

*** DRAFT - NOT YET FILED ***

4123-17-07

Officers of corporations, elective coverage entities, and ministers.

(A) Definitions.

As used in this rule:

- (1) "Church" means an established and legally ~~recognizable~~ recognized church, congregation, denomination, society, corporation, fellowship, convention, or association that is formed primarily or exclusively for religious purposes.
- (2) "Elective coverage persons" means a sole proprietor, a member of a partnership, a member of a limited partnership, an individual incorporated as a corporation with no employees, or an officer of a family farm corporation.
- (3) "Elective coverage entity" means a sole proprietorship, a partnership, a limited partnership, an individual incorporated as a corporation with no employees, or a family farm corporation.
- (4) "Family farm corporation" has the same meaning as defined in division (E) of section 4123.01 of the Revised Code.
- (5) "Minister" means a duly ordained, commissioned, accredited, or licensed minister, member of the clergy, rabbi, priest, or Christian science practitioner.

(B) Officers of corporations.

- (1) The actual remuneration of an executive officer of a corporation, such as president, vice president, secretary, treasurer, and any other executive officer enumerated in and empowered by the corporate charter or any regularly adopted bylaws of the corporation and elected or appointed and empowered by the directors to perform duties for the corporation, shall be included in the payroll report of the corporation, subject to the weekly minimum and maximum provided in rule 4123-17-30 of the Administrative Code. Such remuneration shall be assigned to the classification applicable to the duties performed.
- (2) Paragraph ~~(A)(1)~~ (B)(1) of this rule shall not apply to family farm corporations. The remuneration of the officers of such corporation shall not be reported as part of the payroll of such employer, unless such employer elects to include as an "employee," within Chapter 4123. of the Revised Code, any ~~of the~~

~~officers~~ officer of the family farm corporation, in which case the procedure outlined in paragraph (C) of this rule shall be applicable.

(C) Elective coverage entities.

- (1) Remuneration of an elective coverage persons shall not be reported as part of the payroll of an elective coverage entity, unless that entity elects to include any such person as an employee.
- (2) Upon the filing of the notice required ~~under~~ by paragraph (E) of this rule, the actual remuneration of an elective coverage person shall be reported and included in the payroll report of the employer subject to the weekly minimum and maximum provided in rule 4123-17-30 of the Administrative Code. Such remuneration shall be assigned to the classification applicable to the duties performed.

(D) Ministers.

- (1) Division (A)(2)(a) of section 4123.01 of the Revised Code excludes from coverage ministers, assistant ministers, or associate ministers in the exercise of their ministry. The remuneration for such persons shall not be reported as part of the payroll of a church employer, unless the church elects to include such persons as an employee.
- (2) Upon the filing of the notice required ~~under~~ by paragraph (E) of this rule, the actual remuneration of a minister, assistant minister, or associate minister shall be reported and included in the payroll report of the employer. Such remuneration shall be assigned to the classification applicable to the duties performed.

(E) If an employer elects to include an elective coverage person or minister, assistant minister, or associate minister as an employee under paragraph (C) or (D) of this rule, the employer shall serve written notice to the bureau on a form prescribed by the bureau. After proper election ~~and~~ notice, and payment of premium, elective coverage persons or ministers, assistant ministers, or associate ministers ~~who sustain injuries or contract occupational diseases in the course of and arising out of employment~~ shall be entitled to receive compensation and benefits as provided in Chapter 4123. of the Revised Code.

- (1) Coverage for such persons shall not be effective until notice has been filed and the required payment made with the bureau.

- (2) Coverage shall remain in effect, and the employer shall be responsible for the payment of estimated premium thereon, until the bureau receives written notice from the employer requesting termination of coverage for the elective coverage persons or ministers, assistant ministers, or associate ministers, or until terminated by the bureau pursuant to paragraph (E)(3) of this rule.
- (3) An employer's failure to pay estimated premiums timely shall terminate coverage for its elective coverage persons or ministers, assistant ministers, or associate ministers. In the event of termination of coverage for non-payment of estimated premium, an employer may reinstate elective coverage only upon the filing of a subsequent election form. Reinstatement of coverage shall be effective only upon receipt of the executed form and payment of estimated premium. No retroactive coverage may be granted except as provided in rule 4123-14-03 of the Administrative Code.

(F) Household workers.

Coverage that is extended to a person who in his household employs household worker(s) pursuant to section 4123.01 of the Revised Code does not include such person himself.

Effective:

Five Year Review (FYR) Dates: 07/01/2018

Certification

Date

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9/1/93; 1/1/05, 7/27/06, 9/23/13

*** DRAFT - NOT YET FILED ***

4123-17-14

Rule controlling the completing of payroll reports.

