

**ADOPTED REGULATION OF THE
BOARD FOR THE ADMINISTRATION OF THE SUBSEQUENT
INJURY FUND FOR ASSOCIATIONS OF SELF-INSURED
PUBLIC OR PRIVATE EMPLOYERS**

LCB File No. R216-97

Effective August 19, 1999

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

AUTHORITY: §§1-17, NRS 616B.572 and 616B.575.

Section 1. Chapter 616B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 17, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 11.5, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Annual disbursements from the fund” means the aggregate sum of all payments for compensation made from the fund in a fiscal year.*

Sec. 4. *“Annual expenditures for claims of an association” means the aggregate sum of:*

- 1. All money the association paid for compensation in a fiscal year pursuant to chapters 616A to 617, inclusive, of NRS reduced by any money received by the association in that fiscal year from subrogation and reimbursement from the fund; and*
- 2. Any money the system paid for compensation in that fiscal year pursuant to chapters 616A to 617, inclusive, of NRS on behalf of a public or private employer who is a member of*

the association if the money was paid by the system for claims that were incurred before the public or private employer became a member of the association.

Sec. 5. *“Association” means an association of self-insured public employers or an association of self-insured private employers.*

Sec. 6. *“Board” has the meaning ascribed to it in NRS 616B.563.*

Sec. 7. *“Estimated annual assessment” means an assessment that is calculated pursuant to section 14 of this regulation.*

Sec. 8. *“Expected annual disbursements from the fund” means an estimate of the annual disbursements from the fund.*

Sec. 9. *“Expected annual expenditures for claims of an association” means an estimate of the annual expenditures for claims of an association.*

Sec. 10. *“Final annual assessment” means an assessment that is calculated pursuant to section 17 of this regulation.*

Sec. 11. *“Fund” means the subsequent injury fund for associations of self-insured public or private employers established pursuant to NRS 616B.575.*

Sec. 11.5. *“System” means the state industrial insurance system or any successor organization of the state industrial insurance system.*

Sec. 12. 1. *The division shall:*

(a) Calculate, impose and collect pursuant to sections 2 to 17, inclusive, of this regulation all assessments, payments and penalties related to administration of the fund; and

(b) Take any other action related to administration of the fund that is authorized by the board.

2. *Each association shall:*

(a) Pay all assessments, payments and penalties that are calculated and imposed pursuant to sections 2 to 17, inclusive, of this regulation; and

(b) Comply with all other orders of the board and the division that are related to administration of the fund.

Sec. 13. 1. *Each association shall maintain records in this state of the annual expenditures for claims of the association. Such records must include, without limitation:*

(a) Copies of all checks that have been issued for each claim;

(b) A register that documents all checks that have been issued for each claim and any voided checks related to such claims;

(c) A register that documents any other form of payment that has been made for each claim; and

(d) Any working papers that the association used to report annual expenditures for claims of the association.

2. *Except as otherwise provided in this subsection and subsection 3, each association shall provide to the division, at such times and in such form and manner as prescribed by the division:*

(a) A report that contains the annual expenditures for claims and expected annual expenditures for claims of the association;

(b) A report which contains the annual expenditures for claims of the association, divided into monthly expenditures, and which has been verified and signed by an authorized employee or agent of the association; and

(c) Any other information that the division determines is necessary to calculate an estimated annual assessment or final annual assessment for the association.

3. *The division may, by written request, require an association to provide a copy or certified copy of any check described in subsection 1. If an association receives such a request, the association shall provide the division with a copy or certified copy, as requested, of both sides of the check not later than 15 days after the date that the association receives the request.*

4. To calculate its annual expenditures for claims pursuant to this section, an association shall reduce its annual expenditures for claims made in each fiscal year by the amount of the money the association received in that fiscal year from subrogation and reimbursement from the fund.

Sec. 14. 1. *The division shall collect an estimated annual assessment from each association to defray the expected annual disbursements from the fund.*

2. *Except as otherwise provided in subsection 3, to calculate the estimated annual assessment to be collected from each association, the division shall:*

(a) *Calculate the expected annual expenditures for claims of the association pursuant to sections 15 and 16 of this regulation;*

(b) *Divide the expected annual expenditures for claims of the association by the aggregate sum of the expected annual expenditures for claims of all associations; and*

(c) *Multiply the result of the calculation performed pursuant to paragraph (b) by the expected annual disbursements from the fund as calculated by the division.*

3. *If an association does not participate in a program of self-insurance for the entire fiscal year, the division shall collect the estimated annual assessment from the association pursuant to subsection 2 in the proportion that the number of months of the fiscal year during which the association participates in a program of self-insurance bears to the total number of months in the fiscal year.*

4. The division shall mail to each association a statement of its estimated annual assessment that includes the date on which the entire amount of the assessment is due. The division shall mail the statement to each association:

(a) On or before July 30 of each year; and

(b) Not later than 30 days before the date on which the entire amount of the assessment is due.

5. If an association does not pay the entire amount of the estimated annual assessment to the division within 7 days after the date on which it is due, the division shall assess against the association a penalty of \$1,000 for each day that any portion of the estimated annual assessment remains unpaid, but such a penalty must not exceed \$50,000 for each such unpaid estimated annual assessment.

