

Regulatory Impact Statement for repeal of Part 391

1. Statutory Authority: Workers' Compensation Law (WCL) §117(1) and 142 authorizes the Chair of the Workers' Compensation Board (Board) to adopt reasonable rules consistent with, and supplemental to, the provisions of the WCL.

2. Legislative Objectives: These regulations have been superseded by case law and there is no express statutory authority for this Part of the regulations.

3. Needs and Benefits: This Part is being proposed to be repealed as a part of Governor Hochul's EXPRESSNY initiative to amend or repeal burdensome, redundant, or outdated regulations. The regulations related to third-party recovery (Part 391) fit squarely into this initiative – they are outdated and unnecessary and have been superseded by case law. For example, one of the sections (391.2) is inconsistent with *Burns v. Varriale*, 9 NY 3d 207 (2007). Section 391.2(b) also references funeral expenses not to exceed \$200 where in reality funeral expenses are now capped at \$13,500. Repealing these regulations removes outdated regulations and helps further the goals of the EXPRESSNY initiative.

4. Costs: The proposed repeal of Part 391 is not expected to have any impact on costs, because the regulations are outdated and have been superseded by case law.

5. Local government mandates: The proposed amendments do not impose any additional program, service, duty, or responsibility upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork:

There are no paperwork requirements associated with this proposal.

7. Duplication: The proposal does not duplicate or conflict with any State or Federal requirements.

8. Alternatives: An alternative would be to not repeal this Part of the regulation and leave it as is. However, in accordance with Governor Hochul's EXPRESSNY initiative, repealing this outdated Part was chosen, as it is inconsistent with case law and could be a source of confusion if left in the regulations.

9. Federal standards. There are no applicable Federal Standards.

10. Compliance schedule: The repeal of this Part is expected to become effective upon publication of a Notice of Adoption in the State Register.