

4123-17-15.5

**Self-insured AEOs and PEOs.**

(A) An AEO or a PEO registered with the bureau of workers' compensation under rule 4123-17-15.2 of the Administrative Code may apply to pay compensation directly as a self-insuring ~~risk~~employer.

(1) The AEO or the PEO must meet all eligibility ~~requirements~~criteria set forth in section 4123.35 of the Revised Code.

(a) The AEO or the PEO ~~shall~~will 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~~of workers' compensation cannot waive this ~~requirement~~mandate.

(b) Worksite employees of an AEO and shared employees of a PEO will be considered employees of the AEO or the PEO for the purposes of meeting the ~~requirements~~provisions of division (B)(1)(a) of section 4123.35 of the Revised Code only if the following criteria are met:

(i) ~~Additional AEO requirements. The AEO demonstrates~~An AEO will demonstrate to the bureau that it is in compliance with all of the following:

(a) The duties of organization regarding worksite employees set forth in section 4133.03 of the Revised Code, as amplified in paragraph (D) of rule 4123-17-15 of the Administrative Code;

(b) The ~~requirements~~provisions of section 4133.07 of the Revised Code; and

(c) The ~~requirements~~provisions of section 4133.10 of the Revised Code, as amplified by paragraphs (A)(3) and (A)(4) of rule 4123-17-15.1 of the Administrative Code;

(ii) ~~Additional PEO requirements. The PEO demonstrates~~A PEO will demonstrate 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 paragraphs (C) and (E) of rule 4123-17-15 of the Administrative Code;

(b) The ~~requirements-provisions~~ of section 4125.05 of the Revised Code; and

(c) The ~~requirements-provisions~~ 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.

(iii) Client employer wages.

(a) For an AEO, all of the client employer's wages for worksite employees ~~shall be~~ are paid and reported under the tax identification number of the client employer for federal tax reporting purposes as stated in section 4133.03 of the Revised Code and paragraph (D) of rule 4123-17-15 of the Administrative Code.

(b) For a PEO, all of the client employer's wages ~~shall be~~ are paid and reported under the tax identification number of the PEO for federal tax reporting purposes.

(2) Any AEO or 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 an AEO or 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) An AEO or PEO granted the privilege of self-insured status must do all of the following:

(1) ~~Furnish~~ If determined necessary by the bureau, furnish security, in the amount, and in the form of a letter of credit from a federally insured financial institution or other security approved by the bureau, as provided by paragraphs (F), (G), and (H) of rule 4123-19-03 of the Administrative Code.

(a) The amount of security ~~required by the bureau deemed necessary~~ 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 AEO or the PEO is not permitted to use an assurance organization to meet its security ~~requirements~~ obligations under this rule.

(c) The bureau may, pursuant to paragraph ~~(M)~~ (N) of rule 4123-19-03 of the Administrative Code, ~~require~~ demand the AEO or the PEO to furnish

additional security within thirty days of receiving the notice issued pursuant to this rule~~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 unpaid loss and loss adjustment expense liabilities of the AEO or the PEO 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~~ will include the premium of the AEO or 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 AEO or 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 active clients, all claims, and the claim reserves for each claim of the AEO or the PEO.
- (C) For purposes of this rule, "paid compensation" means all amounts paid by the AEO or 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 AEO or the PEO, or its client employers, and all amounts paid by an AEO or 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 AEO or the PEO, or its client employers for any such payments or compensation paid ~~shall is to be~~ applied to reduce the amount of paid compensation reported in the year in which the reimbursement is made. Any amount recovered by the AEO or 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~~ will be deducted, in the year collected, from the amount of paid compensation reported.

- (1) For an AEO or a PEO that is a ~~self-insured risk self-insuring employer~~ 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 AEO or the PEO and any client employers of the AEO or the PEO. In determining the applicability of paragraph (I) of rule 4123-17-32 of the Administrative Code to an AEO or a PEO, the bureau ~~shall~~ will use the date on which the AEO or 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 AEO agreement with an AEO, or 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~~ includes any amounts paid by the state insurance fund for claims directly attributable to that client employer.
- (D) An AEO or a PEO granted the privilege of self-insured status ~~shall not~~ cannot:
- (1) Enter into AEO agreements or PEO agreements to provide workers' compensation coverage through the state insurance fund; or
  - (2) Enter into a partial-lease agreement.
- (E) An AEO or a PEO granted the privilege of self-insured status shall do all of the following:
- (1) Prior to entering into an AEO or 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 AEO or the PEO to the administrator will require the AEO or 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-insured AEO or the self-insured PEO ~~shall will~~ submit all ~~required~~ necessary information by the date set by the administrator, and in a format determined by the administrator. This information ~~must~~ is to be submitted each year following the submission of a lease termination notice form by the AEO or the PEO, for as many years as ~~required~~ deemed necessary by the administrator to develop a state fund experience modification factor for each client employer involved in the lease termination. The self-insured AEO or the self-insured PEO may ~~be required~~ have 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-insured AEO or a self-insured PEO that submits a lease termination notice form to the administrator ~~shall~~ will provide the following information to the administrator within thirty 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 classification code and policy year;
  - (b) The medical and indemnity costs of each client employer involved in the lease termination, organized by claim; and
  - (c) Any other information the administrator may ~~require~~ need 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 an AEO or a PEO fails to provide the information requested by the administrator under this rule.
- (F) The administrator ~~shall~~ will 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-insured AEO or a self-insured PEO.

Effective: 7/1/2023

Five Year Review (FYR) Dates: 4/14/2023 and 06/01/2028

CERTIFIED ELECTRONICALLY

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Certification

06/20/2023

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Date

Promulgated Under: 119.03

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