6. The administrator may seek recovery of any unpaid assessments or penalties.

Sec. 15. 1. *Except as otherwise provided in subsection 2, to calculate the expected annual expenditures for claims of an association, the division shall:*

(a) Calculate the annual expenditures for claims of the association for each of the immediately preceding 3 calendar years pursuant to section 16 of this regulation; and

(b) Average the annual expenditures for claims of the association for those 3 calendar years.

2. If an association does not provide the division with its annual expenditures for claims when requested, the division shall, in lieu of calculating the expected annual expenditures for claims of the association pursuant to subsection 1, estimate the annual expenditures for claims of the association using the previous history of annual expenditures for claims of the

association and any other available data, including, without limitation, the annual expenditures for claims of each public or private employer who is a member of the association.

3. The division shall provide to each association an annual report showing the figures and sources that were used by the division to:

(a) Calculate the expected annual expenditures for claims of the association pursuant to subsection 1; or

(b) Estimate the annual expenditures for claims of the association pursuant to subsection 2.

Sec. 16. 1. *For the purposes of subsection 1 of section 15 of this regulation, to calculate the annual expenditures for claims of an association for each of the immediately preceding 3 calendar years, the division shall:*

(a) Consider the reports and any other information provided to the division by the association pursuant to section 13 of this regulation;

(b) Consider the statements obtained from the system pursuant to subsection 2; and

(c) Determine which payments made by the association are to be considered expenditures for claims pursuant to subsections 3 and 4.

2. For each association, the division shall obtain from the system a statement showing:

(a) The annual expenditures for claims, divided into monthly expenditures, that were made by each public or private employer in the association before such employer became a member of the association; and

(b) The annual expenditures for claims, divided into monthly expenditures, that were made by each public or private employer in the association after such employer became a member of the association.

3. *The division shall consider money paid by an association for any of the following to be expenditures for claims:*

- (a) Charges by a hospital.*
- (b) Services of a surgeon, assisting surgeon, anesthesiologist or consulting physician.*
- (c) Treatment by a physician or chiropractor.*
- (d) X-ray films, computerized axial tomography scans, myelograms, magnetic resonance imaging or other diagnostic tests or procedures.*
- (e) Physical therapy.*
- (f) Drugs, medications, eyeglasses, dental work, prosthetic devices, orthotic devices or corrective shoes, if such items are prescribed.*
- (g) Travel to obtain medical care or supplies.*
- (h) Any other accident benefits.*
- (i) Compensation for a permanent total, temporary total, permanent partial or temporary partial disability.*
- (j) Costs of vocational rehabilitation services for an injured employee.*
- (k) Death benefits.*
- (l) Burial expenses.*

4. *The division shall not consider any of the following to be expenditures for claims:*

- (a) Money held in reserve by an association for any anticipated payment related to a claim.*
- (b) Payments for compensation for a temporary total or temporary partial disability in excess of the average monthly wage.*
- (c) Payments for legal expenses, including, without limitation, attorney's fees and costs for investigations, depositions or hearings.*

- (d) Payments for claims that are subsequently determined to be noncompensable.*
- (e) Payments for claims related to the uninsured employers' claim fund.*
- (f) Payments for administrative expenses, including, without limitation, expenses for:
 - (1) Copying records;*
 - (2) Reviewing the report of a physician contained in any file related to a claim; or*
 - (3) Services related to the management of costs of medical care.**

Sec. 17. 1. *As soon as practicable after the end of a fiscal year, the division shall calculate a final annual assessment for each association for that completed fiscal year.*

2. *To calculate the final annual assessment for an association for the completed fiscal year, the division shall:*

(a) Calculate pursuant to section 16 of this regulation the annual expenditures for claims of the association for the completed fiscal year based upon the appropriate information obtained from the association and the system;

(b) Calculate the amount of money deposited to and paid from the fund based upon the reports issued by the state controller for the completed fiscal year relating to closing budgets and final trial balances; and

(c) Use the formula set forth in subsection 2 of section 14 of this regulation to calculate the final annual assessment for the association by substituting the figures for expected annual disbursements from the fund and expected annual expenditures for claims with the appropriate figures for the completed fiscal year for annual disbursements from the fund and annual expenditures for claims.

3. *The division shall mail to each association a statement of its final annual assessment for the completed fiscal year.*

4. If the final annual assessment of an association for a completed fiscal year is less than the estimated annual assessment that was paid by the association for that fiscal year, the administrator shall return to the association the amount of the estimated annual assessment that exceeded the final annual assessment.

5. If the final annual assessment of an association for a completed fiscal year is more than the estimated annual assessment that was paid by the association for that fiscal year, the association shall pay to the division the amount of the final annual assessment that exceeded the estimated annual assessment. The division shall include with the statement mailed to the association pursuant to subsection 3 a statement informing the association of the amount that is due and the date on which it is due. If the association does not pay the entire amount to the division within 7 days after the date on which it is due, the division shall assess against the association a penalty of \$1,000 for each day that any portion of the amount remains unpaid, but such a penalty must not exceed \$50,000 for each such unpaid amount.

6. The administrator may seek recovery of any unpaid assessments or penalties.