

§6603. General eligibility

This section governs all multiple-employer welfare arrangements except for those offered by a registered employee leasing company complying with the requirements of section 6603-A. [PL 1995, c. 618, §6 (NEW).]

1. Requirements for approval. To meet the requirements for approval and to maintain a multiple-employer welfare arrangement, an arrangement:

A. Must be nonprofit; [PL 1993, c. 688, §1 (NEW).]

B. Must be established by a trade association; industry association; association with employer members representing multiple trades, industries or professions; political subdivision of the State; religious organization; or professional association of employers or professionals that has a constitution or bylaws and that has been organized and maintained in good faith for a continuous period of one year for purposes other than that of obtaining or providing insurance; [PL 2019, c. 96, §2 (AMD).]

C. Must be operated pursuant to a trust agreement by a board of trustees that has complete fiscal control over the arrangement and that is responsible for all operations of the arrangement. The trustees selected must be owners, partners, officers, directors or employees of one or more employers in the arrangement. A trustee may not be an owner, officer or employee of the administrator or service company of the arrangement. The trustees have the authority to approve applications of association members for participation in the arrangement and to contract with a licensed administrator or service company to administer the day-to-day affairs of the arrangement; [PL 2003, c. 374, §1 (AMD).]

D. May not be offered, advertised or available to employers or other members of the public generally; [PL 2019, c. 96, §2 (AMD).]

E. Must be operated in accordance with sound actuarial principles; [PL 1993, c. 688, §1 (NEW).]

F. Must comply with the requirements of chapter 36, governing continuity of health insurance coverage; [PL 1993, c. 688, §1 (NEW).]

F-1. Must comply with the requirements of section 2809-A, subsection 11, concerning continued coverage in the event of an employee's being temporarily laid off or losing employment because of an injury or disease that the employee claims to be compensable under workers' compensation; [PL 2005, c. 121, Pt. A, §1 (NEW).]

G. May not deny coverage to any otherwise eligible employer, employee or dependent on the basis of health status or claims experience; and [PL 1993, c. 688, §1 (NEW).]

H. May issue only health care benefit plans that comply with the requirements of section 2808-B with regard to rating practices, coverage for late enrollees and guaranteed renewal. An arrangement may not provide health care benefits that do not meet or exceed the requirements for mandated benefits applicable to comparable insured plans. [PL 2001, c. 410, Pt. A, §9 (AMD).]
[PL 2019, c. 96, §2 (AMD).]

1-A. Eligibility based on geographic association.

[PL 2019, c. 96, §3 (RP).]

2. Evidence of benefits; issuance to covered employee. The arrangement shall issue to each covered employee a contract, certificate, summary plan description or other evidence of the benefits and coverages provided. This evidence of the benefits and coverages provided must contain in boldface print in a conspicuous location the following statement: "The benefits and coverages described herein are provided through a trust fund established and funded by a group of employers." Arrangements in existence before October 1, 1993 that have previously issued benefit descriptions to employees may

meet the disclosure requirements under this chapter by issuing to each employee additional written material necessary to meet the requirements of this subsection.

[PL 1993, c. 688, §1 (NEW).]

3. Maintenance of specific excess insurance. Each arrangement shall maintain specific excess insurance with a retention level determined in accordance with sound actuarial principles and approved by the superintendent. The superintendent may also require the arrangement to purchase aggregate excess insurance.

[PL 1993, c. 688, §1 (NEW).]

4. Maintenance of appropriate loss reserves. Each arrangement shall establish and maintain appropriate loss and loss expense reserves determined in accordance with sound actuarial principles and shall fund obligations by depositing assets that will yield in a time frame matching maturing liabilities of the arrangement sufficient funds to discharge claims and other expense payments.

[PL 1993, c. 688, §1 (NEW).]

5. Funds held in trust. All funds of a multiple-employer welfare arrangement must be held in trust in this State in the name of the arrangement in a qualified financial institution by state or federally chartered financial institutions until such time as they are disbursed.

[PL 2003, c. 374, §2 (AMD).]

6. Replacement of trustee. The superintendent may not grant or continue approval until the arrangement replaces any trustee found by the superintendent:

A. To be incompetent, untrustworthy or financially irresponsible; [PL 1993, c. 688, §1 (NEW).]

B. To be guilty of or to have pled guilty or no contest in any state or country to a criminal offense for which incarceration for one year or more may be imposed or for which incarceration of one year or more could be imposed had the offense occurred in this State, or that involves moral turpitude, dishonesty, false statement or misappropriation or conversion of property or funds; [PL 1993, c. 688, §1 (NEW).]

C. To have had any type of insurance license revoked in this State or any other state; or [PL 1993, c. 688, §1 (NEW).]

D. To have improperly manipulated assets, accounts or specific excess insurance or to have otherwise acted in bad faith. [PL 1993, c. 688, §1 (NEW).]

[PL 1993, c. 688, §1 (NEW).]

7. Contracts available for inspection. To qualify for and retain approval to transact business, an arrangement must make all contracts with administrators or service companies available for inspection by the bureau initially and thereafter upon reasonable notice.

[PL 1993, c. 688, §1 (NEW).]

8. Suspension or revocation of approval. Failure to maintain compliance with applicable eligibility or filing requirements established by this section is grounds for suspension or revocation of authority of an arrangement. However, with respect to deficiencies other than an impairment, the arrangement has 60 days after notification by the superintendent to take action necessary to correct the deficiency.

[PL 1993, c. 688, §1 (NEW).]

9. Access to health care services.

[PL 2011, c. 90, Pt. F, §8 (RP).]

SECTION HISTORY

PL 1993, c. 688, §1 (NEW). PL 1995, c. 618, §6 (AMD). PL 1999, c. 256, §R1 (AMD). PL 2001, c. 410, §A9 (AMD). PL 2001, c. 570, §1 (AMD). PL 2001, c. 570, §2 (AMD). PL 2003,

c. 374, §§1,2 (AMD). PL 2005, c. 121, §A1 (AMD). PL 2007, c. 278, §1 (AMD). PL 2011, c. 90, Pt. F, §8 (AMD). PL 2019, c. 96, §§2, 3 (AMD).

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