(A) Definitions.

(1) As used in the rules of Chapter 4123-17 of the Administrative Code:

- (a) "Applied EM" means the experience modifier as set forth in rule 4123-17-03 of the Administrative Code, except where such EM is modified by participation in the group experience rating program set forth in rules 4123-17-61 through 4123-17-66 of the Administrative Code, the one-claim program set forth in rule 4123-17-71 of the Administrative Code, or the EM cap program set forth in rule 4123-17-03.2 of the Administrative Code. In such cases, "applied EM" means the experience modifier resulting from participation in those programs.
- (b) "Current" with respect to payments due the bureau means not more than forty-five days past due.
- (c) "Payments due the bureau" means any premiums, administrative costs, assessments, fines or monies otherwise due to any fund administered by the Ohio bureau of workers' compensation for which the employer has not submitted a dispute of the obligation to the bureau's adjudicating committee as set forth in rule 4123-14-06 of the Administrative Code.
- (d) "Payroll" or "wages" means the entire remuneration allowed by an employer to employees in the employer's service for the applicable period.
- (e) "Public employer taxing district" means an employer as defined in division (B)(2) of section 4123.01 of the Revised Code.
- (f) "Remuneration" has the same meaning as defined in division (H) of section 4141.01 of the Revised Code.
 - (i) The definition of remuneration shall apply to all persons of such employers considered to be employees under the statutes or rules of the bureau of workers' compensation, regardless of whether the employer is required to report payroll or remuneration to the Ohio department of job and family services under Chapter 4141. of the Revised Code or whether the employer reports payroll or remuneration to the Ohio department of job and family services for such persons considered to be employees by the bureau.
 - (ii) For employees who customarily receive tips or gratuities,

remuneration includes all actual wages paid and all tips to the extent they are used to supplement federal minimum wage requirements.

(2) All other terms have the same meaning as prescribed in section 4123.01 of the Revised Code.

(B) Private employers: invoice and notice of estimated premium.

Except as otherwise provided in paragraph (E) of this rule, the bureau will provide private employers with a notice of estimated premium due no later than May 31, 2015, for the policy year commencing July 1, 2015, and no later than the first day of May preceding the policy year for which such premium is due for all policy years commencing on or after July 1, 2016.

(1) The notice shall include all of the following:

(a) The estimated payroll used by the bureau to calculate the employer's estimated premium due;

(b) The manual classifications in which the employer's payroll is segregated and the base rates for each of the manuals classifications identified;

(c) The employer's applied EM used in determining premium due; and

(d) The employer's estimated premium due for the applicable policy year.

(2) An employer may revise the estimated payroll amount used to calculate estimated premium due for the policy year for good cause shown, as determined by bureau policy.

(a) The estimated premium will be revised for the policy year and the balance of installments for the remainder of the policy year will be adjusted to reflect the new estimated premium amount.

(b) Requests will not be accepted to revise payroll for a policy year after the last business day of March in that policy year; the adjustment to premium due will be upon the employer's report of actual payroll pursuant to paragraph (D) of this rule.

(C) Private employers: estimated premium payments.

Except as otherwise provided in paragraph (E) of this rule, the bureau will provide private employers with an invoice for estimated premium at least twenty-nine days prior to the date on which such payment of estimated premium is due.

(1) For the policy year commencing July 1, 2015, the bureau will provide private

employers with the invoice no later than August 1, 2015. For policy years commencing on or after July 1, 2016, the bureau will provide private employers with the invoice no later than the first day of June immediately preceding the policy year for which the estimated premium is charged.

(2) Unless the employer participates in an installment payment plan pursuant to rule 4123-17-14.2 of the Administrative Code, payment of the invoice will be due as follows:

(a) For the policy year commencing July 1, 2015, no later than August 31, 2015.

(b) For policy years commencing on or after July 1, 2016, no later than the last day of June immediately preceding the policy year for which the estimated premium is charged.

(3) The administrator may assess penalties and late fees on payments received after the deadlines set forth in paragraph (C)(2) of this rule, pursuant to rule 4123-17-16 of the Administrative Code.

(D) Private employers: payroll report and reconciliation of premium due.

Except as otherwise provided in paragraph (E) of this rule, after the conclusion of each policy year, every private employer shall submit a payroll report to the bureau. The payroll report shall contain the number of employees employed within each of the employer's assigned manual classifications and the aggregate amount of wages paid to such employees over the relevant time period. For the policy years concluding June 30, 2016 and thereafter:

(1) The bureau shall establish an electronic payroll reconciliation process to address the difference between estimated gross payroll and actual gross payroll immediately upon the filing of the payroll report.

