

Department Announces New Licensing Regulations for MEWAs

SF0044 (SEA49) will go into effect on July 1, 2019, allowing for licensing of Multiple Employer Welfare Arrangements (“MEWAs”) in Wyoming. As the name suggests, MEWAs are arrangements among two or more employers or self-employed individuals sharing a “commonality of interest.” Under a MEWA, multiple employers can provide employee welfare benefit plans to their employees and can involve any plan, fund, or program which is established or maintained by an employer or an employee organizer for the specific purpose of providing medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, or death. To participate in a MEWA, employers may meet the commonality of interest test if they are similarly related by profession or industry and they form an organizational relationship to act in the interests of their employer-members. Unrelated employers who enter into an agreement solely for the purpose of providing insurance may lack the genuine organizational relationship required by the commonality of interest test. Similarly, groups or associations where membership includes persons who are not employers or where control of the groups or associations is not vested solely in employer members, are not bona fide groups or associations under the commonality of interest test, articulated in ERISA, Title 1.

This new statute gives the Wyoming Department of Insurance regulatory oversight of MEWAs within the state that are not under the authority of the U.S. Department of Labor. All MEWAs operating in Wyoming be licensed by the department before operating. The Department will publish new rules after July 1st setting forth the requirements, forms, and procedures regarding MEWAs. In order to obtain a license, employers or employee organizations seeking to offer a fully-insured health benefit plan as a MEWA must provide their completed U.S. Department of Labor Form M-1 filing, membership and organizational information, contract with insurers information, and an annual licensing fee of \$500. MEWAs offering a self-insured benefit plan will be required to also provide a feasibility study, evidence of stop-loss insurance, a dissolution plan, an audited financial statement, and an actuarial opinion. Licenses can be renewed annually by providing similar information depending on whether the plan is fully-insured or self-insured. Applications and renewals will be reviewed and decided by the Insurance Commissioner.

The requirements for fully-insured and self-insured MEWA applications listed above are a summary and do not contain the full list of information and documents to be included. MEWA health plans will also be subject to the coverage requirements of the Wyoming Small Employer Health Insurance Availability Act, W.S. §§ 26-19-301 through 26-19-312. For the full text of the forthcoming MEWA rule, visit the Administrative Rules section of the Secretary of State website at <https://rules.wyo.gov/>. Click on the “Proposed Rules” and scroll to the agency box labelled “Insurance Dept. (044)”. Click the tab “General Agency, Board or Commission Rules (0002)”, then to the proposed rule, “Chapter 71: Multiple Employer Welfare Arrangements (MEWAs)”. If you have any questions, please contact the Wyoming Insurance Department at (307) 777-7401.