

1 Public Protection Cabinet
2 Department of Insurance
3 Division of Property & Casualty
4 (Amendment)

5 806 KAR 52:030. Workers' compensation self-insured group rate, rule and form filings.

6 RELATES TO: KRS 304.4-010, 304.13-053, 304.14-120, 304.50-010, 304.50-115

7 STATUTORY AUTHORITY: KRS 304.4-010, 304.50-010(2), 304.50-115

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.50-010(2), authorizes the

9 Commissioner of the Department [~~Executive Director of the Office~~] of Insurance to promulgate
10 administrative regulations as necessary to govern admission certification and regulation of
11 workers' compensation self-insured groups. KRS 304.50-115, requires workers' compensation
12 self-insured groups to file rates, supplementary rating information and coverage form filings with
13 the commissioner [~~executive director~~]. This administrative regulation establishes workers'
14 compensation self-insured group rate, rule and form filing procedures.

15 Section 1. Definitions. (1) "Coverage form" is defined by by [in] KRS 304.50-015(10).

16 (2) "Commissioner" is defined by KRS 304.1-050(1). [~~"Executive director" means the~~
17 ~~Executive Director of the Office of Insurance.~~]

18 (3) "Department" is defined by KRS 304.1-050(2) [~~"Office" means the Office of~~
19 ~~Insurance.~~]

20 (4) "Self-insured group" is defined by by [in] KRS 304.50-015(29).

1 Section 2. General Filing Requirements. (1) Every self-insured group shall file with the
2 commissioner [~~executive director~~] its coverage forms, rates, loss costs, rating plans, rating rules,
3 underwriting rules or guidelines, statistical plans, supporting information, supplementary
4 information and premium payment plans accompanied by a completed and signed Form WC SIG
5 F-1A P&C, "Face Sheet and Verification Form for Workers Compensation Self-Insured
6 Groups".

7 (2) All filings shall include two (2) full document sets on 8 1/2 in. x 11 in. white paper
8 with three (3) cover letters and a self-addressed stamped envelope.

9 (3) A filing may include any number of documents, filed together on a particular date.
10 Rates, loss costs, and rules shall be filed separately from coverage forms.

11 (4) KRS 304.4-010(2) requires all fees and charges payable under the insurance code to
12 be collected in advance. The period of time that the commissioner [~~in which the executive~~
13 ~~director~~] may affirmatively approve or disapprove the filing shall not begin until a complete
14 filing and the appropriate fee, as set forth in 806 KAR 4:010, Section 1(21), is received.

15 Section 3. Rate and Rule Filings. (1) Form WC SIG: S-1 P & C, "Filing Synopsis for
16 Rates and or Rules" shall be filed with all rate or rule filings.

17 (2)(a) Form WC SIG: LC-1 P & C, "Calculation of Loss Cost Multiplier" shall be filed
18 with all rate filings referencing loss costs formulated by any advisory organization.

19 (b) Form WC SIG LC-2 P & C, "Expense Constant Supplement" shall be filed with all
20 rate filings referencing loss costs formulated by an advisory organization in which an expense
21 constant is used.

22 (3) Form WC SIG: EMA P & C, "E-Mod Affidavit" shall be filed with all rate or rule
23 filings containing experience modification factors.

1 (4)(a) All rate or rule filings containing schedule rating plans shall identify the
2 characteristics of the risk not reflected in an experience modification factor.

3 (b) Any application of the schedule rating plan shall be based on evidence contained in
4 the self-insured group's file at the time it is applied. The schedule rating plan debit or credit
5 factor(s) applied shall be made available to the member upon request.

6 (c) If the reason for application of any schedule debit is corrected by the member to the
7 satisfaction of the self-insured group, the debit may be removed when evidence of the correction
8 is received by the group.

9 Section 4. Coverage Form Filings. (1) Form WC SIG: S-2 P & C, "Filing Synopsis Form"
10 and Form WC SIG: F-2 P & C, "Forms Index" shall be filed with all coverage form filings.

11 (2) A coverage form shall not be used until it has been approved by the commissioner
12 [~~executive director~~]. If the rates pertaining to a coverage form are required by law to be filed
13 with or approved by the commissioner [~~executive director~~], the coverage form shall not be used
14 until the appropriate rates have been filed or approved as required.

15 (3) A filing which amends, replaces, or supplements a coverage form previously filed and
16 approved shall include an explanation setting forth all changes contained in the newly filed
17 coverage form, the effect, if any, the changes have upon the hazards purported to be assumed by
18 the policy, and an explanation as to the effect on the rates applicable thereto.

19 (4) A change of signature of the executing officer on a coverage form shall not, because
20 of this change alone, require a new filing.