(2) The payroll report shall report data for the full policy year. The report must be filed by and any balance due the bureau paid by the fifteenth day of August immediately following the conclusion of the policy year. Any balance due the employer shall be credited to the employer's account.

(3) An employer may elect to provide payment other than through the electronic reconciliation process, provided payment is received by the fifteenth day of August immediately following the conclusion of the policy year.

(E) Professional employer organizations:

Each employer that is recognized by the administrator as a professional employer organization ("PEO"), as defined in section 4125.01 of the Revised Code, shall submit payroll reports as follows:

- (1) For the policy year concluding June 30, 2015, the PEO shall report data for the six month period commencing January 1, 2015 and concluding June 30, 2015. Such payroll report shall be submitted no later than August 31, 2015.
- (2) For the policy years commencing July 1, 2015 and thereafter, the PEO shall submit a monthly payroll report.
 - (a) The PEO shall electronically report data for each month no later than the fifteenth day after the last day of the month for which payroll is being reported.
 - (b) All monthly premium and assessments must be paid concurrently with the filing of the monthly payroll report.
- (3) If a PEO fails to make timely payment of premiums and assessments as required by this rule, coverage will lapse and the administrator shall proceed to revoke the PEO's registration pursuant to section 4125.06 of the Revised Code.

(F) Public employer taxing districts: invoice and notice of estimated premium.

- (1) For policy years commencing on or after January 1, 2016, the bureau will provide public employer taxing districts with a notice of estimated premium due according to the following schedule:
 - (a) For the policy year commencing January 1, 2016, no later than the first day of January.
 - (b) For policy years commencing on or after January 1, 2017, no later than the last day of October preceding the start of the policy year.
- (2) The notice shall include all of the following:
 - (a) The estimated payroll used by the bureau to calculate the employer's estimated premium due;
 - (b) The manual classifications in which the employer's payroll is segregated and the base rates for each of the manual classifications identified;
 - (c) The employer's applied EM; and
 - (d) The employer's estimated premium due for the applicable policy year.
- (3) An employer may revise the estimated payroll amount used to calculate estimated premium due for the policy year for good cause shown, as determined by bureau policy.

- (a) The estimated premium will be revised for the policy year and the balance of installments for the rest of the year will be adjusted to reflect the new estimated premium amount.
- (b) Requests will not be accepted to revise payroll for a policy year after the last business day of September in that policy year; the adjustment to premium due will be upon the employer's report of actual payroll pursuant to paragraph (H) of this rule.

(G) Public employer taxing districts: estimated premium payments.

(1) For policy years commencing on or after January 1, 2016, the bureau will provide public employer taxing districts with an invoice for estimated premium at least thirty days prior to the date on which payment of such estimated premium is due.

(a) For the policy year commencing January 1, 2016, the bureau will provide public employer taxing districts with the invoice no later than March 31, 2016.

(b) For policy years commencing on or after January 1, 2017, the bureau will provide public employer taxing districts with the invoice no later than the first day of December immediately preceding the policy year for which the estimated premium is charged.

(2) Payment of the invoice will be due as follows:

(a) For the policy year commencing January 1, 2016:

(i) On or before May 15, 2016, no less than fifty per cent of the estimated premium due.

(ii) On or before September 1, 2016, no less than the total estimated premium due.

(b) For policy years commencing on or after January 1, 2017, unless the employer participates in an installment payment plan pursuant to rule 4123-17-14.2 of the Administrative Code, no later than the last day of December immediately preceding the policy year for which the estimated premium is charged.

(3) The administrator may assess penalties and late fees on payments received after the deadlines set forth in paragraph (G)(2) of this rule pursuant to rule 4123-17-16 of the Administrative Code.

(H) Public employer taxing districts: payroll report and reconciliation of premium due.

After the conclusion of each policy year, every public employer taxing district employer shall submit a payroll report to the bureau. The payroll report shall contain the number of employees employed within each of the employer's assigned manual classifications and the aggregate amount of wages paid to such employees over the policy year.

(1) For the policy years concluding on or before December 31, 2015, in the January immediately following the conclusion of the policy year, the bureau will furnish the county auditor of each county and the chief fiscal officer of each public employer taxing district in each county with forms showing premium rates on which to report the actual payroll expended in the conduct of the employer's operations for the preceding twelve calendar months. Such report shall be completed and the premium calculated on the report, and each such employer shall return the report and remit the amount of premium due to the bureau as follows:

(a) For the policy year concluding December 31, 2014:

(i) On or before May 15, 2015, no less than forty-five per cent of the premium due.

(ii) On or before September 1, 2015, no less than the total premium due.

(b) For the policy year concluding December 31, 2015:

(i) On or before May 15, 2016, no less than fifty per cent of the premium due.

