

WORKERS' COMPENSATION SELF-INSURANCE REQUIREMENTS

79A(1)

Minnesota Department of Commerce
Self-Insurance Division
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Minnesota Statutes 79A.01 - .18

FINANCIAL STATEMENTS:

Audited Financial Statements for last 5 years and SEC Form 10K if prepared.

If the statement is more than 6 months old, an officer of the company must sign an affidavit under oath stating there has been no material change in the net worth of the company nor any existing or new contingent liabilities which would now require disclosure in an audit of the financial statements.

NET WORTH:

The net worth of individual self-insurers must be at least 10% of the company's total assets and not less than at least ten times the retention limit chosen with the Workers' Compensation Reinsurance Association.

The additional following financial criteria are required for an individual self-insurer:

1. An individual self-insurer must have had positive net income as shown on audited income statements filed with the Department of Commerce during three of the last five years and cumulatively over the five year period. If it has been in existence less than five years, it must have had a cumulative net income during the period of existence and in the most recent year.

2. An individual self-insurer must have had cash generated from operations as shown on the audited statements of cash flow filed with the Department of Commerce during three of the last five years and cumulatively over the five year period. If it has been in existence less than five years it shall have had cumulative cash generated from operations during the period of existence and in the most recent year.
3. No entity shall be admitted as an individual self-insurer, if the audited report for the most recent year includes an explanatory paragraph stating that the auditor has concluded that there is substantial doubt about the entity's ability to continue as a going concern.

The Commissioner may deny an application to self-insure or terminate a current self-insurance certificate if the entity does not have sufficient assets, net worth or liquidity to meet its self-insurance obligations.

Individual and group member self-insured applicants should be aware of the following new requirements pertaining to the filing of their financial statements:

1. Each member of a group self-insurer must file with the group's CPA their most recent annual financial statement reviewed by a CPA in accordance with the Statements on Standards for Accounting and Review Services, which is in Volume 2, The American Institute of Certified Public Accountant's Professional Standards (or audited in accordance with generally accepted auditing standards) within six months after the end of the group's fiscal year.
2. Each group self-insurer must file with the Commissioner combining financial statements of the group members compiled by a CPA in accordance with the Statements on Standards for Accounting and Review Services. The combining financial statement shall include, but not be limited to, a balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Each combining financial statement shall include a column for each individual group member along with a total column. This financial statement is due within seven months of the group's fiscal year end.

Where a group has fifty or more members, the group shall file, in lieu of combining financial statements, a combined financial statement showing only the total column for the entire groups' balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Additionally, the group shall disclose for each member the total assets, net worth, revenue, and income for the most recent fiscal year.

The combining and combined financial statements may omit all footnote disclosures.

NUMBER OF EMPLOYEES:

No minimum

PAYROLL:

No minimum

PREMIUM HISTORY:

4 year premium history

L.O.C./BONDS OR SECURITIES:

The minimum deposit for 2016 is either 110 percent of the applicant's actuarially certified estimate of future liability or equal to the retention limit selected with the W.C.R.A. of (Low) \$500,000.00, (High) \$1,000,000.00 or (Super) \$2,000,000.00 whichever is greater.

The following information must be included in every **ACTUARIAL STUDY** which is submitted pursuant to Minnesota Statutes 79A.04, subd. 2.

1. Name and address of actuary.
2. Qualification of actuary.
3. Name of self-insurer or group self-insurer and the names of all subsidiaries or affiliates which are included in the study.
4. Estimated future liability of the self-insurer.
5. Future date to which liability has been estimated.

5A. Copy of Certified Sworn Affidavit signed by Corporate Officer of applicant. (Actuary retains original)

6A. Individual:

A description of the analysis and techniques used to determine estimated future liability, including the following definitions: “The expected liability for unpaid workers’ compensation losses at any point in the two years ending (dated from item 5) is the current liability for unpaid workers’ compensation losses plus losses expected to be incurred between now and the future point. Estimated future liability is the highest expected liability for unpaid workers’ compensation claims at any point during the two years ending (dated from item 5).

