

Need to Know: the Potential Reopening of the WCL §25-a Fund

On April 14, 2016, the Appellate Division of New York State issued a decision that ruled the closure of the WCL §25-a Fund on January 1, 2014 was unconstitutional. On May 4, 2016 the Workers' Compensation Board of NYS filed an appeal with the Appellate Division. As a result of this appeal, the Courts will reevaluate their decision, and there is a stay on the lower court's decision.

What is WCL §25-a? This is a section of the Workers' Compensation Law that allows for certain reopened claims to be transferred to the Board for payment and processing. The Fund is commonly referred to as "25-a" or "the Reopened Case Fund".

In order to qualify for relief, the claim must be:

- 7 years from the Date of Accident
- 3 Years since the last payment of compensation
- Closed by the Workers' Compensation Board with no outstanding issues

When a claim qualifies under these provisions and has been accepted by the WCB, the full claim moves to the WCB and is closed on NCA's system, with no more payments moving from NCA to the claimant. The Fund was funded through a special assessment on the insurance community. The Fund was closed to all new claims on January 1, 2014, and the assessment ceased.

What does this decision mean? The decision, if affirmed, means that the WCL §25-a Fund must reopen, and the workers' compensation industry will once again be able to apply for relief through the Fund.

What does the appeal mean? The appeal by the Workers' Compensation Board effects a stay on the decision. Because of this, the WCB will not process or adjudicate applications for §25-a relief. However, the time limits for applications for this relief are still in place. The WCB will accept applications for transfer of claim liability for appropriate cases, pending a decision on this issue from the Court of Appeals.

How do I protect my rights? NCAComp, Inc. is acting on behalf of our clients to protect their right to a liability transfer under WCL §25-a. Due to the time limits in the law, NCA is only able to ask for relief going back 2 years, to June of 2014. Your claims team is in the process of analyzing all open and closed claims on our system for claims that fall within the qualifications for transfer of liability to the Fund established under WCL §25-a. NCA is utilizing a flexible claims system and automated reports to identify these claims. In order to protect our clients' interests, we will be filing forms for any qualifying claim with the WCB to ensure we are able to secure relief going back as far as possible.

If you have additional questions on this Decision and what it means for you, contact your Account Manager or Claims Adjuster at NCAComp.

Prepared by

NCAComp INC.

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