SUBSEQUENT INJURY TRUST FUND

ASSESSMENTS, REIMBURSEMENTS AND SETTLEMENTS

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Contrary to many rumors floating around, the Subsequent Injury Trust Fund (SITF or FUND) does not intend to stop reimbursement to insurers and self insurers nor is its intention to stop or stall settlements. To the contrary, the Fund is struggling to find a solution that allows predictable acceptable assessments; continued "reimbursement" of costs on open claims; and authorization for "settlement" of claims. The bottom line is without enacting a change on the "settlement" reimbursement procedure, the Fund will be out of money for settlements for the reminder of 2008, and will only have a total of approximately 42 million available in 2009 and 2010, respectively, to address 1200 anticipated new claims and a 135 million backlog. In short there is insufficient money unless insurers and self insurers wish to face a 20% assessment for the 2008 and 2009.

The Fund has two types of repayments to issue to the insurers and self-insurers based on the assessments against those entities each calendar year. The Fund has an ongoing obligation to issue "reimbursement" funds for accepted claims that are open and will remain open for a period of time. The Fund also has a certain number of requests for "settlement funds" that must be processed so that the settlement payments are made to the insurer and self insurer. In January 2008 the Fund had 140 million to spend for the calendar year minus a +/- $3 million dollar administrative budget. As of May 2008, it had

paid out approximately 94 million in “reimbursement” and “settlements”. Thus, for the remaining eight months of the 2008 calendar year only 43 million dollars remained to continue to provide the ongoing “reimbursement” requests which meant with little monies remaining to allocate toward claim “settlements”.

The Fund is charged with the responsibility of repayment to the insurers and self insurers based on the availability of monies for the regular “reimbursement” of indemnity and medical expenses as well as the payment of total “settlement” of claims. Therein lies the current money crunch.

In the past few years the Fund has been required to increase assessments to handle the ever increasing requests for Fund acceptance of new claims, evaluation of claims wherein the statue was tolled, and settlements. The Fund acknowledges the validity of each of these requests and would gladly pay each accepted claim when requested. But the reality is insurers and self insurers are legitimately opposed to an assessment increase to immediately fund these requests –both new and old. In 2010 through 2015, a legislative leveling of assessments of 7% for insurers and self insurers should net 100 million for the Fund’s use in those calendar years. Of this 100 million, the administrative costs are approximately 3% ($3 million).

Unfortunately, there was an already existing 60 million dollar backlog as of June 6, 2006, the date the Fund could no longer accept new claims. This backlog has increased to 135 million due to the a staggering request for reimbursement of 4881 claims submitted because of the June 2006 deadline for the filing of new claims. The assessments would have to leap to 20 % in 2008 and perhaps 2009 for insurers and self

insurers if the Fund continued to issue “settlement” authority at its current rate while still issuing the monies necessary for the open file “reimbursement” process.

In addition to issuing reimbursements the Fund has a fiscal responsibility to insurers and self insurers to provide stability for the insurers and self insurers.

Past and future projected assessments are:

2000 6.5%

2001 6.2%

2002 11.6%

2003 8.5%

2004 10.3%

2005 10.8%

2006 15.5%

2007 10.1%

2008 10-11% ESTIMATED (PROJECTED 140 MILLION)

2009 10-11% ESTIMATED (PROJECTED 140 MILLION)

2010 7% (100 MILLION -STATUTORY CHANGE)

2011 7% (100 MILLION – STATUTORY CHANGE)

2012 7% (100 MILLION – STATUTORY CHANGE)

2013 7% (100 MILLION – STATUTORY CHANGE)

2014 7% (100 MILLION – STATUTORY CHANGE)

2015 7% (100 MILLION -STATUTORY CHANGE_

2016 through 2020 --- no projected assessments due to a surplus and reduction in claims eligible for reimbursement

2020 Elimination of the Fund

The Fund is introducing an installment reimbursement program that takes into consideration the fact that as of 2010 only $100 million will be collected without incurring a greater backlog or a significant assessment in 2008 and 2009. In the past, the Fund was at its maximum capacity to process $150 million in reimbursement and settlement requests. As a result, the Fund will be looking at a $100 million assessments and resulting backlog until the requests for settlement are reduced or addressed in another manner.

As of 2010, the Fund will be receiving only $100 million in available funds to reimbursements and settlements. Employers can rely on an approximately seven percent (7%) assessment; however, the Fund must modify its current method of reimbursement of "settlements" due to the fact that the available funds will have dropped from $140 million to $150 million per year to $100 million per year. It is anticipated that claims will have been identified and reduced by 2010 so that the backlog can be addressed and a surplus begin to grow.

In an effort to recognize the effects of the $100 million cap in 2010, the Fund has looked at a structured reimbursement for "settlements" only. The "reimbursement" for indemnity and medical in ongoing cases will continue in the same manner. However, the Fund has put into place an installment "settlement" repayment plan so that settlements may move forward in a timely fashion.

The Fund recognizes that the insurer and self-insurer are incurring administrative costs while seeking reimbursement on an open file. Further the Fund has to earmark

monies first for “reimbursement” of ongoing indemnity and medical expenses before it can address the need for monies to close and settle claims.

The purpose of the new installment program is to allow the Fund to authorize “settlement” of an insurer or self-insurer claim with the settlement resulting in a reimbursement of settlement proceeds up to a period of three years. In this way, the insurer and self insurer minimizes its ongoing reimbursement cost because the claim is settled and they avoid the cost of staff preparing reimbursement requests, monitoring the reimbursement requests, and obtaining appropriate reimbursement from the Fund.

