

WORKERS' COMPENSATION SELF-INSURANCE REQUIREMENTS

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This document is a synopsis of the requirements to become authorized to self-insure workers' compensation liabilities in Minnesota. For full details on the requirements, see Minnesota Statutes, Chapter 79A and Minnesota Rules, Chapter 2780.

FINANCIAL REQUIREMENTS:

An applicant must provide 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.

INDIVIDUAL SELF-INSURERS:

NET WORTH MINIMUM: 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.

ADDITIONAL FINANCIAL REQUIREMENTS:

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 financial 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.

GROUP SELF-INSURERS:

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.
3. 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 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.

NUMBER OF EMPLOYEES:

No minimum

PAYROLL:

No minimum

PREMIUM HISTORY:

New applicants must supply a 4-year premium history.

SECURITY POSTING:

The minimum deposit is the greater of 110 percent of the applicant's actuarially certified estimate of future liability OR an amount equal to the retention limit selected with the W.C.R.A. of (Low) \$500,000.00, (High) \$1,000,000.00 (Super) \$2,000,000.00, (Jumbo) \$5,000,000.00. As a condition for the granting or renewing of a certificate to self-insure, the commissioner may require a private self-insurer to furnish any additional security the commissioner considers sufficient to ensure payment of all claims.

For new applicants, the required security posting 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 Packet (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 by 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 Packet (Form D).

Types of Acceptable Deposit (See Minn. Stat. § 79A.04, Subd. 3):

Irrevocable Bank Letter of Credit on Statutory Form (see Minn. Stat. § 79A.14). Note that the bank must be approved by Commerce.

Surety Bond on Statutory Form (See Minn. Stat. § 79A.15). Note that issuer must be approved by Commerce.

Custodial Account (see Minn. Stat § 79A.071). Note that the custodian must be approved by Commerce.

Acceptable Securities (see Minn. Stat. § 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.

ACTUARIAL REPORT:

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

1. Name and address of actuary.
2. Qualifications of actuary.
3. Name of self-insurer or group self-insurer and the names of all subsidiaries, affiliates, locations and DBAs which are included in the study.
4. Estimated future liability of the self-insurer.
5. Future date to which liability has been estimated.
6. Exhibits detailing the payroll and rate class, historical and projected, for all Minnesota locations.
7. Copy of Certified Sworn Affidavit signed by Corporate Officer of applicant. (Actuary retains original). The Affidavit must be on company letterhead, and in the form prescribed by the Department (see page 24 of the Application Packet).

8A. 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 (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, minus losses estimated to be paid 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 (date from item 5).

New individual self-insurers must prepare actuarial certification annually for the first five (5) years. At the end of the five (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 an unrelated entity) and expected reimbursements from the Special Compensation Fund provided the analysis clearly identifies the chosen basis and supports the final result.)

8B. 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 two years 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, minus losses estimated to be paid between now and the future point. Estimated future liability is the highest expected liability for unpaid workers' compensation claims at any point during the period 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.)

9. Discounting

Effective with actuarial studies having a valuation date of January 1, 2022 or later, discounting is limited as follows:

For currently authorized self-insured entities, the actuarial opinion may discount liabilities to present value at a rate up to the lesser of four percent per annum, or the average of the applicable federal midterm rates, based on annual compounding, as published by the United States Secretary of the Treasury under United States Code, title 26, section 1274(d), for the 12 months preceding the valuation date of the report. The published rates may be accessed on the website of the Internal Revenue Service at: <https://apps.irs.gov/app/picklist/list/federalRates.html>

For former self-insurers, who are no longer authorized to self-insure, the actuarial opinion may not discount liabilities to present value. No discounting is permitted for actuarial studies submitted on behalf of former self-insured entities.

INCURRED LOSSES:

Individual applicants must provide loss history for the preceding four (4) years with their initial application.

AGGREGATE EXCESS INSURANCE:

Optional.

SPECIFIC EXCESS INSURANCE COVERAGE:

Coverage with Minnesota Workers' Compensation Reinsurance Association (WCRA) is mandatory. Optional coverage may be purchased at levels below WCRA low limit.

NEW APPLICATION PROCESSING TIME:

Usually 30-45 days if the application is complete.

CLAIMS ADMINISTRATION:

Each self-insurer shall designate the employees who will administer self-insurance program or contract with a Workers' Compensation Service Company (Third Party Administrator – TPA). The self-insurer's staff must be qualified. Resumes will be requested. Service companies must be licensed as a TPA in the State of Minnesota under Minn. Stat. § 60A.23, Subd. 8.

INSOLVENCY ASSESSMENT (SISF):

All self-insurers must become a member of the Minnesota Self-Insurers' Security Fund (SISF). SISF collects an annual assessment from its members, which can increase if needed to cover any fund deficit incurred by SISF.

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 to State of Minnesota is required by April 1st each year with submission of the annual Status Report.
- Annual Special Compensation Fund assessment payable to the Minnesota Department of Labor and Industry (DLI) is calculated as a percentage of annual indemnity paid by the self-insurer.

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.

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.

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 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.

Each self-insurer shall perform the following activities on an ongoing basis:

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

ADDITIONAL INFORMATION:

If an individual self-insurer cannot satisfy the financial requirements, it must obtain a Guarantee of Payment from a parent or affiliate (that can meet the requirements), along with a corporate board resolution of the guarantor, authorizing the guarantee.

A group self-insurance application shall be accompanied by a copy of the bylaws or plan of operation to be adopted by the group. A group self-insurance application shall also be accompanied by a copy of the contract with a third party administrator of the group.

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.

REFERENCES:

Minnesota Workers' Compensation Act, Minn. Stat., Chapter 176;
Workers' Compensation Self-Insurance, Minn. Stat., Chapter 79A;
Minnesota Rules, Chapter 2780.