

#### **4123-17-15.5 Self-insuring PEOs.**

- (A) A PEO registered with the bureau under rule 4123-17-15.2 of the Administrative Code may apply to pay compensation directly as a self-insuring risk.
- (1) The PEO must meet all eligibility requirements set forth in section 4123.35 of the Revised Code.
    - (a) The PEO shall provide five years of financial records as set forth in division (B)(1)(e) of section 4123.35 of the Revised Code. The administrator shall not waive this requirement.
    - (b) Shared employees will be considered employees of the PEO for the purposes of meeting the requirements of division (B)(1)(a) of section 4123.35 of the Revised Code only if both of the following criteria are met:
      - (i) The PEO demonstrates to the bureau that it is in compliance with all of the following:
        - (a) The duties of organization regarding shared employees set forth in section 4125.03 of the Revised Code, as amplified by paragraph (C) of rule 4123-17-15 of the Administrative Code;
        - (b) The requirements of section 4125.05 of the Revised Code, as amplified by rules 4123-17-15.2 and 4123-17-15.3 of the Administrative Code; and
        - (c) The requirements of section 4125.07 of the Revised Code, as amplified by paragraphs (A)(3) and (A)(4) of rule 4123-17-15.1 of the Administrative Code.
      - (ii) All of the client employer's wages shall be paid and reported under the tax identification number of the PEO for federal tax reporting purposes.
  - (2) Any PEO application for self-insured status will be referred to the self-insured review panel pursuant to paragraph (F)(1) of rule 4123-19-14 of the Administrative Code.
  - (3) Any application to add a PEO to an existing self-insured entity will be referred to the self-insured review panel pursuant to paragraph (F)(1) of rule 4123-19-14 of the Administrative Code.
- (B) A PEO granted the privilege of self-insured status must do all of the following:
- (1) Furnish security as provided by paragraphs (F), (G), and (H) of rule 4123-19-03 of the Administrative Code.
    - (a) The security required by the bureau will be no less than one hundred percent of the outstanding claim liabilities associated with the self-insured policy, as determined by the bureau.
    - (b) The PEO is not permitted to use an assurance organization to meet its security requirements under this rule.
    - (c) The bureau may, pursuant to paragraph (M) of rule 4123-19-03 of the Administrative Code, require the PEO to furnish additional security within thirty days of receiving the notice required under paragraph (B) of rule 4123-17-15.1 of the Administrative Code.
  - (2) Submit to the bureau every two years, or upon the bureau's request, an actuarial estimate of the PEO's unpaid loss and loss adjustment expense liabilities performed by an independent actuary with a fellow of the society of actuaries or casualty actuary society credential.

- (3) Make contribution to the self-insuring employers' guaranty fund as set forth in rule 4123-19-15 of the Administrative Code. For purposes of this rule, the premium as reported on the total of the last two full six-month semi-annual payroll reports shall include the premium of the PEO and all its client employers.
  - (4) Pay all assessments levied upon self-insuring employers under rule 4123-17-32 of the Administrative Code.
  - (5) Reimburse the bureau for disabled workers' relief fund payments on claims for which the PEO or its client employers are employer of record, pursuant to paragraph (B) of rule 4123-17-29 of the Administrative Code.
  - (6) Make a quarterly report to the bureau that details the PEO's active clients, all claims, and the claim reserves for each claim.
- (C) For purposes of this rule, "paid compensation" means all amounts paid by the PEO and its client employers for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60 and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the PEO or its client employers, and all amounts paid by a PEO and its client employers for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code. Any reimbursement received from the surplus fund pursuant to section 4123.512 of the Revised Code by the PEO or its client employers for any such payments or compensation paid shall be applied to reduce the amount of paid compensation reported in the year in which the reimbursement is made. Any amount recovered by the PEO or its client employers under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to a claimant in any final administrative or judicial proceeding shall be deducted, in the year collected, from the amount of paid compensation reported.
- (1) For a PEO that is a self-insured risk for which paragraph (I) of rule 4123-17-32 of the Administrative Code is applicable, paid compensation includes any amounts paid by the state insurance fund for claims directly attributable to the PEO and any client employers of the PEO. In determining the applicability of paragraph (I) of rule 4123-17-32 of the Administrative Code to a PEO, the bureau shall use the date on which the PEO was added to the self-insured risk policy if such date is after the effective date of the self-insured risk policy.
  - (2) If a client employer enters into a new PEO agreement with a PEO that is a self-insured risk for which paragraph (I) of rule 4123-17-32 of the Administrative Code is applicable, paid compensation shall include any amounts paid by the state insurance fund for claims directly attributable to that client employer.
- (D) A PEO granted the privilege of self-insured status shall not:
- (1) Enter into PEO agreements to provide workers' compensation coverage through the state insurance fund.
  - (2) Enter into a partial-lease agreement.
- (E) A PEO granted the privilege of self-insured status shall do all of the following:
- (1) Prior to entering into a PEO agreement with a client employer, provide written notice to the client employer that the submission of a lease termination notice form by the PEO to the administrator will require the PEO to report all information necessary for the administrator to develop a state fund experience modification factor for each client employer involved in the lease termination.

- (2) The self-insuring PEO shall submit all required information by the date set by the administrator, and in a format determined by the administrator. This information must be submitted each year following the submission of a lease termination notice form by the PEO, for as many years as required by the administrator to develop a state fund experience modification factor for each client employer involved in the lease termination. The self-insuring PEO may be required to submit additional information to the administrator if the administrator determines that additional information is needed to develop a state fund experience modification factor for each client employer involved in the lease termination.
- (3) A self-insuring PEO that submits a lease termination notice form to the administrator shall provide the following information to the administrator within fourteen calendar days from the lease termination date for each client employer involved in the lease termination:
  - (a) The payroll of each client employer involved in the lease termination, organized by manual classification and policy year;
  - (b) The medical and indemnity costs of each client employer involved in the lease termination, organized by claim;
  - (c) Any other information the administrator may require to develop a state fund experience modification factor for each client employer involved in the lease termination.
- (4) The administrator may revoke or refuse to renew the privilege of operating as a self-insuring employer if a PEO fails to provide the information requested by the administrator under this rule.
- (F) The administrator shall use the information provided under this rule to develop a state fund experience modification factor for each client employer involved in a lease termination with a self-insuring PEO.

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