New individual self-insurers must prepare actuarial certification annually for the first (5) years. At the end of the (5) year cycle individual self-insurers then may report every two years.

(Liability may be expressed net of specific excess insurance, aggregate excess insurance (if issued by a unrelated entity) and expected reimbursements from the Special Compensation Fund provided the analysis clearly identifies the chosen basis and supports the final result.)

6B. Group:

A description of the analysis and techniques used to determine estimated future liability, including the following definitions: “The expected liability for unpaid workers’ compensation losses at any point during the year ending (date from item 5) is the current liability for unpaid workers’ compensation losses plus losses expected to be incurred between now and the future point. Estimated future liability is the highest expected liability for unpaid workers’ compensation claims at any point during the year ending (date from item 5).

Group self-insurers are required to prepare actuarial certification in accordance with Minnesota Statute Chapter 79A.04, subd. 2 annually.

(Liability may be expressed net of specific excess insurance, aggregate excess insurance and expected reimbursements from the Special Compensation fund provided the analysis clearly identifies the chosen basis and supports the final result.)

7. Signature of actuary and date signed.

The security deposit must be received by the Commerce Department at least 24 hours prior to the effective date of self-insurance authority.

Additional Guidelines For Existing Individual Self-Insured Companies – When a New Entity is Added:

1. Should the new employee payroll impact the existing employee payroll base by greater than 5%, (this includes the self-insured entity as a whole) the Department will request an interim actuarial certification to be prepared.
2. If the impact to the total employee payroll is less than 5% you may increase the security deposit using the calculation in the application (Form E).

Additional Guidelines For Existing Group Self-Insurers – When Applying to Add a New Member:

1. Should the new employee payroll impact the existing employee base be greater than 5%, (this includes the group as a whole) the Department will request an interim actuarial certification to be prepared.
2. If the impact to the total employee payroll is less than 5% for a group you may increase the security deposit using the calculation in the application (Form D).
3. Group self-insurers are required to prepare actuarial certification in accordance with Minnesota Statute Chapter 79A.04, subd. 2 annually.

TYPES OF ACCEPTABLE DEPOSITS:

*Irrevocable Bank Letter of Credit on Specific Form (Bank also must be approved)

**Direct obligations of the United States government except mortgage-backed securities of the Government National Mortgage Association.

Bonds, notes, debentures, and other instruments which are obligations of agencies and instrumentalities of the United States including, but not limited to, the Federal National Mortgage Association, the Federal Home Loan Bank, the Student Loan Marketing Association, and the Farm Credit System, and their successors, but not including collateralized mortgage obligations or mortgage pass-through instruments.

Bonds or securities that are issued by the state of Minnesota and that are secured by the full faith and credit of the state.

Certificates of deposit which are insured by the Federal Deposit Insurance Corporation and approved by the Minnesota Department of Commerce.

Obligations of, or instruments unconditionally guaranteed by, Minnesota depository institutions whose long-term debt rating is at least AA-, Aa3, or their equivalent, by at least two nationally recognized rating agencies.

Surety bonds issued by a corporate surety authorized by the commissioner of commerce to transact such business in the state.

Obligations of or instruments unconditionally guaranteed by Minnesota Insurance companies, whose long-term debt rating is at least AA-, Aa3, or their equivalent, by at least two nationally recognized rating agencies and whose rate is A+ by A.M. Best, Inc.; and

Any guarantee from the United States government whereby the payment of the workers' compensation liability of a self-insurers is guaranteed; and bonds which are the general obligation of the Minnesota housing finance agency.

Cash

(Escrow)

Other: Custodial Account
 Authorized Brokerage Account

***Minn. Stat. 79A.14**

****79A.04, Subd. 3a**

Securities that are under contingent review or assigned a modifier will be required to meet the statutory requirements the date of deposit. All financial institutions, brokerage or investment institutions approved and holding in custodial capacity must on a monthly basis advise the Department of the actual net market value of the pledged security.

INCURRED LOSSES:

Last 4 years – individuals.