The “reimbursement process” will remain the same. However, if a case is moved to settlement, then the insurer and self-insurer and the Fund will all benefit from a reduction in reimbursement requests and administrative costs pertaining to these requests and also the parties will be able to close additional files.

The purpose of the settlement structure reimbursement process is to ensure that the Fund has adequate monies on hand to accommodate the ongoing responsibility of “reimbursement” of medical and indemnity in cases that have not settled. Additionally, in that the Fund has a sunset date of 2020, the Fund will also be maximizing the amount of claims which can be “settled” while still continuing to build a surplus of funds available to cover the remaining liabilities in 2020.

Since the Fund is legislatively limited in the amount of money it can collect from 2010 until 2015 and does not anticipate any assessments thereafter, a short term solution is needed in the interim to allow the Fund to continue to approve “settlement” requests. It is anticipated that, with this new “settlement” structure reimbursement process, the Fund will build up sufficient monies so as to reduce the backlog and, if the actuarial study

proves to be correct, the Fund will be able to build sufficient reserves so as to eliminate a backlog; pay "reimbursements" on open claims; and meet the "settlement" needs of the insurer and self-insurer.

The Administrator of the Fund is authorized to reduce or suspend assessments for the Fund when a complete actuarial survey shows further assessments are not needed. The most recent actuarial study, utilizing the $100 million assessment rate, projects that the Fund will have sufficient monies to cover its normal "reimbursement" requests for open claims, its requests for "settlement", and also will allow the Fund to build up a reserve so that the Fund should not have a situation of no funds for additional claims or unanticipated settlements assessments as of 2015. It is important that insurers and self-insurers understand that this is a projected elimination of backlog and building of reserves to accomplish this goal; however, there are often unknown issues that can arise which could result in the Administrator having to continue assessments beyond the year 2015. There is no guarantee that the Administrator can suspend assessments as of that date, but that is certainly the goal of the Fund. (Another actuarial study will be done in early 2010 to better define the future liabilities of the Fund.)

Due to the new legislative limitations on the ability to pursue old claims that have been filed with the Fund, it is anticipated that by the year 2010 those old claims will be identified and/or eliminated so that the 2010 actuarial study should show the liability for actual existing exposure. This more complete and actual data will result in the Administrator having a better idea as to whether or not assessments can be suspended in 2015. The bottom line is unless these settlement structural installments are made by the Fund, the Fund will only have the ability to issue $30 million or less in settlements per

year in 2008, 2009 and 2010. This is unacceptable to all. It does not accomplish the purpose of the Fund; it results in additional administrative and backlog costs to the Fund and, additionally, this creates a backlog for the insurer and self-insurer and oftentimes results in higher settlement costs to all parties.

The newly implemented 3 year "settlement" reimbursement program will allow settlement of more cases during these three years.

The Fund has instituted the installment reimbursement process as follows:

Any settlement up to $75,000.00 will be reimbursed in full as the current backlog allows.

Any settlement of a case from $75,000.00 to $150,000.00 will be paid under an installment process of $75,000.00 within the seven to eight months (depending on the backlog). The remaining $75,000.00 installment will be reimbursed on the payment anniversary date twelve (12) months later. Even though the insurer and self-insurer will be receiving reimbursements in installments, the Fund will not require additional filing seeking reimbursement of settlement funds, but rather the Fund will automatically issue a settlement reimbursement payment the anniversary date of the initial installment payment.

Any settlements of $150,000.00 to $225,000.00 will be paid at $75,000.00 per twelve (12) month period with the second and third payments being automatically issued on the anniversary date of the prior payment.

Any settlements above $250,000.00 will be reimbursed in three (3) yearly equal installments. Again, the subsequent installment payments will automatically be issued by

the Fund, and the insurer and self-insurer can calendar the anticipated date of payment so that budgeting and other fiscal planning can be made by the insurers and self insurers.

The Fund's goal is not to impair the settlement or cases but to create a system wherein settlements can continue. The result should be that more cases settle. In fact, in an effort to enhance understanding for the need of this change, any insurer or self-insurer who objects to reimbursement in installments when a case has already been approved for settlement will be requested to attend a mandatory meeting with management of the Fund for a conference to discuss the rationale for such refusal. Given the effect of this change, the Fund will be actively involved in the analysis of those cases that require settlement to ensure that the settlements occur in a timely fashion and for a reasonable amount. Therefore, meetings between the Fund and the insurer and self insurer may be necessary to be certain that all parties understand the benefits of this new procedure.

The Fund is making every effort to maximize the use of the assessment dollars and meet the needs of "reimbursement" and "settlement". In order for this effort to be successful, insurers and self insurers must be willing to accept payments over a three year period or face the reality that settlements of cases will all but stall until a surplus of funds can be built or, alternatively, a higher assessment is required.

This is a simple matter of supply and demand. The participants in the system are demanding a higher payout than the insurers and self insurers are willing to pay in as assessments in these next couple of years of short fall. Thus, the Fund asks for everyone's assistance and co-operation during the next couple of years as utilization of the three year installment plan guarantees your payments on a set anniversary date and

allows the assessments to remain at an acceptable level while settlements of claims continue.

If you have any questions, please do not hesitate to contact us. Our goal is to communicate with you, the system users, as to why this installment process is a necessity.

SUBSEQUENT INJURY TRUST FUND, Atlanta

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