

CHAPTER 71
Multiple Employer Welfare Arrangements (MEWAs)

Section 1. Authority. This Chapter is promulgated pursuant to W.S. §§ 16-3-101 *et seq.*, 26-2-110(a), 26-19-115, and 26-4-101.

Section 2. Scope. This Chapter sets forth requirements, forms, and procedures regarding multiple employer welfare arrangements (MEWAs), as defined in W.S. § 26-1-102(a)(xliii).

Section 3. Definitions for purposes of this Chapter are as follows:

(a) “Administrative Services Only (ASO) Contract” means an arrangement in which an employer hires a third party to deliver administrative services to the employer such as claims processing and billing; the employer bears the risk for claims.

(b) "Carrier" shall be as defined in W.S. § 26-19-302(a)(v).

(c) “Commissioner” means the Wyoming Insurance Commissioner.

(d) “Department” means the Wyoming Department of Insurance.

(e) “Employee Welfare Benefit Plan,” as used in this Chapter, has the same meaning as that contained in 29 U.S.C. § 1002(1).

(f) “Employer” for purposes of this Chapter means a group of employers that will be treated as the “employer” sponsor of a single multiple-employer employee welfare benefit plan, or “group health plan” as those terms are defined in Title I of the Employee Retirement Income Security Act (ERISA) of 1974, 29 U.S.C. § 1001 *et seq.*, as amended.

(g) “Fully Insured Health Benefit Plan” means a health benefit plan in which the MEWA purchases health coverage from a state-licensed insurer and the insurer assumes the risk of paying the medical claims of the MEWA’s enrolled members.

(h) “Health Benefit Plan” means any hospital or medical policy or certificate, major medical expense insurance, hospital or medical service plan contract or health maintenance organization subscriber contract. "Health benefit plan" does not include accident-only, credit, dental, vision, Medicare supplement, long-term care or disability income insurance, coverage issued as a supplement to liability insurance, worker's compensation or similar insurance or automobile medical-payment insurance, nor does it include policies or certificates of specified disease, hospital confinement indemnity or limited benefit health insurance if the carrier offering the policies or certificates certifies to the commissioner that policies or certificates described in this paragraph are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance as defined in W.S. § 26-19-302(a)(xii).

(i) “Insurer” shall be as defined in W.S. § 26-1-102(a)(xvi).

(j) “Member” means any employee or former employee of an employer, or any current or former participant of an employee organization, or eligible dependent of an employee who is or may become eligible to receive a benefit of any type from an employee welfare benefit plan which covers employees of such employer or members of such organization, or whose beneficiaries may be eligible to receive any such benefit.

(k) “Multiple Employer Welfare Arrangement” or “MEWA”, for purposes of this Chapter, shall be as defined in W.S. § 26-1-102(a)(xliii).

(l) “Qualified Actuary” means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing the statements and who meets the requirements specified in the valuation manual.

(m) “Self-Insured Health Benefit Plan” means a health benefit plan that is provided directly by the MEWA for its members by providing funds to pay for a health benefit plan directly and the MEWA bearing the risk for covering medical claims.

(n) “Third Party Administrator” for purposes of this Chapter shall be as defined in W.S. § 26-53-101.

Section 4. Insurer or Third Party Administrator Requirements. Any insurer or third party administrator offering, providing, or administering a health benefit plan to a MEWA must hold the appropriate license issued by the Department.

Section 5. Licensing Requirements. A MEWA intending to offer a fully insured health benefit plan or a self-insured health benefit plan in this state shall be licensed by the Department prior to engaging in the business of insurance.

(a) All MEWA applications for license shall be on a form prescribed by the Department and shall include:

(i) A complete copy of the MEWA’s most recently filed U.S. Department of Labor, Form M-1;

(ii) Mailing address, contact person’s name, email address, and telephone number at which communications are to be received;

(iii) Names and addresses of the employer members;

(iv) Total number of covered lives by employer;

(v) Eligibility requirements for employer membership in the MEWA;

(vi) Fees, if any, charged for membership;

(vii) A copy of the MEWA’s by-laws and articles of incorporation or other organizational documents;

- (viii) The name and contact information for the Wyoming registered agent;
 - (ix) A copy of all current contracts between the MEWA and insurers or third party administrators to provide coverage for health care benefits and services to be offered in Wyoming; and
 - (x) A \$500 annual fee as required in W.S. § 26-4-101.
- (b) A MEWA offering a self-insured health benefit plan shall provide the following with an application for license, in addition to the required items in subparagraph (a):
- (i) A feasibility study, including, but not limited to, the methodology for establishing the contributions of its members. Such contributions shall be based on reasonable assumptions and certified by an actuary;
 - (ii) Evidence of stop-loss insurance coverage;
 - (iii) A Department-approved dissolution plan;
 - (iv) Most recent annual audited financial statement as defined in Section 6(b)(i) of this Chapter, showing that the MEWA is financially solvent; and
 - (v) An Actuarial Opinion from a qualified actuary stating that the reserves for the MEWA are adequate and in compliance with actuarial standards.
- (c) If the MEWA is domiciled outside of Wyoming, in addition to the requirements set forth in Sections 5(a) and (b), the MEWA shall provide copies of all materials used by the MEWA to secure approval in the domiciliary state, including evidence of approval by that domiciliary state.

Section 6. Renewal Requirements.

