

Compliance Checklist

760 IAC 1-68

Rule 68. Multiple Employer Welfare Arrangements Certificate of Registration

NOTE: Please indicate where the following information is **located** in agreements, trusts, business plan, etc.

Statute/ Regulation	Requirement	Located	Dept Use Only	
			Yes	No
Sec. 2 (d) (1)	<p>The employers in the MEWA must be members of an association or group of two (2) or more businesses in the same trade or industry, including closely related businesses that provide support, services, or supplies primarily to that trade or industry. If an association, the association must:</p> <p>(A) be engaged in substantial activity for its members other than sponsorship of an employee welfare benefit plan; and</p> <p>(B) have been in existence for a period of not less than two (2) years prior to engaging in any activities relating to the provision of employee health benefits to its members.</p>			
	Comments:			
Sec. 2 (d) (2)	<p>The MEWA must be controlled and sponsored directly by participating employers or participating employees, or both. The MEWA must be operated pursuant to a trust agreement by a board of trustees that has complete fiscal control over the MEWA and that is responsible for all operations of the MEWA. The trustees must be owners, partners, officers, directors, or employees of employers in the MEWA. The trustees must be equitably divided through the participating employers; no one (1) employer may be represented by a majority of the board.</p>			
	Comments:			
Sec. 2 (d) (3)	<p>The MEWA must be a not-for-profit organization.</p>			
	Comments:			
Sec. 2 (d) (4)	<p>Coverage under the MEWA must not be offered to persons or groups other than participating employers and, in the event of an association the sponsoring association.</p>			
	Comments:			
Sec. 2 (d) (5)	<p>The MEWA must have within its own organization adequate facilities and competent personnel, as determined by the commissioner, to service the employee benefit plan or must have contracted with a third party administrator holding a certificate of registration under IC 27-1-25.</p>			
	Comments:			

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Sec. 2 (d) (6)	<p>The MEWA must have applications from not less than two (2) employers and plan to provide similar benefits for not less than two hundred (200) participating employees. The annual gross premiums of or contributions to the plan must not be less than:</p> <p>(A) twenty thousand dollars (\$20,000) for a plan that provides only vision benefits;</p> <p>(B) seventy-five thousand dollars (\$75,000) for a plan that provides only dental benefits; and</p> <p>C) two hundred thousand dollars (\$200,000) for all other plans.</p>			
	Comments:			
Sec. 2 (d) (7)	<p>The MEWA must possess a written commitment, binder, or policy for stop-loss insurance issued by an insurer authorized to do business in this state providing:</p> <p>(A) not less than sixty (60) days' notice to the commissioner of any cancellation or nonrenewal of coverage; and</p> <p>(B) both specific and aggregate coverage with an aggregate retention of no more than one hundred twenty-five percent (125%) of the amount of expected claims for the next plan year and a specific retention amount annually determined by the actuarial report required by section 9 of this rule.</p> <p>Both the specific and the aggregate coverage must require all claims to be submitted within ninety (90) days after the claim is incurred and provide a twelve (12) month claims incurred period and a fifteen (15) month paid claims period for each policy year.</p>			
	Comments:			
Sec. 2 (d) (8)	<p>The contributions (premiums) must be set to fund at least one hundred percent (100%) of the aggregate retention plus all other costs of the MEWA.</p>			
	Comments:			
Sec. 2 (d) (9)	<p>The MEWA must establish a procedure acceptable to the commissioner for:</p> <p>(A) handling claims for benefits in the event of dissolution of the MEWA; and</p> <p>(B) the routine handling of claims</p>			
	Comments:			
Sec. 2 (d) (10)	<p>The MEWA must obtain the required bond.</p>			
	Comments:			
Sec. 2 (d) (11)	<p>The MEWA must be operated in accordance with sound actuarial principles.</p>			
	Comments:			
Sec. 2 (d) (12)	<p>All funds of the MEWA must be held in trust in the name of the MEWA in a qualified financial institution.</p>			
	Comments:			

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Sec. 2 (d) (13)	<p>The MEWA's participation application and participation agreement must contain the language required by Sec. 16 of this rule or the following:</p> <p>(a) A MEWA shall provide to each participating employer written notice, that in the event the plan or the MEWA does not ultimately pay medical expenses that are eligible for payment under the plan for any reason, the participating employer may be liable for those expenses."</p> <p>(b) Every application and coverage form, including certificates of coverage, must contain in not less than twelve (12) point type the notice, "Your coverage is issued by a multiple employer welfare arrangement. The multiple employer welfare arrangement may not be subject to all of the insurance laws and regulations of Indiana. State insurance guaranty funds are not available for your multiple employer welfare arrangement."</p>			
	Comments:			
Sec. 3	A MEWA may only provide benefits to active or retired owner, officers, directors, or employees of or partners in participating employers, or the dependents of such persons, except as otherwise limited by the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.)			
	Comments:			
Sec. 11 (a)	The commissioner or any person appointed by the commissioner shall have the power to examine the affairs of any MEWA and for such purposes shall have free access to all the books, records, and documents that relate to the business of the plan and may examine under oath its trustees or directors, officers, agents, and employees in relation to the affairs, transactions, and conditions of the MEWA. Expenses of the examination shall be paid by the MEWA as provided in IC 27-1-34-6. The examination shall be conducted and in accordance with IC 27-1-3.1 and may cover financial or market conduct issues.			
	Comments:			
Sec. 11 (b)	Each MEWA must have and maintain a place of business in Indiana and must make available to the commissioner complete records of its assets, transactions, and affairs in accordance with such methods and systems as are customary for or suitable to the kind or kinds of business transacted.			
	Comments:			
Sec. 14	If a MEWA is terminated for any reason, the trust may not be dissolved until all outstanding financial obligations of the MEWA are paid. The MEWA may retain sufficient funds to provide coverage for an additional period as the trustees of the MEWA consider prudent. The trustees may purchase additional insurance for protection against potential future claims. Any funds remaining in the MEWA after satisfaction of all obligations must be paid to participating employers or covered employees in an equitable manner meeting with the approval of the commissioner. Written notice of the termination must be provided to each covered employee, the United States Department of Labor, and the commissioner at least thirty (30) days before the effective date of the termination.			
	Comments:			

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Sec. 15	<p>15 (a) The liability of each employer participant for the obligations of the MEWA is joint and several.(b) Each employer participant has a contingent assessment liability pursuant to this section for payment of actual losses and expenses incurred while the participation agreement was in force. (c) Each participation agreement or contract issued by the MEWA must contain a statement of the contingent liability of employer participants. Both the application for participation and the participation agreement must contain, in contrasting color and not less than twelve (12) point type, the statement, “This is a fully assessable contract. In the event (the MEWA) is unable to pay its obligations, participating employers will be required to contribute through an equitable assessment the money necessary to meet any unfulfilled obligations.”</p> <p>Comments:</p>			