

**§6305. Amount of assessment determined**

**1. Determination of assessment based on anticipated savings.** The amount of the assessment is calculated as follows.

A. For policy years beginning on or after July 1, 1990, the superintendent shall determine the amount of the savings in professional liability insurance claims and claim settlement costs to insurers anticipated in each 12-month period as a result of the Medical Liability Demonstration Project established in Title 24, chapter 21, subchapter IX and reform of the collateral source rule. [PL 1989, c. 931, §5 (NEW).]

B. The amount of the assessment for policy years beginning on or after July 1, 1990, but before July 1, 1991, is equal to the total of:

- (1) One hundred percent of the first \$250,000 of savings determined under paragraph A;
- (2) No portion of the savings determined under paragraph A that exceeds \$250,000 but does not exceed \$500,000; and
- (3) Fifty percent of the portion of the savings determined under paragraph A that exceeds \$500,000 but does not exceed \$1,000,000. [PL 1989, c. 931, §5 (NEW).]

C. [PL 2005, c. 122, §4 (AMD); MRSA T. 24-A §6305, sub-§1, ¶ C (RP).]

D. [PL 2005, c. 122, §5 (RP).]

E. Each insurer shall assess the surcharge against its insureds as a percentage of premium unless the superintendent prescribes a different basis by rule or order. [PL 1989, c. 931, §5 (NEW).]

F. Every self-insured physician or physician's employer and every self-insured hospital shall remit the assessment required by this section to the principal writer of physicians malpractice insurance in this State. Remittance by self-insured physicians or hospitals may be made on their behalf by a self-insurer. The superintendent shall prescribe by rule a method to calculate and collect the assessment from self-insured physicians, hospitals and physicians' employers. [PL 1989, c. 931, §5 (NEW).]

[PL 2005, c. 122, §§4, 5 (AMD).]

**2. Final evaluation of savings.**

[PL 2005, c. 122, §6 (RP).]

**3. Assessment rates; program fund balance.** For assessment years prior to July 1, 2006, the assessment is 1.25% of premium. For assessment years commencing July 1, 2006 and after, the assessment is 0.75% of premium unless adjusted pursuant to rules adopted in accordance with subsection 4. The assessment rate is intended to result in collections no greater than \$500,000 per assessment year. The superintendent shall notify affected parties of any assessment rate adjustment and the effective date of that adjustment.

The program fund balance may be used to pay assistance to qualified eligible physicians in prior years for which there were insufficient funds. If all prior years' eligible qualified physicians have received assistance, any excess funds must be carried forward to subsequent plan years as part of the program fund balance. Excess funds must be applied first to the assessment year commencing July 1, 1998 and then to each successive assessment year.

For the purposes of this section, "program fund balance" means the total funds collected in excess of assistance paid for all years.

[PL 2013, c. 170, §1 (AMD).]

**4. Establishment of assessment rate by rule.** The superintendent may adopt rules pursuant to section 6311 establishing an assessment rate or a methodology for calculating an assessment rate

designed to provide an adequate and reliable funding source for the program and allow for the orderly and prudent drawdown of any long-term fund balance in excess of reasonable program needs. The assessment rate may not result in expected collections exceeding \$500,000 per assessment year and may not exceed 0.75% of premium unless the program fund balance is \$50,000 or less, in which case the assessment rate must be set to a higher rate but may not exceed 1% of premium.

[PL 2013, c. 170, §2 (NEW).]

#### SECTION HISTORY

PL 1989, c. 931, §5 (NEW). PL 1995, c. 570, §10 (AMD). PL 1999, c. 668, §113 (AMD). PL 2005, c. 122, §§4-7 (AMD). PL 2013, c. 170, §§1, 2 (AMD).

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