(ii) On or before September 1, 2016, no less than the total premium due.

(2) For the policy years concluding on or after December 31, 2016, the employer shall submit its payroll report electronically and pay any balance due the bureau no later than the fifteenth day of February immediately following the conclusion of the policy year. Immediately upon receipt of the payroll report, the bureau shall adjust the premium and assessments charged to each employer for the difference between estimated gross payrolls and actual gross payrolls. At the conclusion of the payroll and premium reconciliation, each employer shall pay any balance due. If the reconciled premium results in a credit, the bureau shall post such credit to the employer's account.

(I) Segregation of payroll.

(1) If an employer elects under section 4123.292 of the Revised Code to obtain other-states' coverage directly from an other-states' insurer for employment relationships localized in Ohio, the employer shall, in writing, notify the bureau of the election on a form prescribed by the bureau. The employer shall

provide the bureau with a copy of the other-states' coverage policy.

(2) An employer that elects to obtain other-states' coverage directly from an other-states' insurer under section 4123.292 of the Revised Code shall include on the payroll report required by this rule only the remuneration for work the employees performed in Ohio and other work not covered by the other-states' policy. On a separate form to be submitted to the bureau with the payroll report described in this rule, the employer shall report the amount of remuneration paid to its employees for work performed outside of Ohio and covered by the other-states' policy. The bureau shall make forms available to employers for fulfilling the notification and reporting requirements of this paragraph.

(J) Federal longshore and harbor workers.

(1) If an employer employs an employee covered under the federal Longshore and Harbor Workers' Compensation Act, Chapter 4121., and Chapter 4123. of the Revised Code, the employer shall, in writing, notify the bureau of the identity of the insurer providing the federal Longshore and Harbor Workers' Compensation Act coverage.

(2) For premium purposes, the employer shall include on the payroll report the remuneration for work the employees performed in Ohio for which the employees are eligible to receive compensation and benefits under Chapters 4121. and 4123. of the Revised Code.

(3) For informational purposes, the employer shall include remuneration for work performed covered under the federal Longshore and Harbor Workers' Compensation Act for which the employees are insured by an entity other than the bureau. The bureau will not assign a premium rate to such payroll.

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3/23/09, 7/1/12, 9/23/13

TO BE RESCINDED

4123-17-14

Rule controlling the completing of payroll reports.

(A) In July and January of each year, the bureau will furnish private state fund employers with forms showing premium rates on which to report the actual wage expenditure and/or payroll in the conduct of the employer's operations for the preceding six months' period or portion thereof. However, if the employer elected to obtain other-states' coverage under section 4123.292 of the Revised Code, the employer shall include on the payroll report only the remuneration for work the employees performed in Ohio and other work not covered by the other-states' policy. If the employer employs employees who are covered under the federal Longshore and Harbor Workers' Compensation Act, 98 Stat. 1639, 33 U.S.C. 901 et seq., the employer shall include on the payroll report only the remuneration for work the employees performed in Ohio for which the employees are eligible to receive compensation and benefits under Chapters 4121. and 4123. of the Revised Code. The employer shall complete such report with the premium calculated, and the report and remittance of the premium shall be submitted to the bureau no later than August thirty-first or the last day of February for that report's preceding six-month period. For an employer that elected to obtain other-states' coverage, the remuneration for work performed in states other than Ohio and covered by the other-states' policy shall be reported to the bureau on a separate form in accordance with paragraph (E) of this rule. For an employer that employs employees who are covered under the federal Longshore and Harbor Workers' Compensation Act, the remuneration for work performed for services for which the employees are eligible to receive compensation and benefits under the federal Longshore and Harbor Workers' Compensation Act shall be reported to the bureau on the payroll report in accordance with paragraph (F) of this rule.

- (1) Except where the administrator has announced prior to the due date of the premium payment that an employer may pay the premium in installments, the amount of the premium due is to be paid in accordance with paragraph (A) of this rule or at the expiration of the coverage for early coverage terminations.
- (2) The administrator may determine for any payroll period that employers shall be permitted to pay the premium in two installments and the method of those premium installment payments. An employer electing to participate in this option shall pay one-half of the premium due by the regular due date in accordance with paragraph (A) of this rule and the balance of the premium by the invoiced date following the original due date. An employer participating in this payment option shall be considered a complying employer during the installment payments if the employer pays one-half of the premium by the regular due date, and the balance shall not be subject to penalties or interest

under rule 4123-19-07 of the Administrative Code.

