

4123-17-15

Professional Alternate employer organizations and professional employer organizations.

(A) Definitions.

As used in rules 4123-17-15 to 4123-17-15.7 of the Administrative Code:

- (1) "Alternate employer organization" or "AEO" has the same meaning as defined in section 4133.01 of the Revised Code. "Alternate employer organization" or "AEO" does not include a service agency that is in the business of employing individuals for the purpose of utilizing the services of the individuals for a temporary period of time.
- ~~(1)~~(2) "Professional employer organization" or "PEO" has the same meaning as defined in section 4125.01 of the Revised Code. Requirements for PEOs that coemploy a part of a client employer's workforce are set forth in paragraph (C) of this rule. "Professional employer organization" or "PEO" does not include a service agency that is in the business of employing individuals for the purpose of utilizing the services of the individuals for a temporary period of time.
- ~~(2)~~(3) "Client employer" has the same meaning as defined in section 4125.01 of the Revised Code for client employers of a PEO and section 4133.01 of the Revised Code for client employers of an AEO. "Client employer" does not mean an employer who is a noncomplying employer as defined in rule 4123-14-01 of the Administrative Code.
- (4) "AEO agreement" means an alternate employer organization agreement as defined in section 4133.01 of the Revised Code. On entering into an AEO agreement all worksite employees of a client employer are covered under the workers' compensation policy of the AEO.
- ~~(3)~~(5) "PEO agreement" means a professional employer organization agreement as defined in section 4125.01 of the Revised Code.
- ~~(4)~~(6) "PEO reporting entity" means a professional employer organization reporting entity as defined in section 4125.01 of the Revised Code.
- ~~(5)~~(7) "Assurance organization," "coemploy," and "shared employee;" ~~"trade secret," and "working capital"~~ have the same meaning as defined in section 4125.01 of the Revised Code.
- (8) "Trade secret" has the same meaning as defined in section 1333.61 of the Revised Code.

(9) "Working capital" means the excess of current assets over current liabilities as determined by generally accepted accounting principles.

(10) "Worksite employee" has the same meaning as defined in section 4133.01 of the Revised Code.

~~(6)~~(11) "Policy number", is a term synonymous with "risk number," meaning the identification number that the bureau assigns to an employer.

(B) Where an AEO or a PEO is required to give notice, register, or make a report to the bureau under rules 4123-17-15 to 4123-17-15.7 of the Administrative Code, the AEO or the PEO shall do so on forms prescribed by the bureau. Forms must be completed in full, as determined by the bureau, for such notice, registration, or report to be effective.

(C) Partial leases.

(1) A PEO may enter into a PEO agreement to coemploy part of a client employer's workforce, provided the client employer is not a temporary agency, for workers' compensation purposes only to the extent wages are paid by and reported under the tax identification number of the PEO for federal tax purposes.

(2) Under such partial lease agreement, the PEO shall report under its workers' compensation policy number the payroll associated with the wages paid by and reported by the PEO for federal tax purposes under the PEO's tax identification number. The client employer shall report under its workers' compensation policy number all payroll associated with wages not paid by and not reported under the PEO's tax identification number.

(3) All of a client employer's payroll within a ~~manual~~-classification code must be reported in its entirety under either the workers' compensation policy number of the PEO or client employer; such payroll may not be split between the PEO and client employer.

(D) Obligations of an AEO.

An AEO must perform all of the following functions:

(1) Annually provide written notice to each worksite employee an AEO assigns to perform services to a client employer of the relationship between and the responsibilities of the AEO and the client employer;

(2) Process and pay all wages and applicable state and federal payroll taxes associated with the worksite employee under the federal tax identification tax number

of the client employer, either directly by the AEO or through a third party vendor contracted by the AEO that is not a client employer, irrespective of payments made by the client employer, pursuant to the terms and conditions of compensation in the AEO agreement between the AEO and the client employer.

- (3) Pay all related payroll taxes associated with a worksite employee under the federal tax identification number of the client employer independent of the terms and conditions contained in the AEO agreement between the AEO and the client employer.
- (4) Annually certify to the bureau that all client employer federal payroll taxes have been timely and appropriately paid and provide proof of payment to the bureau upon request.
- (5) In any AEO agreement between an AEO and a client employer, list the client employer on the W-2 of all worksite employees, but the AEO remains jointly and severally liable for all applicable local, state, and federal withholding and employer-paid taxes with respect to the worksite employees.
- (6) File federal payroll taxes entirely under the tax identification number of the client employer but remain jointly and severally liable for all wages and payroll taxes associated with worksite employees.
- (7) If any client employer of an AEO fails to transmit payment to the AEO sufficient to cover payment of all wages and employer-paid taxes, keep a record of the nonpayment or underpayment and a record that the AEO nonetheless paid the wages and taxes owed.
- (8) Maintain workers' compensation coverage, pay all workers' compensation premiums, and manage all workers' compensation claims, filings, and related procedures associated with the worksite employee in compliance with Chapters 4121 and 4123 of the Revised Code under the AEO's policy number, except that when worksite employees include elective coverage persons as those terms are defined in rule 4123-17-07 of the Administrative Code, payroll reports shall include the entire amount of payroll associated with those persons and shall include the entire amount of payroll associated with those persons and shall not be subject to the weekly minimum and maximum provide in rule 4123-17-30 of the Administrative Code.
- (9) Maintain complete records separately listing the classification codes of each client employer and the payroll reported to each classification codes for each client employer for each payroll reporting period during the time period covered in the AEO agreement. Payroll shall be kept in a manner that clearly identifies the