- (a) MEWAs offering fully insured health benefit plans or self-insured health benefit plans in Wyoming, shall submit the following information annually, on or before June 1:
- (i) The renewal form as prescribed by the Commissioner and posted on the Department's website;
 - (ii) A copy of the MEWA's most recently filed U.S. Department of Labor, Form M-1;
 - (iii) Total number of covered lives by employer;
 - (iv) Any changes in information previously filed with the Commissioner; and
 - (v) A \$500 filing fee.
- (b) In addition to the required items in subparagraph (a), a MEWA offering a self-insured health benefit plan shall provide the following with an application for license renewal:

(i) An audited financial statement for the most recently completed fiscal year certified by an independent certified public accountant. The financial statement shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP). At a minimum, the audited financial statement shall contain the following exhibits for the current and prior fiscal year:

- (A) Balance sheet;
- (B) Statement of gain or loss from operations;
- (C) Statement of changes in financial position;
- (D) Notes to financial statements; and
- (E) Management and internal control letters.

(ii) A statement of opinion as to the loss and loss expense reserves certified by a qualified actuary.

(iii) Evidence of stop-loss insurance coverage.

(iv) In addition to the annual audited financial statement, the Commissioner may require any MEWA to file additional financial information including, but not limited to, interim financial reports, additional financial reports or exhibits, or statements considered necessary to secure complete information concerning the condition, solvency, experience, transactions, or affairs of the MEWA. The Commissioner shall establish reasonable deadlines for filing these additional reports, exhibits, or statements. The Commissioner may require verification of any additional required information.

(v) The methodology for establishing the contributions of its members if changes have been made since the last application or renewal. Such contributions shall be based on reasonable assumptions and certified by an actuary.

(c) All filings made under this Chapter shall be submitted by hand-delivery or mail to the Wyoming Department of Insurance.

Section 7. Application Review. If the commissioner finds that the MEWA meets the requirements under this Chapter, he shall issue the MEWA a proper license or renewal. If he finds that the MEWA does not meet the requirements, the commissioner shall issue his order refusing the license with a statement of the reason for refusal. The commissioner shall act upon an application for license or renewal after its complete submission.

Section 8. Benefit Requirements

(a) Each health benefit plan offered to a MEWA shall, at a minimum, comply with requirements of W.S. §§ 26-19-301 to 26-19-310, but § 26-19-303(a) shall not apply.

(b) Every health benefit plan offered by an insurer to a MEWA shall include a process for subscribers to appeal adverse benefit determinations that complies with the requirements of Wyoming Statute Title 26, Chapter 40.

Section 9. Policy and Form Filing Requirements

(a) A MEWA operating in Wyoming shall file all policies, certificates, and contracts of insurance with the Department for prior approval before use in accordance with W.S. §§ 26-15-110 *et seq.*

(b) A MEWA not subject to W.S. § 26-19-102(a)(ix) shall be subject to the requirements of W.S. § 26-19-110.

(c) The following notice shall be provided to employers and employees who obtain coverage from a MEWA and shall be printed in no less than 12-point boldface type of uniform font:

“NOTICE: The Multiple Employer Welfare Arrangement (MEWA) is not an insurance company. For additional information about the MEWA, you should ask questions of your MEWA administrator, your employer, or you may contact the Wyoming Department of Insurance. Guaranty Fund coverage is not available to the MEWA.”

Section 10. Records Retention. A MEWA doing business in Wyoming shall maintain its books and records in accordance with the Wyoming Insurance Code.

Section 11. Enforcement. This Chapter shall not be construed to limit the enforcement authority of the Commissioner otherwise provided in the Wyoming Insurance Code.

(a) The Commissioner may, in his or her discretion, examine the business and financial affairs of a MEWA doing business in this State utilizing the powers granted under the Wyoming Insurance Code. The reasonable and proper expense of examination of the MEWA shall be borne by the MEWA.

(b) The MEWA must report any administrative actions against the MEWA taken by another jurisdiction or by another governmental entity to the Department within thirty (30) days of the final disposition of the matter.

(c) The Commissioner may decline to issue or renew a license issued pursuant to W.S. § 26-19-115(e) and this Chapter if the Commissioner finds that a MEWA does not satisfy any standard or requirement of this Chapter or any provision of other applicable State or federal law or regulation.

(d) The Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued by the Department, or may levy a civil penalty in accordance with W.S. § 26-1-107 or any combination of actions for a violation of any applicable Department rule or any provision of applicable State and federal law.

(e) When the Commissioner believes that a MEWA or any other person is operating in this State without being duly licensed or has violated the law, an administrative rule of the Department, or an Order of the Commissioner, the Commissioner may issue an order to cease and desist such violation or take any other action set forth in law or rule.

Section 12. Notification to the Department of Contracts with MEWAs

(a) Insurers and thirty party administrators shall notify the Department by March 1 of each year of all health benefit plan contracts and administrative services only (ASO) contracts it issued, renewed, or had in force for the previous calendar year, that covered MEWA members in Wyoming.

(b) The contract between the insurer and MEWA shall contain a provision whereby the insurer shall maintain, for the benefit of certificate holders, a deposit account covering thirty (30) days of claims should the contract be cancelled or terminated. The insurer or third party administrator shall notify the Department within five (5) business days of any cancellation or termination of a contract that covered a MEWA with members having employees or dependents in Wyoming.

Section 13. Insurance Producers and Brokers. A person, including a licensed producer, a broker, or other individual, soliciting, offering, or selling a health benefit plan on behalf of a MEWA to a Wyoming employer or a Wyoming resident, prior to engaging in or assisting any person to engage in offering a MEWA, shall carry out and document appropriate due diligence to establish, at a minimum, the following:

- (a) That the insurer or TPA is licensed in Wyoming;
- (b) That the MEWA is licensed in Wyoming; and
- (c) That the disclosure listed in subsection 9(d) is in the policy document.