

# ADMINISTRATION FUND RULES

## 1. Statement of Purpose.

The purpose of the Workers' Compensation Administration Fund is to provide the funds necessary to administer Vermont's Workers' Compensation Program as constitutionally and statutorily mandated.

## 2. Definitions. As used in these Rules:

- (a) "Commissioner" means the Commissioner of the Department of Labor & Industry or his/her designee;
- (b) "Workers' Compensation Program" means the Workers' Compensation Program under Chapter 9 of Title 21 and the Compensation for Occupational Diseases Program under Chapter 11 of Title 21;
- (c) "Insurer" means an insurance carrier as defined in 21 V.S.A. § 601(8) authorized to transact the business of insurance in this state;
- (d) "Self insurer" means an employer approved by the Commissioner under 21 V.S.A. § 687(3) or a state, county or municipal body that retains employees for public employment as that term is defined in 21 V.S.A. §601(12);
- (e) "Expenditures for administration of the program" includes but is not limited to the operational costs of the Workers' Compensation Program necessary to process and record all injury reports, review and approve all compensation agreements, monitor payment and insurance company compliance and issue orders when appropriate, and perform all other administrative responsibilities granted under Chapters 9 and 11 of Title 21, but shall not include the payment of any particular benefits claimed under either said chapters;
- (f) "Direct calendar year premium" means the direct written workers' compensation premium report to Vermont Department of Banking, Insurance and Securities and the National Association of Insurance Commissioners;
- (g) "Workers' compensation losses" means all benefits paid and/or the reasonable value of all services provided as a consequence of an employee's work-related injury or illness under Chapters 9 and 11 of Title 21, but does not include attorney's fees or costs under §678 of Title 21.

## 3. Reports by insurers; Assessment.

(a) Each insurer authorized to transact the business of workers' compensation in this state shall collect from each employer insured for claims under the Workers' Compensation Act a Workers' Compensation Administration Fund assessment at the rate of 1.425\*\* percent of the direct calendar year premium for workers' compensation insurance to be paid by each employer. Such assessment shall appear separately on the premium notice, shall be noted as the Workers' Compensation Administration Fund Assessment and shall not be reported as premiums for tax or regulation purposes. Insurers shall not be precluded from canceling or refusing to renew a workers' compensation insurance policy for an insured from whom collection is not made despite reasonable efforts by the carrier to obtain payment, pursuant to 696 and 697 of Title 21.

**\*\*Legislature adjusts the assessment rate annually. Please see 21 V.S.A. §711.**

(b) Estimated payment. Commencing January 1, 1991 said assessment shall be due and payable as follows:

- (1) The estimated assessment for the period from January 1 through March 31 shall be due and payable no later than April 30;
- (2) The estimated assessment for the period from April 1 through June 30 shall be due and payable no later than July 31;
- (3) The estimated assessment for the period from July 1 through September 30 shall be due and payable no later than October 31;
- (4) The estimated assessment for the period from October 1 through December 31 shall be due and payable no later than January 31.

(c) Each quarterly payment referred to above shall be accompanied by a verified statement, on a form prescribed by the Commissioner, indicating the estimated direct written workers' compensation premiums billed during the preceding quarter.

(d) A reconciliation payment, representing the difference between the total of the quarterly estimated assessments paid on the above-mentioned dates and the actual assessment due as calculated according to the actual direct written workers' compensation premium reported annually to the Vermont Department of Banking, Insurance and Securities, shall be due and payable no later than March 15, 1992 and annually on March 15 thereafter.

Said reconciliation payment shall be accompanied by a verified statement, on a form prescribed by the Commissioner indicating the total direct written workers' compensation premium billed during the preceding calendar year as reported annually to the Vermont Department of Banking, Insurance and Securities, and the total quarterly estimated assessments already paid. Any overpayment established by such reconciliation statement may be credited against the next estimated quarterly payment due.

(e) Transition Period.

(i) The estimated assessment for the period from July 1, 1990 through December 31, 1990 shall be due and payable no later than February 1, 1991;

(ii) The reconciliation statement and reconciliation payment if any for the above period shall be due no later than March 15, 1991. Said statement shall separately list the actual direct written workers' compensation premiums billed for the period from January 1, 1990 through June 30, 1990 and for the period from July 1, 1990 through December 31, 1990. The total shall correspond to the total direct written workers' compensation premiums billed during calendar year 1990 as reported to the Vermont Department of Banking, Insurance and Securities.

#### **4. Reports by Self-Insurers; Assessment.**

(a) On or before March 1, 1992, and annually on March 1 thereafter, each self-insurer shall file a verified report, on forms prescribed by the Commissioner, indicating the total amount paid for workers' compensation losses during the preceding calendar year.

(b) Each self-insurer for workers' compensation coverage shall pay annually a workers' compensation administration fund assessment at the rate of 1%\*\* of the total amount paid for workers' compensation losses during the preceding calendar year. Said assessment shall be due and payable no later than March 1, 1992 and annually on March 1 thereafter.

(c) Notwithstanding the provisions of subparagraphs (a) and (b) above, with the prior written approval of the Commissioner a self-insurer may elect to file its report and pay the assessment due within 60 days of the close of its fiscal year rather than on a calendar year basis.

(d) Transition period. The report and assessment for the period from July 1, 1990 through December 31, 1990 shall be due and payable no later than March 1, 1991.

**\*\*Legislature adjusts the assessment rate annually. Please see 21 V.S.A. §711.**

#### **5. Inspection of records; Audits.**

(a) The Commissioner may inspect, audit or otherwise review and evaluate the records of any insurer or self-insurer of workers' compensation liability in the state. Any such inspections or other evaluation shall be made at reasonable times and in a manner reasonably necessary to verify all information related to this section. In addition, at least every three years an annual audit may be required, at the insurer's or self-insurer's sole expense, which audit shall include a certification from a certified public accountant verifying the accuracy of the direct written workers' compensation premium and/or total amount of workers' compensation losses reported for the audited period.

(b) A self-insurer's refusal to allow reasonable inspection or verification shall be sufficient cause for the revocation of the Commissioner's approval of self-insurance. After notice and hearing, the Commissioner may revoke such approval and order the employer to obtain workers' compensation coverage pursuant to 687 of Title 21.

#### **6. Refund.**

The Commissioner may credit or remit all or any part of an assessment paid pursuant to these rules that is determined to have been paid or collected erroneously.

**7. Enforcement.**

An insurer or self-insurer who fails to comply with the provisions of these rules shall be subject to prosecution by the Attorney General upon referral by the Commissioner and in addition to the assessment calculated pursuant to Rule 3(a) or 4(b) above also shall be liable for interest, attorney's fees and other related costs of collection