21 Section 5. Advisory Organization Filings. (1) A self-insured group that is a member,
22 subscriber, or service purchaser of an advisory organization, statistical agent or forms provider
23 may choose to adopt coverage forms, rating plans, rating rules, rating schedules, other

1 supplementary rating information, underwriting rules or guidelines, or statistical plans of that
2 advisory organization or statistical agent by doing so in accordance with the procedures
3 established in this administrative regulation and shall clearly identify each filing of the advisory
4 organization or statistical agent it is adopting.

5 (2) If a self-insured group chooses to adopt only a specific filing of an advisory
6 organization, statistical agent, or form provider it shall do so in accordance with the procedures
7 established in this administrative regulation, and shall clearly identify which filing of the
8 advisory organization or statistical agent it is adopting. Loss cost filings shall be specifically
9 adopted.

10 (3)(a) If a self-insured group chooses to adopt all of the current and future coverage
11 forms, rating plans, rating rules, rating schedules, other supplementary rating information,
12 underwriting rules or guidelines and statistical plans, excluding loss costs, of an advisory
13 organization, statistical agent, or forms provider, it may file written notice with the commissioner
14 [~~executive director~~] that it is adopting by blanket reference all of the current and future coverage
15 forms, rating plans, rating rules, rating schedules, other supplementary rating information,
16 underwriting rules or guide-lines and statistical plans, excluding loss costs, as filed by the
17 advisory organization, statistical agent, or forms provider. Loss cost filings shall not be adopted
18 on this blanket reference basis.

19 (b) If a self-insured group previously notified the commissioner [~~executive director~~] of its
20 adoption of all cur-rent and future filings, excluding loss cost filings, by the advisory
21 organization, statistical agent, or forms provider and chooses not to adopt certain coverage
22 forms, rating plans, rating rules, rating schedules, other supplementary rating information,
23 underwriting rules or guidelines, or statistical plans, the group shall file notice of the

1 nonadoption with the commissioner [~~executive director~~] and shall pay the appropriate filing fee,
2 as set forth in 806 KAR 4:010, Section 1(21).

3 1. If a self-insured group previously notified the commissioner [~~executive director~~] of its
4 adoption of all current and future filings, excluding loss cost filings, by the advisory
5 organization, statistical agent, or forms provider and chooses to delay the effective date of its
6 adoption, it shall submit a letter to the commissioner [~~executive director~~] requesting the revised
7 date upon which it will adopt the filing.

8 2. The delayed adoption date shall be within six (6) months of the original effective date.

9 3. If additional time is needed, a second letter shall be submitted to the commissioner
10 [~~executive director~~], requesting a revised delayed adoption date.

11 4. All revised delayed adoption dates shall be within one (1) year of the original effective
12 date as filed by the advisory organization, statistical agent or forms provider.

13 5. If a self-insured group fails to adopt the advisory organization, statistical agent, or
14 forms provider filing within one (1) year of the original effective date as filed by the advisory
15 organization, statistical agent or forms provider, the insurer shall submit a filing to the
16 commissioner [~~executive director~~] indicating it is nonadopting.

17 Section 6. Incorporation by Reference. (1) The following material is incorporated by
18 reference:

19 (a) Form WC SIG: F-1A P & C, "Face Sheet and Verification Form for Workers
20 Compensation Self Insurance Groups," March 2005, Department [~~Office~~] of Insurance;

21 (b) Form WC SIG: F-2 P & C, "Forms Index," March 2005, Department [~~Office~~] of
22 Insurance;

1 (c) Form WC SIG: S-1 P & C, "Filing Synopsis for Rates and or Rules," March 2005,
2 Department [Office] of Insurance;

3 (d) Form WC SIG: S-2 P & C, "Filing Synopsis Form," March 2005, Department [Office]
4 of Insurance;

5 (e) Form WC SIG: LC-1 P & C, "Calculation of Loss Cost Multiplier," March 2005,
6 Department [Office] of Insurance;

7 (f) Form WC SIG: LC-2 P & C, "Expense Constant Supplement," March 2005,
8 Department [Office] of Insurance; and

9 (g) Form WC SIG: EMA P & C, "E-mod Affidavit," March 2005, Department [Office] of
10 Insurance.

11 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
12 law, from the Department of Insurance [Office of Insurance], The Mayo-Underwood Building,
13 500 Mero Street [215 West Main Street], Frankfort, Kentucky 40601, Monday through Friday, 8
14 a.m. to 4:30 p.m. This material is also available on the Department's Web site at
15 http://www.insurance.ky.gov [Office of Insurance Internet Web site
16 http://doi.ppr.ky.gov/kentucky].

806 KAR 52:030
READ AND APPROVED:

Sharon P. Clark
Commissioner, Department of Insurance

Date

Kerry B. Harvey
Secretary, Public Protection Cabinet

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM July 23rd, 2021 at 500 Mero Street, Frankfort, KY 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on July 30th, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Abigail Gall
Title: Executive Administrative Secretary
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 52:030

Contact Person: Abigail Gall

Phone: +1 (502) 564-6026

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(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the required forms to be used by workers' compensation self-insured groups for rate, rule and coverage form filings.