- (3) The term "current" as used in the rules of this chapter of the Administrative Code with respect to payments due the bureau means not more than forty-five days past due. "Payments due the bureau" means any premiums, administrative costs, assessments, fines or monies otherwise due to any fund administered by the Ohio bureau of workers' compensation, including amounts due for retrospective rating, for which the employer has not submitted a dispute of the obligation to the bureau's adjudicating committee by a written letter containing the detailed reasons for the objection and supporting documentation.
- (B) For all counties and public employer taxing districts, in January of each year, the bureau will furnish the county auditor of each county and the chief fiscal officer of each public employer taxing district in each county with forms showing premium rates on which to report the actual wage expenditure or payroll expended in the conduct of the employer's operations for the preceding twelve calendar months. Such report shall be completed and the premium calculated on the report, and each such employer shall return the report and remit the amount of premium due to the bureau as follows:
- (1) On or before May fifteenth of each year, no less than forty-five per cent of the premium due.
 - (2) On or before September first of each year, no less than the total premium due.
- (C) The terms "payroll" and "wage expenditures" as used in the rules of this chapter of the Administrative Code shall include the entire remuneration allowed by an employer to employees in the employer's service for the applicable period. "Remuneration" shall have the same meaning as defined in division (H) of section 4141.01 of the Revised Code as provided by the statutes of the Ohio department of job and family services, in order that the payroll reporting requirements of the bureau shall be coordinated with the remuneration reporting requirements of the Ohio department of job and family services, except as otherwise modified by the rules of this chapter. The definition of remuneration shall apply to all amenable employers who are required or elect to obtain Ohio workers' compensation coverage and who pay premiums based upon payroll under Chapter 4123. of the Revised Code, and shall apply to all persons of such employers considered to be employees under the statutes or rules of the bureau of workers' compensation, regardless of whether the employer is required to report payroll or remuneration to the Ohio department of job and family services under Chapter 4141. of the Revised Code or whether the employer reports payroll or remuneration to the Ohio department of job and family services for such persons considered to be employees by the bureau.

- (D) In determining the reportable payroll or remuneration after July 1, 1995, for employees who customarily receive tips or gratuities, the employer shall report all actual wages paid and shall include all tips to the extent they are used to supplement the federal minimum wage requirements reportable as remuneration as defined in paragraph (C) of this rule.
- (E) If an employer elects under section 4123.292 of the Revised Code to obtain other-states' coverage from an other-states' insurer, the employer shall, in writing, notify the bureau of the election and the identity of the insurer providing the coverage. The employer shall also provide the bureau with a copy of the other-states' policy. On the payroll report the employer submits to the bureau in accordance with paragraph (A) of this rule, the employer shall not include remuneration for work performed outside of Ohio and covered by the other-state's policy. On a separate form to be submitted to the bureau with the payroll report described in paragraph (A) of this rule, the employer shall report the amount of remuneration paid to its employees for work performed outside of Ohio and covered by the other-states' policy. The bureau shall make forms available to employers for fulfilling the notification and reporting requirements of this paragraph.
- (F) If an employer employs an employee covered under the federal Longshore and Harbor Workers' Compensation Act and Chapter 4121. and Chapter 4123. of the Revised Code, the employer shall, in writing, notify the bureau of the identity of the insurer providing the federal Longshore and Harbor Workers' Compensation Act coverage. On the payroll report the employer submits to the bureau in accordance with paragraph (A) of this rule, the employer shall include remuneration for work performed covered under the federal Longshore and Harbor Workers' Compensation Act, regardless of whether the employer has obtained such coverage from the bureau or from private insurance. This report is for informational purposes only, and the bureau will not assign a premium rate to such payroll.

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*** DRAFT - NOT YET FILED ***

TO BE RESCINDED

4123-17-15.3 **Security requirements.**

- (A) Except as permitted in paragraphs (B) and (C) of this rule, a PEO shall provide security in the form of a bond or irrevocable letter of credit assignable to the bureau not to exceed an amount equal to the workers' compensation premiums and assessments incurred for the two most recent payroll reporting periods pursuant to paragraph (A) of rule 4123-17-14 of the Administrative Code, prior to any discounts or dividends.
- (1) The amount of security required for each PEO policy shall be evaluated at least annually. The bureau may, in its discretion, reevaluate the amount of security required for a PEO policy within ninety days of receiving notice required under paragraph (B) of rule 4123-17-15.1 of the Administrative Code that the PEO has entered into a new PEO agreement or changed an existing PEO agreement.
 - (2) The security shall be provided to the bureau annually on or prior to December thirty-first.
 - (3) The administrator shall determine the amount of security for a PEO policy that has not paid premiums and assessments in the two most recent payroll periods.
 - (4) A PEO may appeal the amount of the security required pursuant to this paragraph in accordance with section 4123.291 of the Revised Code.
- (B) As an alternative to providing security in the form of a bond or irrevocable letter of credit, the administrator shall permit a PEO to make advance payments of premiums and assessments.
- (1) A PEO electing to make advance payments of premiums and assessments shall make such payments by utilizing the bureau's online payment system. The PEO electing to make advance payments of premiums and assessments shall report payroll and pay the premiums for the month by the fifth day of that month.
 - (2) A PEO electing to make advance payments of premiums and assessments who fails to report payroll and pay premiums timely pursuant to paragraph (B)(1) of this rule shall provide to the bureau security in the form of a bond or