appropriate classification codes assigned to each client employer, the payroll reported in each classification code, and the amount of premiums paid for each client employer for each payroll period covered in the AEO agreement.

- (10) Maintain a complete record of workers' compensation claims for each client employer, and claims shall be separately identified according to the client employer.
- (11) Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the bureau.
- (12) Within fourteen days of receiving notice from the bureau that a dividend, refund, or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant.
- (13) Within thirty days after receiving a dividend, refund, or rebate that is applied to workers' compensation premiums, either fully redistribute or fully credit the client employer to whom that dividend, refund, or rebate is relevant.
- (14) Not provide partial or split workers' compensation coverage for worksite employees in which the client employer provides that coverage for some, but not all, of the client employer's worksite employees.

~~(D)~~(E) Obligations of a PEO.

A PEO must perform all of the following functions:

- (1) Provide written notice to each shared employee it assigns to a client employer of the relationship between and the responsibilities of the PEO and the client employer.
- (2) Pay wages and payroll taxes associated with shared employees as established within the PEO agreement, either directly by the PEO or through a third party vendor contracted by the PEO that is not a client employer. The responsibility for making payments under this section is not contingent on receipt of payment from the client employer. Shared employee wages must be paid by and reported under the tax identification number of the PEO for federal tax purposes. A PEO may only enter into agreements in which all employees of the client employer are shared and reported under the PEO's tax identification number for federal tax purposes, but reported under the client employer's policy number for workers' compensation purposes, when:
 - (a) The client employer's payroll is wholly reported under the PEO employer's tax identification number for federal tax purposes; and

- (b) The client employer's payroll is wholly reported under the client employer's policy number for workers' compensation purposes.
- (3) Be responsible for maintaining both adequate and required employment-related records for employees, and for reporting such information as may be required by appropriate governmental agencies.
- (4) Comply with applicable state laws regarding workers' compensation insurance coverage.
- (5) Maintain complete records, separately listing the payroll and claims of its client employers for each payroll reporting period. Payroll shall be kept in a manner that clearly identifies the appropriate ~~manual classifications~~ classification codes assigned to each client employer, the payroll reported in each ~~manual~~ classification code, and the amount of premiums paid for each client employer for each payroll period covered in the PEO agreement. Claims shall be separately identified according to the client employer.
- (6) Report individual client employer payroll, claims, and classification data under a separate and unique subaccount to the bureau.
- (7) Maintain workers' compensation coverage, pay all workers' compensation premiums and manage all workers' compensation claims, filings, and related procedures associated with a shared employee in compliance with Chapters 4121. and 4123. of the Revised Code, except that when shared employees include ministers or elective coverage persons as those terms are defined in rule 4123-17-07 of the Administrative Code, payroll reports shall include the entire amount of payroll associated with those persons and shall not be subject to the weekly minimum and maximum provided in rule 4123-17-30 of the Administrative Code. The PEO must maintain workers' compensation coverage under its workers' compensation policy number for all payroll reported under its tax identification number for federal tax purposes, except as provided in paragraph (D)(2) of this rule.
- (8) Within fourteen days after receiving notice from the bureau that a divident, refund, or rebate will be applied to workers' compensation premiums, provide a copy of that notice to any client employer to whom that notice is relevant.
- (9) Within thirty days after receiving a dividend, refund, or rebate that is applied to workers' compensation premiums, either fully redistribute or fully credit the client employer to whom that dividend, refund, or rebate is relevant.

Effective: 1/13/2022

Five Year Review (FYR) Dates: 8/1/2023

CERTIFIED ELECTRONICALLY

Certification

01/03/2022

Date

Promulgated Under: 119.03
Statutory Authority: 4121.12, 4121.121, 4121.30, 4123.05, 4125.02
Rule Amplifies: 4123.34, 4125.01, 4125.02, 4125.03
Prior Effective Dates: 07/01/1997, 11/22/2004, 02/17/2014, 01/05/2019