will be decided without a formal hearing, the Board will issue its written declaratory order or advisory opinion disposing of the matter before it and serve the same on the petitioner and the Administrator.

5. The Board's decision must be based upon and limited to the record developed before it.

6. The Board will maintain a record that is indexed by subject matter of each declaratory order or advisory opinion issued by the Board.

7. If the petitioner is dissatisfied with the decision of the Board, the petitioner may seek judicial review of the decision in the District Court not later than 30 days after service of the copy of the declaratory order or advisory opinion on the petitioner.

Sec. 8. *An application for reimbursement from the Subsequent Injury Account for Self-Insured Employers must include, without limitation, the name of the person designated to accept service on behalf of the applicant and the address and any facsimile number and electronic mail address at which the person may be served with notices, pleadings and other documents. Except as otherwise provided in section 10 of this regulation, all notices, pleadings and other documents, including, without limitation, any recommendation of the Administrator, must be served on the person designated in the application.*

Sec. 9. *At the time the Administrator submits a recommendation to the Board, the Administrator shall serve on the person designated in the application pursuant to Section 8 of this regulation a copy of the recommendation, a copy of each document and record upon which the Administrator primarily relied in making the recommendation and a list of the witnesses whom the Administrator may call to testify in support of the recommendation.*

Sec. 10. *1. An applicant who is represented by legal counsel or a lay advocate shall, by service on the Board and the Administrator, provide notice of the name and business address of the legal counsel or lay advocate and any facsimile number and electronic mail address at which the legal counsel or lay advocate may be served with documents and pleadings.*

2. If an applicant has provided such notice, all documents and pleadings need thereafter be served only on the designated legal counsel or lay advocate until the applicant provides written notice to the Board and the Administrator of a change in representation.

Sec. 11. ***Service on the Board of any filing, pleading, notice or other document required by NAC 616B.770 to 616B.7714, inclusive, and Sections 2 to 15, inclusive, of this regulation must be made on the legal counsel for the Board. If the Board does not have legal counsel, service must be made on the Chairperson of the Board in care of the Administrator.***

Sec. 12. ***Except for the submission of an application for reimbursement against the Subsequent Injury Account for Self-Insured Employers pursuant to NAC 616B.7702, service on the Administrator of any filing, pleading, notice or other document required by NAC 616B.770 to 616B.7714, inclusive, and Sections 2 to 15, inclusive, of this regulation must be made on the legal counsel for the Administrator.***

Sec. 13. ***1. Except as otherwise provided by specific regulation, service of any filing, pleading, notice or other document required by the provisions of NAC 616B.770 to 616B.7714, inclusive, and Sections 2 to 15, inclusive, of this regulation may be made by personal service, first-class mail, electronic mail or facsimile.***

2. Personal service may be made by doing any of the following and be deemed complete upon the delivery of the document personally to the person upon whom service is to be made, by leaving a copy at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there or by delivery of a copy to an agent authorized by appointment or by law to receive service.

3. Service by mail shall be deemed complete 3 days after the date on which the document is deposited in the United States Postal Service, enclosed in a sealed envelope upon which first class postage was fully paid and correctly addressed to the business address, dwelling house or usual place of abode of the person upon whom service is to be made.

4. Service by electronic mail shall be deemed complete upon successful transmission of the electronic mail to the electronic mail address of:

(a) The person upon whom service is to be made which is provided pursuant to Section 8 or 10 of this regulation;

(b) The legal counsel of the Board or the Administrator if service is made pursuant to Section 11 of this regulation; or

(c) The Administrator's legal counsel or the Administrator if service is made pursuant to Section 12 of this regulation.

5. Service by facsimile shall be deemed complete upon successful transmission of the facsimile to the facsimile number of:

(a) The person on whom service is to be made which is provided pursuant to Section 8 or 10 of this regulation;

(b) The legal counsel of the Board or the Administrator if service is made pursuant to Section 11 of this regulation; or

(c) The Administrator's legal counsel or the Administrator if service is made pursuant to Section 12 of this regulation.

Sec. 14. *1. Except as otherwise provided in subsection 2, as used in NRS 616B.557(4), the Board will interpret the term "written records" to include any written documentation kept in the ordinary course of business by the employer contemporaneously with the hiring of the injured employee or during the continued employment of the injured employee by the employer but prior to the date of the subsequent injury. The Board may consider any other written documentation kept by the self-insured employer if the Board determines that the written documentation constitutes an objective record of the employer's knowledge of the injured employee's preexisting permanent physical impairment at the time the employer hired the injured employee, provided the written documentation existed and was possessed by the employer at the time of hire or prior to the date of the subsequent industrial injury.*

2. An affidavit, letter, self-serving declaration or other document prepared after the subsequent injury will not satisfy the written record requirement of proof of the employer's knowledge that the injured employee suffered from a preexisting permanent physical impairment.