irrevocable letter of credit and may not be permitted to utilize the advance payment option for a minimum of the remainder of the policy year. Subsequent failure to report payroll and pay premiums timely utilizing the advance payment option may result in forfeiture of this option and require a posting of bond or irrevocable letter of credit.

(C) As an alternative to requiring security in the form of a bond or irrevocable letter of credit, the administrator shall accept the certification of a PEO by an assurance organization approved by the administrator to make such certification.

(1) An assurance organization desiring to be approved by the administrator to certify PEOs under this rule shall:

(a) Submit a written request for approval to the administrator in conjunction with an initial registration fee as set forth in the appendix to rule 4123-17-15.2 of the Administrative Code. Such written request must include:

(i) Evidence that the assurance organization has documented qualifications, standards, and procedures used to certify PEOs;

(ii) A description of the assurance organization's compliance monitoring services; and

(iii) Evidence that the assurance organization is licensed by one or more states to certify the qualifications of a PEO or PEO reporting entities.

(b) Apply for renewal of approval on an annual basis, and submit an annual renewal fee as set forth in the appendix to rule 4123-17-15.2 of the Administrative Code

(2) Upon the administrator's approval of an assurance organization, the assurance organization and the bureau shall enter into a memorandum of understanding.

(a) The memorandum of understanding shall set forth, at a minimum:

(i) The policies and procedures with which the assurance organization will comply in certifying a PEO to the bureau; and

(ii) The circumstances under which the assurance organization shall

provide notice of change in the financial circumstances of a PEO it has certified under this rule.

- (b) Failure to comply with such memorandum of understanding may result in immediate revocation of the administrator's approval of the assurance organization.
- (3) The administrator's approval of an assurance organization is not transferable to successor corporate entities.
- (4) Upon the bureau's request, an assurance organization must provide to the bureau all information requested regarding a PEO it has certified that has failed to pay its workers compensation premium and assessments, audit findings, or other moneys due and owing the bureau within thirty days of the due date. Failure to provide such information within thirty days of the request will result in the administrator's revocation of approval for the assurance organization to make certification under this rule.
- (5) If the administrator revokes the approval of an assurance organization to make certification under this rule, any PEO certified by that assurance organization shall have sixty days to provide evidence of certification by another assurance organization, submit security under paragraph (A) of this rule, or make advance payments as set forth in paragraph (B) of this rule.

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Penalties: late payment and reporting.

(A) Definitions.

As used in this rule:

- (1) "Annual payroll report" means the report of the employer's actual payroll expenditures required under section 4123.26 of the Revised Code for private employers and section 4123.41 of the Revised Code for public employers, and under rule 4123-17-14 of the Administrative Code.
- (2) "Payments" means premiums, administrative costs, assessments, fines or monies otherwise due to any fund administered by the Ohio bureau of workers' compensation, including amounts due for retrospective rating.
- (3) "Prime interest rate" means the average bank prime rate, which the administrator shall determine in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

(B) Payments and reports required under chapter 4123. of the Revised Code shall be considered late if not received by the bureau on the due date specified by statute or administrative rule implementing such statute. If statute and rule do not specify a date for a payment, such payments shall be considered late if not received by the bureau by the due date on the invoice issued by the bureau.

- (1) The administrator may establish a grace period during which a penalty will not be assessed on late payments.
- (2) If the bureau imposes a lapse in coverage on an employer's policy for failure to make payments within a grace period established by the administrator pursuant to paragraph (B)(1) of this rule, such lapse shall be effective from the day after the due date of the payment.

(C) Penalties for late payments.

- (1) If an employer fails to pay premium and assessments when due, the administrator may assess a penalty at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code.
- (2) If an employer recognized by the administrator as a professional employer organization, as defined in section 4125.01 of the Revised Code, fails to make timely payment of premiums and assessments as required by rule 4123-17-14 of the Administrative Code, the administrator shall revoke the professional employer organization's registration pursuant to rule 4123-17-15.8 of the

Administrative Code.

(D) Penalties for failure to file or pay amounts due under the annual payroll report.

