



May 10, 2021

Ms. Heather MacMaster
Deputy General Counsel, Workers' Compensation Board
Office of General Counsel
328 State Street
Schenectady, NY 12305

Via email: regulations@wcb.ny.gov

Re: Direct Deposit of Compensation Payments; I.D. No. WCB-10-21-00006-P

Dear Ms. MacMaster:

On behalf of the Association of Claims Professionals (ACP), we are writing to comment upon the recently proposed rulemaking related to the direct deposit of workers compensation payments published in the March 10, 2021 NY State Register, and referred to as Direct Deposit of Compensation Payments I.D. No. WCB-10-21-00006-P. The ACP and its members had no opposition to A1291/S1298 and do not object to direct deposit generally, but ACP does object to the requirement that direct deposit be made to multiple bank accounts of the same claimant. We urge the Department to strike proposed section (c)(2) of the proposed regulation. In the alternative, and if the Department is unwilling to do so, we request that an extended implementation deadline of July 1, 2022 is authorized to allow insurers and third party administrators the necessary time to program their systems to accommodate the multiple bank account requirement.

About ACP: ACP was formed in 2002 as the only national association representing the interests of independent claims professionals. ACP members employ thousands of claims specialists and other professionals across the country and in New York state and handle millions of property and casualty, workers' compensation, disability, and other liability claims annually. Membership is comprised of independent claims adjusters and third-party administrator organizations, many of whom handle claims administration responsibilities for New York insureds and their carriers. ACP member companies employ hundreds of adjusters in the state.

The Proposed Regulation: Proposed new 12 NYCRR 300.26 will implement A1291/S1298, signed chapter 9 of the laws of 2021, recently signed into law. The legislation requires the direct deposit of workers compensation funds into an account to be designated by the claimant. More specifically, the new law states:

9. Direct deposit. (a) Compensation payments shall be required, upon the written request from an injured worker or a person entitled to a death benefit provided by this chapter, to be **deposited directly in a bank** for any purpose **to an account** in the name of such injured worker or person entitled to death benefits and duly filed in accordance with such regulations. Each person eligible to receive payment of compensation or death benefits under this section shall be notified of the option to receive such payment in the form of direct deposit from



the carrier or self-insured employer, such notice to be promulgated by the board. Such eligible person shall also be provided the means necessary to enroll in direct deposit pursuant to this paragraph in a manner specified by regulations of the Board at the same time as notice is given pursuant to this paragraph. (emphasis added).

Although the law is specific and clear that there is only to be a single direct deposit made into a single account in a single bank (“a bank” and “an account,” both in the singular), the Board has proposed to permit the claimant to designate multiple accounts into which direct deposits should be sent. This will create unnecessary and costly implementation challenges for insurers and third party administrators, which will have to reprogram systems and otherwise modify procedures to accommodate multiple wire requests from the same claimant. This will not only be expensive, but will take time to implement if permitted to go forward. The enabling law does not permit or authorize multiple account wires – it only authorizes wires “to an account” of an injured worker or person entitled to a death benefit.

There is no policy rationale or justification to require an insurer or third party administrator to wire to separate accounts. The injured workers or person entitled to death benefits is perfectly capable of transferring appropriate funds between their own accounts if they so choose. Further, our members have surveyed the law in other states with a direct deposit requirement and there is no other state regulation that requires wire transfers to multiple accounts. Thus, we urge the Board to eliminate proposed section 300.26(c)(2) from the regulation.

In the alternative, if the Board chooses not to do so, ACP urges the Board to delay the implementation date of the multiple account requirement until July 1, 2022. Although the Department has represented in the proposed rule that there will not be compliance costs, in fact there are significant compliance costs associated with implementation of the rule as proposed. Computer and banking system communications all have to be reprogrammed, and adding more than one account for wires will increase programming and other costs significantly. To be more direct, we seriously doubt that any carrier or third party administrator in the state will be prepared to implement a system that permits wiring to more than one account prior on the proposed implementation date of July 1, 2021. Thus, if the Board insists on maintaining the two account regulation, we request that the implementation date of that regulation be delayed until July 1, 2022 so that affected parties have the time and opportunity to undertake the needed programming and testing of their systems to implement the new requirement.

We appreciate the opportunity to provide comments and participate in the rulemaking process. Please let us know if you have any further questions or comments about the above. Please also feel free to contact me at susan@murdockinc.com if you have any questions about our comments.

Sincerely,

A handwritten signature in cursive script that reads 'Susan R. Murdock'.

Susan R. Murdock Executive Director



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