

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

INSURANCE BUREAU

**EXCESS LOSS INSURANCE FOR MULTIPLE EMPLOYER WELFARE
ARRANGEMENTS (MEWAS)**

(By authority conferred on the commissioner of insurance by section 210 of Act No. 218 of the Public Acts of 1956, as amended, being S500.210 of the Michigan Compiled Laws)

R 500.821 Definitions.

Rule 1. As used in these rules:

(a) "Annual aggregate retention amount or attachment point" for any 1 policy year, or fraction thereof if the policy terminates during the policy year, means the cumulative total of the number of covered units each month for which premium has been accepted, multiplied by such covered units' corresponding monthly aggregate retention amount factor, applied each month, or the minimum annual aggregate retention amount, whichever is greater.

(b) "Code" means Act No. 218 of the Public Acts of 1956, as amended, being S500.100 et seq. of the Michigan Compiled Laws.

(c) "Plan" means an employee benefit plan of a multiple employer welfare arrangement authorized under chapter 70 of the code. Reference to actions of a plan includes actions by the plan's designated agents.

(d) "Policy" is the excess insurance policy issued by the insurer to the MEWA which indemnifies the MEWA for losses incurred under a plan in excess of a specified retention amount.

(e) "Policyholder" means the covered entity to which the policy is issued.

(f) "Policy year" means a 12-consecutive-month period, or fraction thereof, beginning on the effective date of the policy and ending on the expiration date of the policy.

(g) "Specific retention amount" means the uninsured deductible amount or specific attachment point specified in the policy; that is, the amount of risk retained by the contract holder per covered individual in excess of which coverage applies.

History: 1990 AACSL.

R 500.822 Maintenance of excess loss insurance policies with specific retention amount; maintenance of aggregate excess loss insurance; expiration dates of multiple excess loss insurance policies.

Rule 2. All of the following requirements are applicable to a MEWA which seeks authorization in this state or which has authorization to operate in this state:

(a) A MEWA shall submit, for approval by the commissioner, a policy or policies of specific excess loss insurance, as required by section 7011(c) of the code.

(b) Except as provided in subdivision (c) of this rule, a MEWA shall demonstrate to the commissioner that the proposed specific retention amount would not be detrimental to the solvency and stability of the MEWA, considering the plan's past and expected experience, size, reserves, contribution rates, and proposed excess rates.

(c) A MEWA which submits a policy for excess loss insurance with a specific retention level of not more than \$25,000.00 shall not be required to meet the requirements set forth in subdivision (b) of this rule.

(d) A MEWA shall not change the retention level for a specific excess policy without the prior written approval of the insurance commissioner.

(e) A MEWA shall not be required to purchase an aggregate excess loss policy unless the commissioner determines that coverage is necessary. The determination shall be based upon the financial solvency and stability of the MEWA, considering the plan's past and expected experience, size, reserves, expenses, and contribution rates. An aggregate excess loss policy purchased by a MEWA shall provide for the insurer to assume all liability in excess of an annual aggregate attachment point.

(f) If more than 1 excess loss insurance policy is obtained in fulfillment of the excess loss requirements, the policy expiration dates shall be the same.

History: 1990 AACs.

R 500.823 Excess loss policy provisions; minimum requirements.

Rule 3. Excess loss policies issued to a MEWA in this state for the purposes of section 7040(1)(c) of the code shall be in compliance with all of the following requirements:

(a) All specific excess loss policies shall provide for the insurer to indemnify the MEWA for all losses in excess of a specified amount per covered person, per year, for all medical, surgical, hospital care, accident, disability, or death benefits the MEWA offers.

(b) The specific excess loss insurance policy may be in the form of incurred basis stop-loss insurance or paid basis stop-loss insurance. Plans using paid basis stop-loss insurance shall provide for the liability in excess of the specified amount of losses incurred while the paid basis stop-loss insurance was in force, but paid after its termination or nonrenewal. The reporting period under paid basis insurance shall be not less than 3 months after the MEWA year conclusion. An expense will be considered to be incurred by the policyholder at the time service has been rendered or the service to which it relates is provided. Incurred losses include both reported and unreported losses. "Paid losses" means the total amount of money actually paid for benefits for which eligible employees and dependents who are covered under the employee benefit plan become entitled under the plan.

(c) Required excess loss insurance policies shall be noncancelable for a minimum of 1 year for any cause except nonpayment of premium, for which the MEWA shall be given a minimum grace period of 31 days.

(d) The insurer shall have neither the right nor obligation under the excess loss policy to directly pay any covered person or provider of professional services or supplies for any benefit which the policyholder has agreed to provide under the terms of the employee benefit plan. The insurer's sole liability shall be to the policyholder, subject to the terms, conditions, and limitations of the agreement.

History: 1990 AACs.

R 500.824 Liability indemnified by insurer.

Rule 4. A liability that is indemnified by an insurer under these rules shall not, directly or indirectly, be returned to a MEWA, a member, or a member's parent, subsidiary, or affiliate. This does not prohibit the insurer from seeking reimbursement from the MEWA or a member.

History: 1990 AACCS.