3. To satisfy the requirement set forth in subsection 4 of NRS 616B.557 that the self-insured employer establish by written records that the employer had knowledge of the preexisting permanent physical impairment of the injured employee, the employer must establish by a preponderance of evidence that the written records show that:

(a) The employer had knowledge of the permanent physical impairment of the injured employee at the time the injured employee was hired; or

(b) The employer acquired knowledge of the permanent physical impairment of the injured employee after the employee was hired and prior to the occurrence of the subsequent industrial injury and the employer maintained the employee in its employ as of the subsequent industrial injury.

Sec. 15. *1. Except as otherwise provided in this section or by specific statute, the Board may allow reimbursement from the Subsequent Injury Account for Self-Insured Employers for the commutation of benefits in the form of a lump-sum payment if:*

(a) The applicant meets the requirements of NRS 616B.557;

(b) The compensation paid was due;

(c) The lump-sum payment is reasonable, in the best interest of the injured employee and will eliminate any contingent future liability against the Subsequent Injury Account for Self- Insured Employers; and

(d) The lump-sum payment:

(1) Meets the requirements of NRS 616C.495, if being made for a permanent partial disability; or

(2) Meets the requirements of NRS 616C.590 or 616C.595, if being made for vocational rehabilitation services.

2. The Board will not allow reimbursement from the Subsequent Injury Account for Self-Insured Employers for any transaction prohibited by NRS 616C.410.

3. The Board will not allow reimbursement from the Subsequent Injury Account for Self- Insured Employers unless the lump-sum payment has been made to the injured employee.

4. In considering whether to allow reimbursement from the Subsequent Injury Account for Self-Insured Employers for the commutation of benefits in the form of a lump-sum payment, the Board may consider any information that it deems relevant, including, without limitation, the application of any statute or regulation.

Sec. 16. NAC 616B.770 is hereby amended to read as follows:

616B.770 As used in NAC 616B.770 to 616B.7714, inclusive, ***and Sections 2 to 15, inclusive, of this regulation***, unless the context otherwise requires, "Board" has the meaning ascribed to it in NRS 616B.545.

Sec. 17. NAC 616B.7702 is hereby amended to read as follows:
616B.7702 1. [A claim]***An application*** against the Subsequent Injury Account for Self-Insured Employers established pursuant to NRS 616B.554 must be submitted in writing [to] ***and served on*** the Administrator for evaluation by the Board.

2. A self-insured employer who submits [a claim] ***an application*** pursuant to subsection 1 shall ***:***

(a) [The] ***Include with the application all*** information necessary to establish that the [claim] ***application*** should be paid from the Subsequent Injury Account for Self-Insured Employers, including the medical records of the ***injured*** employee who is the subject of the [claim] ***application***; [and]

(b) ***Include with the application*** [A] ***a*** completed copy of the form entitled "D-37, Insurer's Subsequent Injury Checklist" which is prescribed by the Administrator***; and***

(c) Organize the application in the manner prescribed by Form D-37.

3. A copy of Form D-37 may be obtained from the Administrator or the Administrator's website at no cost.

~~[3]~~ ***4***. A claim submitted to the Administrator pursuant to subsection 1 must be organized in the manner prescribed in part 5 of Form D-37, Insurer's Subsequent Injury Checklist.

~~[4]~~ ***5***. A self-insured employer who submits ~~[a claim]~~ ***an application*** pursuant to subsection 1 shall, upon the request of the Administrator ~~[:~~

~~(a) Allow the Administrator to inspect the records maintained by the self-insured employer concerning the claim; or~~

~~(b) Provide copies of those records to the Administrator.]~~, ***provide copies of the records maintained by the self-insured employer concerning the application.***

6. This section does not prohibit or limit the Administrator from requiring or obtaining from the self-insured employer or any other person any additional information relating to the application.

7. The Administrator's disposition of the application and recommendation to the Board is neither an express nor implied representation by the Administrator that the applicant's application is complete. Responsibility for the completion or accuracy of an application always rests with the applicant.

Sec. 18. NAC 616B.7704 is hereby amended to read as follows:

1. ***Not later than 60*** ~~[Within 45]~~ days after ***the date that an application*** ~~[a claim]~~ is submitted to the Administrator pursuant to NAC 616B.7702, the Administrator shall:

(a) Submit to the Board a recommendation concerning the acceptance or denial of:

(1) The ***application*** ~~[claim]~~; and

(2) The self-insured employer's expenses related to the ***application*** ~~[claim]~~; and

(b) ***Provide notice to*** ~~[Notify]~~ the self-insured employer ***or the person designated to accept service on behalf of the applicant of the Administrator's recommendation to the Board*** ~~[who submitted the claim of that recommendation]~~.

