Report on Safe Patient Handling Act

As required by Chapter 60 of the Laws of 2014

November 30, 2018

NEW YORK STATE
DEPARTMENT of
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

November 30, 2018

Honorable James Seward
Chair, Senate Insurance Committee
430 Capitol
Albany, New York 12247

Honorable Kevin Cahill
Chair, Assembly Insurance Committee
716 Legislative Office Building
Albany, New York 12248

Dear Senator Seward and Assemblymember Cahill:

Pursuant to the requirements Chapter 60, Part A, §20 of the Laws of 2014, I hereby submit a report on the results of the Safe Patient Handling Act on workers' compensation insurance.

Respectfully submitted,

Maria T. Vullo
Superintendent of Financial Services

cc: Majority Leader John Flanagan
cc: Speaker Carl Heastie

BACKGROUND

The Safe Patient Handling Act ("SPHA") was enacted as part of the 2014 Budget Bill. The Legislature declared that the implementation of safe patient handling ("SPH") procedures is in the public interest, and would benefit patients (improved quality of care and life); caregivers (reduced risk of injury), and providers (lower workers' compensation costs). Under the SPHA, health care providers were required to establish SPH committees by January 1, 2017.

Effective October 1, 2017, providers in compliance with the SPHA are eligible to receive up to a 2.5% reduction in workers' compensation premium. A carrier may either apply this 2.5% credit to the entire policy premium, or may use a tiered approach, where the size of the premium credit varies with the portion of the policy premium that is subject to the SPHA. The carrier is assumed to use the flat credit approach unless it specifically declares its intent to use the tiered credit approach for all policies eligible to receive a SPHA credit.

This SPHA Report is submitted by the Superintendent (the "Superintendent") of the Department of Financial Services (the "Department") pursuant to Section 2304(j)(2) of the New York Insurance Law, which provides:

> The department shall complete an evaluation of the results of the reduced rate, including changes in claim frequency and costs, and shall report to the appropriate committees of the legislature on or before December first, two thousand eighteen and again on or before December first, two thousand twenty.

In preparing this SPHA Report, the Department has relied on information submitted by the New York Compensation Insurance Rating Board ("NYCIRB") in accordance with section 151-7.3 of Insurance Regulation 119 (11 NYCCR 151):

> By June 1 of each year, every workers' compensation rate service organization shall submit a report to the superintendent regarding policies receiving a credit pursuant to this Part, including policy year payrolls, indemnity losses, indemnity claim counts, and medical losses by classification, and such other information as the superintendent may require. Every workers' compensation rate service organization shall report the information, including adjustments, consistent with the comparable classification relativity review.

The data elements identified in this section of Insurance Regulation 119 are reported to NYCIRB in accordance with its statistical plan. However, the initial unit statistical reports of the experience of an individual policy include premium and loss data valued eighteen months after the policy effective date, and are only required to be submitted to NYCIRB by the end of the twentieth month after the policy effective date. Therefore, NYCIRB submitted premium data compiled from policy records, which are not subject to the same level of data editing as statistical reports, as the latter form the basis of classification relativities, experience modifications, etc., while the former do not. There are no losses associated with these policy records. Since the SPHA credit became effective on October 1, 2017 on a new and renewal basis, the data contained in this report is from policies effective between October 1, 2017 and March 31, 2018. These data reflect policy submissions in NYCIRB's systems as of April 1, 2018.

DISCUSSION

There have been 56 policies reported to NYCIRB that have received the 2.5% SPHA credit. The three most common governing classification codes among these policies, with the percentage of polices receiving the SPHA credit, and the class definitions of these codes follow.

Class Code	Policy Percentage	Definition
8829	59%	Convalescent or Nursing Home – All Employees
8833	18%	Hospital – Professional Employees
8865	9%	Alcohol or Drug Rehabilitation Facility – All Employees & Clerical

The following table lists the total number of policies, the number of policies receiving the SPHA credit, and the percentage of policies receiving the SPHA credit for each of the above governing classifications.

Governing Class	Number of Policies	Number of Policies Receiving SPHA Credit	% of Policies Receiving SPHA Credit
8829	329	33	10.0%
8833	230	10	4.3%
8865	218	5	2.3%

The following table is comparable to the preceding, replacing policy counts with standard premium.

Governing Class	Standard Premium	Standard Premium for Policies Receiving SPHA Credit	% of Standard Premium for Policies Receiving SPHA Credit
8829	115,202,038	17,859,187	15.5%
8833	208,726,491	17,901,218	8.6%
8865	31,825,875	2,889,479	9.1%

Standard premium is defined as the product of the payroll (in hundreds) and the manual rate for each classification listed on the policy, adjusted by the experience rating modification and most other credits and debits, including the SPH credit. In other words, standard premium can be thought of as the total policy premium before the application of premium discount, expense constant, and terrorism and catastrophe charges. This is the premium basis that was used in NYCIRB's rate revision filings until the conversion from administered pricing to loss costs in 2008.

When reviewing data from NYCIRB's policy system, one should recognize that premiums are based on estimated payrolls. Payrolls are audited eighteen months after the policy effective date, and the resultant audited premiums are included in unit statistical reports.

SUMMARY

To summarize, for the three governing classifications with the most policies with SPHA credits, approximately 6% of total policies, representing nearly 11% of standard premium, have received SPHA credits. Assuming each of these policies received the 2.5% flat SPHA credit, these 48 providers had a reduction of nearly one million dollars in workers' compensation premiums. Because of the unavailability of reported loss data, the Department is unable to meaningfully comment on changes in claim frequency and costs from the implementation of SPH procedures in this report.