(1) If an employer fails to file or pay amounts due under the annual payroll report within the grace period established by the administrator pursuant to paragraph (B)(1) of this rule:

(a) The employer shall be removed from all rating plans and discount programs for the policy year immediately following the policy year to which the annual payroll report pertains. Unless otherwise specified in the rules of the program, such employer shall be base- or experience-rated, as determined by the expected losses of the employer pursuant to rules 4123-17-33 and 4123-17-34 of the Administrative Code, and

(b) The premium and assessments due from the employer for the policy year to which such report pertains shall be calculated based on the estimated payroll of the employer used in calculating estimated premium due, increased by ten percent.

(2) The bureau shall not impose a lapse in coverage on an employer that is current with its estimated premium payments for failure to file an annual payroll report for the preceding policy year.

(E) Certification of past-due amounts to the attorney general.

Pursuant to sections 131.02 and 4123.323 of the Revised Code, the bureau shall certify past due amounts to the attorney general according to the following schedule:

(1) Premium payments: seventy-five days after the annual payroll report for the policy year to which the premium payments pertain is due under rule 4123-17-14 of the Administrative Code.

(2) Penalties for failure to make estimated premium payments: seventy-five days after the annual payroll report for the policy year to which the premium payments pertain is due under rule 4123-17-14 of the Administrative Code.

(3) All other assessments and penalties thereon: forty five days after the due date set forth in paragraph (B) of this rule.

Replaces:

Replacing 4123-17-16

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:

119.03

Statutory Authority:

4121.12, 4121.121, 4121.13, 4121.30

Rule Amplifies:

4123.32, 4123.34, 4123.36

Prior Effective Dates:

11/26/79, 9/1/93, 9/23/13

*** DRAFT - NOT YET FILED ***

TO BE RESCINDED

4123-17-16

Premium security deposit.

- (A) Each employer, on the occasion of instituting coverage under Chapter 4123. of the Revised Code, shall submit a premium security deposit.
- (B) A premium security deposit shall be in an amount equal to thirty per cent of the employer's semiannual premium obligation based on the employer's estimated expenditure for wages for a six-month period, plus thirty per cent of the employer's premium obligation for an additional two-month adjustment period, but in no event shall the premium security deposit collected from an employer be less than ten dollars or more than one thousand dollars.
- (C) The bureau of workers' compensation shall review the security deposit of every employer who has submitted a deposit of less than one thousand dollars on at least an annual basis. If, in the opinion of the bureau, the amount of any such employer's deposit is less than the amount due under the law, the bureau may require the employer to submit such additional amount as it shall deem necessary, up to the maximum of one thousand dollars.
- (D) The premium security deposit collected from an employer shall entitle the employer to the benefits of Chapter 4123. of the Revised Code for the remainder of the six-month payroll reporting period during which such deposit is collected, and for an additional adjustment period of two months from the close of such six-month period. Thereafter, if the employer pays the premium due at the close of any six-month period, coverage shall be extended for an additional eight-month period, beginning from the end of the six-month period for which the employer pays the premium due.

Effective:

Five Year Review (FYR) Dates:

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Promulgated Under: 119.03
Statutory Authority: 4121.12, 4121.121, 4121.13, 4121.30
Rule Amplifies: 4123.32, 4123.34, 4123.36
Prior Effective Dates: 11/26/79, 9/1/93, 9/23/13

*** DRAFT - NOT YET FILED ***

TO BE RESCINDED

4123-19-02 **General procedures in the processing of applications for industrial coverage.**

- (A) To secure the initial quotation of rate and premium, the employer shall complete and return to the Columbus central office of the bureau of workers' compensation an application prepared by the bureau and entitled "Application for Classification of Industry and for Premium." Blank forms of this application will be mailed to the employer upon request to the bureau and such form(s) must be used in making such application.
- (B) Upon receipt of the completed application as indicated under paragraph (A) of this rule, the bureau shall forthwith issue a premium advice and pay-in-order on the same, setting forth the classification, rate and thirty per cent of the eight months' premium security deposit of the applicant, not to exceed one thousand dollars and not less than ten dollars.
- (C) Two copies of the premium advice and pay-in-order shall be forwarded to the employer.
- (D) In the event the applicant has one or more employees and intends to become a state risk, then such applicant, upon receipt of the pay-in-order, shall immediately forward such pay-in-order together with the amount of money specified therein to the treasurer of state or to the bureau of workers' compensation.
- (E) The applicant's protection shall date from the time the payment of the premium security deposit is actually received by the treasurer, state of Ohio, or bureau, or the date the written binder of new coverage has been approved.
- (F) Upon the receipt of the employer's premium security deposit, the accounting section shall issue forthwith to the employer a "Certificate of Premium" statement. Such statement shall certify to the employer that the employer has paid into the state insurance fund the premium due according to the law and the rules of the bureau, and that said applicant is entitled to the rights and benefits of said fund beginning from the date such insurance became effective, such date being inserted in this statement, for a period as indicated on the statement.
- (G) Coverage that is extended to a person who in his household employs household worker(s) pursuant to section 4123.01 of the Revised Code does not include such person himself.