2. The Administrator shall ~~[submit]~~ ***include*** with the recommendation the information necessary for the Board to evaluate the ***application*** ~~[claim]~~ and the expenses related to the ~~[claim]~~ ***application***, ***including, without limitation:***

(a) A statement of the issues of fact and law upon which the recommendation of the Administrator is based;

(b) A copy of each document upon which by the Administrator based the recommendation; and

(c) A list of the witnesses, if any, whom the Administrator would likely call before the Board to support the recommendation of the Administrator, if contested.

3. Upon receipt of the recommendation of the Administrator, the Board will render a decision disposing of:

(a) Each application made against the Subsequent Injury Account for Self-Insured Employers by a self-insured employer;

(b) Any expenses of the self-insured employer relating to the application and verified by the Administrator, taking into account NAC 616B.707 to verify expenditures for an application for which a self-insured employer may receive reimbursement from the Subsequent Injury Account for Self-Insured Employer.

Sec. 19. NAC 616B.7706 is hereby amended to read as follows:

1. If the Board denies ***an application*** ~~[a claim]~~ or any of the expenses related to the ***application*** ~~[claim]~~, the self-insured employer who submitted the ***application*** ~~[claim]~~ may request a hearing before the Board by filing a written request with the Board's legal counsel within 30 days after the Board's ***legal counsel*** ~~[attorney]~~ notifies the self-insured employer of the decision of the Board.

2. The Board will conduct the hearing within 45 days after the request for a hearing is filed with the Board's legal counsel unless the Board grants a continuance. The Board may grant a continuance upon its own motion or, ~~[for good cause shown,]~~ upon the request of the Administrator or the self-insured employer ***made pursuant to this Section*** ~~[who submitted the claim]~~.

3. The Board will conduct the hearing pursuant to the provisions of Chapter 233B of the Nevada Revised Statutes which relate to contested cases and, if practicable, the Board will apply the rules of procedure and evidence applicable to the District Courts of this State.

4. Any objection to the conduct of the hearing, including, without limitation, an objection to the introduction of evidence, must be addressed to the Chairperson of the Board who, in consultation with the other members of the Board and the legal counsel of the Board, will rule upon the objection. If any evidence is excluded from the record, the party who is offering the evidence may make an offer of proof to the Chairperson of the Board. Such an offer of proof must be included in the record.

5. The Board will direct that an audio recording of the hearing be made, unless:

(a) The Board, on its own, requires that a court reporter record the hearing; or

(b) The applicant requests in advance that the Board provide a court reporter for the hearing and the Board approves the request. If the Board provides a court reporter for the hearing upon the request of the applicant, the applicant shall pay all costs related to the services of the court reporter and all costs that are necessary to provide the Board with a copy of the transcript of the hearing.

6. After the hearing, the Board will render a decision disposing of the application based upon the record developed before the Board during the hearing and any continuation thereof.

7. If the Board denies an application for reimbursement in whole or in part, the Board may direct the legal counsel of the Board to prepare a written decision for the Board that includes findings of fact and conclusions of law for the decision. Legal counsel shall submit the written decision to the Board for approval. Once the Board gives its final approval of the written decision, the Chairperson of the Board will sign the decision of the Board. The Board will serve its decision on the applicant.

8. If the applicant is dissatisfied with the decision of the Board, the applicant may seek judicial review of the decision in the District Court not later than 30 days after service of the decision upon the applicant.

9. A request for a continuance submitted by the Administrator or self-insured employer must:

(a) Be in writing;

(b) State the reasons supporting the request;

(c) Include a statement of any extensions of time or continuances previously granted;

(d) Include a representation that the request for extension or continuance is not made for reasons of delay;

(e) Be filed by service on the Board;

(f) Be filed not later than 3 days before the date of the hearing, absent extraordinary circumstances or the Board's finding of excusable neglect; and

(g) Be served upon filing on the other party/ies to the proceeding.

10. If the Board considers a request for a continuance and:

(a) The self-insured employer has submitted an application for reimbursement to the Administrator;

(b) The Administrator has completed a review of the application and related information; and

(c) The Administrator has made a recommendation regarding the application to the Board, a rebuttable presumption arises that the self-insured employer has given the Administrator all the information which the self-insured employer believes is necessary to support the application and that the self-insured employer believes the application is ready for disposition by the Board.