(b) The necessity of this administrative regulation: This regulation is necessary to implement the provisions of KRS 304.50-010(2), which requires the Commissioner to promulgate administrative regulations to govern admission, certification and regulation of workers' compensation self-insured groups.

(c) How this administrative regulation conforms to the content of the authorizing statutes: 2005 Ky. Acts ch. 7 sec. 2 requires the Commissioner to promulgate administrative regulations as necessary to govern admission, certification and regulation of workers' compensation self-insured groups. Section 23 requires workers' compensation self-insured groups to file rates, supplementary rating information and coverage forms with the Commissioner.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes the required forms to insure that standardized information is filed for review and analysis by the Department of Insurance.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments to this administrative regulation are technical in nature.

(b) The necessity of the amendment to this administrative regulation: The amendments made to this administrative regulation are necessary in the effectuation of Chapter 13A of the Kentucky Revised Statutes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.50-010(2), which requires the Commissioner to promulgate administrative regulations to govern admission, certification and regulation of workers' compensation self-insured groups.

(d) How the amendment will assist in the effective administration of the statutes: KRS 304.50-010(2) and KRS 304.50-115 allow the Commissioner to promulgate administrative regulation to oversee workers' compensation self-insured groups and the filings for admissions. This amendments assist in the effectuation by meeting the drafting standards required by Chapter 13A.

- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect seven (7) existing workers' compensation self-insured groups and any entity desiring to file an initial application to become a certified workers' compensation self-insured group.
- (4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
- (a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Workers' compensation self-insured groups will be required to utilize the forms prescribed by this regulation when making the statutorily required filings with the Department of Insurance.
- (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no associated cost with this administrative regulation.
- (c) As a result of compliance, what benefits will accrue to the entities: If the regulated entities meet the standards required by the authorizing statutes and limitations of this administrative regulations they will meet the standards
- (5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
- (a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.
- (b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no increase in fees or funding to implement this new administrative regulation.
- (8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly establish any new fees. The existing filing fees of \$100 for rate or rule filings requiring prior approval and \$5 for other rate, rule and form filings required by KRS 304.4-010 and 806 KAR 4:010 are applicable to these filings.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied because this regulation applies equally to all workers' compensation self-insured groups operating in Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 806 KAR 52:030

Contact Person: Abigail Gall

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(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department as the implementer of this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.4-010, 304.50-010(2), 304.50-115

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is expected to be generated.

(c) How much will it cost to administer this program for the first year? No cost is expected.

(d) How much will it cost to administer this program for subsequent years? No cost is expected.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(4) Revenues (+/-): Neutral

(5) Expenditures (+/-): Neutral

(6) Other Explanation:

SUMMARY OF MATERIALS INCORPORATED BY REFERENCE

806 KAR 52:030

"Form WC SIG: F-1A P & C, Face Sheet and Verification Form for Workers Compensation Self Insurance Groups (March 2005)" which is the form that Workers' Compensation Self-Insured Groups shall file with the Department of Insurance as a face sheet with every rate, rule and form filing to certify the accuracy and appropriateness of the filing.

(b) "Form WC SIG: F-2 P & C, Forms Index (March 2005)" which is the form that Workers' Compensation Self-Insured Groups shall file with the Department of Insurance with all coverage form filings to provide an index of all form numbers, edition dates, titles and types of coverage forms being submitted.

(c) "Form WC SIG: S-1 P & C, Filing Synopsis for Rates and or Rules (March 2005)" which is the form that Workers' Compensation Self-Insured Groups shall file with the Department of Insurance with all rate or rule filings to provide responses to standardized questions that summarize the filing.

(d) "Form WC SIG: S-2 P & C, Filing Synopsis Form (March 2005)" which is the form that Workers' Compensation Self-Insured Groups shall file with the Department of Insurance with all coverage form filings to provide responses to standardized questions that summarize the filing.

(e) "Form WC SIG: LC-1 P & C, Calculation of Loss Cost Multiplier (March 2005)", which is the form that Workers' Compensation Self-Insured Groups shall file with the Department of Insurance with all rate filings referencing loss costs formulated by any advisory

organization to provide responses to standardized questions regarding calculation of the loss cost multiplier being utilized in the rate filing.

(t) "Form WC SIG: LC-2 P & C, Expense Constant Supplement (March 2005)" is the form that Workers' Compensation Self-Insured Groups shall file with the Department of Insurance with all rate filings referencing loss costs formulated by an advisory organization in which an expense constant is used to provide responses to standardized questions regarding expense constants that are being utilized in the rate filing.

(g) "Form WC SIG: EMA P & C, E-Mod Affidavit (March 2005)" is the form that Workers' Compensation Self-Insured Groups shall file with the Department of Insurance with all rate or rule filings containing experience modification factors to provide a notarized statement regarding the calculation of experience modification factors within the filing being submitted.