- (H) Any employer who makes the semiannual premium payment at least one month prior to the last day on which such payment may be made without penalty shall be entitled to a discount at such rate as the bureau may from time to time declare.

Replaces: See 4123-17-13 & 4123-17-07

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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Prior Effective Dates: 6/30/74; 12/11/78; 11/26/79; 5/9/90

*** DRAFT - NOT YET FILED ***

TO BE RESCINDED

4123-19-07

Rules controlling renewals and discontinuances of employer coverage.

- (A) One week prior to the date of expiration of insurance of each private employer the bureau shall issue to each such employer a "Payroll Report" form.
- (B) The employer shall, within one month from the date of expiration of his last six months' insurance period, complete and return the payroll report to the bureau with premium remittance.
- (C) If, within two months immediately after the expiration of the six months' period, an employer fails to file a report of the employer's actual payroll expenditures for the period, the premium found to be due from such employer for the period shall be increased in an amount equal to one per cent of the premium, but the increase shall not be less than three dollars nor more than fifteen dollars.
- (D) The premium determined by the bureau to be due from an employer shall be payable on or before the end of the coverage period established by the premium security deposit, or within the time specified by the bureau if the period for which the advance premium has been paid is less than eight months. If an employer fails to pay such premium when due, the administrator may add a late penalty of not more than thirty dollars to the premium, plus an additional penalty as follow:
 - (1) For a premium from sixty-one to ninety days past due, the prime interest rate, multiplied by the premium due;
 - (2) For a premium from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the premium due;
 - (3) For a premium from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the premium due;
 - (4) For a premium from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the premium due;
 - (5) For a premium from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the premium due;

- (6) For each additional thirty-day period or portion thereof that a premium remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the premium due.
- (E) Notwithstanding the interest rates specified in paragraph (D) of this rule, at no time shall the additional penalty amount assessed under paragraph (D) of this rule exceed fifteen per cent of the premium due.
- For purposes of paragraph (D) of this rule, "prime interest rate" means the average bank prime rate, which the administrator shall determine in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code. The bureau will utilize statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, to recalculate semiannually the prime interest rate for purposes of a late fee penalty or additional penalty under this rule.
- (F) An employer may appeal a late fee penalty or additional penalty to the bureau's adjudicating committee pursuant to section 4123.291 of the Revised Code.
- (G) Any deficiencies in amounts of premium security deposit paid by an employer for any period or periods shall be subject to an interest charge of six per cent per annum from the respective dates of the notice by the bureau to the employer of such deficiency in the premium security deposit. In determining the interest due on deficiencies in premium security deposit payments, a charge in each case shall be made against the employer in a sum equal to interest at the rate of six per cent per annum on the premium security deposit due but remaining unpaid sixty days after notice by the bureau.
- (H) Any interest charges or penalties provided for in paragraphs (D) and (G) of this rule and paid, shall be credited to the employer's account for rating purposes in the same manner as premium.
- (I) The amount of premium due from such employer may be certified to the attorney general for collection.
- (J) The question of classification or rating shall not be permitted to operate so as to delay the making of premium payment.
- (K) When the employer has paid its adjustments and renewal premium to the bureau, the bureau shall forthwith issue to such an employer a "Certificate of Premium Payment," which certificate shall set forth the renewal, effective and expiration dates of coverage for the employer.

(L) For an employer defined in division (I)(1) of section 4123.32 of the Revised Code, payment of premium is due in accordance with the schedule established under division (B) of section 4123.41 of the Revised Code. Where such employer fails to pay at least forty-five per cent of the premium due by May fifteenth or the full premium due by September first, the bureau may impose an interest penalty for late payment for any amount due for each month or part of a month past due as scheduled at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code.

- (1) When an employer as defined by division (I)(1) of section 4123.32 of the Revised Code has paid its adjustments and renewal premium to the bureau, the bureau shall forthwith issue to such an employer a "Certificate of Premium Payment," which certificate shall set forth the renewal, effective, and expiration dates of coverage for the employer.
- (2) When an employer as defined by division (I)(1) of section 4123.32 of the Revised Code has failed to pay at least forty-five per cent of the premium due by May fifteenth or the full premium due by September first, the bureau may discontinue the employer's coverage. In the event of a discontinuance of the employer's coverage, the employer shall be considered a non-complying employer.

Replaces:

Moved to 4123-17-16

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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