EXCESS INSURANCE:

Amount varies

SPECIFIC EXCESS INSURANCE COVERAGE:

Copy of policy
Copy of all Changes, Renewals etc.
Advance Notice of Cancellation
Minimum/Maximum limits of Coverage

AVERAGE TIME OF PROCESS:

30-45 days if application is complete

CLAIMS ADMINISTRATION:

Each self-insurer shall designate the employees who will administer self-insurance program or contract with a WC Service Company. The self-insurer's staff must be qualified. Resumes' will be requested. Service companies must be licensed in the State of Minnesota under Minn. Stat. Chapter 60A.23, Subd. 8.

INSOLVENCY ASSESSMENT (SISF):

As needed: Self-Insurers' Security Fund
Security Trust Fund – maximum 10% of benefits paid, excluding supplemental benefits, until there is no more deficit. The self-insurer must join the Security Trust Fund.

FEES:

\$4,000.00 nonrefundable application fee for initial application for individuals and new groups.

\$400.00 nonrefundable fee for **EACH** new employer applying for membership to an existing group.

\$500.00 annual fee required by April 1st each year with submission of annual Status Report.

Assessment to the Special Compensation Fund for supplemental benefits, and other statutory items are calculated at a percentage of annual indemnity paid (to the Minnesota Department of Labor & Industry).

RENEWAL FILING REQUIREMENTS AND OTHER REPORTS:

Exemption orders (certificates) are not continuous. Annual reporting must be maintained and the Workers' Compensation Self-Insurers' Advisory Committee may review financial data of each workers' compensation self-insurer every five years and making a recommendation to the Commissioner with respect to whether or not that self-insurer's certificate of authority should continue or be revoked. By April 1 of each year, an annual status report and \$500 renewal fee are required. Annual audited financial statements (and Securities and Exchange Commission filings, if any) are required of all self-insurers. The financial statement for a group must show how investment income was utilized.

Within four months after the end of its fiscal year, an individual self-insurer must file its latest 10(K), annual report or audited financial statements.

Within seven months of the end of its fiscal year, group self-insurers must file combining financial statements of the group members compiled by a CPA in accordance with the Statements on Standards for Accounting and Review Services. The combining financial statement shall include, but not be limited to, a balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Each combining financial statement shall include a column for each individual group member along with a total column. A certified audit of a group self-insurer's fund must be filed within 90 days after the end of the group's self-insurer's fiscal year.

A retention limit selection form must be filed with the W.C.R.A. initially and in subsequent years by December 1. By March 1 of each year a payroll report must be filed with the W.C.R.A. Reports of indemnity losses and death benefits paid must be filed twice annually with the Special Compensation Fund at the Minnesota Department of Labor and Industry. Questions for Minnesota Department of Labor and Industry call (651) 296-2117.

Each self-insurer shall perform the following activities.

1. Provide an annual status report to the commissioner containing the information and prepared in the form required by the commissioner; and
2. Keep a record of the losses paid by the self-insurers and premiums for the group self-insurers.

ADDITIONAL INFORMATION:

If an individual self-insurer cannot satisfy the financial requirements, it can obtain a certificate by having an affiliate (that can meet the requirements) guarantee payment of claims by board resolution.

Upon 10 days written notice, the Commerce Department can revoke a certificate if:

1. A self-insurer fails to meet the requirements of the law;
2. A self-insurer fails to comply with a lawful order of the Commissioner;
3. A self-insurer engages in unfair or deceptive acts or practices;
4. The self-insurer does not abide by the plan of operation of the W.C.R.A.; or
5. The financial condition of the self-insurer deteriorates;
6. A group self-insurance application shall be accompanied by a copy of the bylaws or plan of operation to be adopted by the group.
7. A group self-insurance application shall be accompanied by a contract with a third party administrator of the group.

REFERENCE:

Minnesota Workers' Compensation Act, Chapter 176, Section 176.181, subd. 2
and 2A

Workers' Compensation Self-Insurance, Minnesota Statutes 79A, Sections
79A.01 to 79A.18 revised (1995); Minnesota Rules Chapter 2780.