



Instructions for Certificate of Authority for Multiple Employer Welfare Arrangement

Part I. Forms and Documents Required to be Filed

Article 3.95-5 - Name Application (Official form—FIN300):

Applicant must file a name application form and a filing fee in the amount of \$100.00. The fee is due and payable and the time of filing the name application.

Article 3.95-2(b) - Application to Do Business as a Multiple Employer Welfare Arrangement (FIN374):

The sponsoring association should complete this form and have it signed by the President and Secretary or Trustee. Original signatures and association seal (if any) are required on the application form submitted to the Department.

The filing fee for the initial Certificate of Authority is **\$5,000.00**. The fee is due and payable at the time of filing.

Article 3.95-2(b) (1) - Required documentation:

1. Certified copy of the Articles of Incorporation, complete with original signature and/or seal of the proper official of the Secretary of State's office.
2. By-Laws, Constitution or Rules and Regulations

The by-laws, constitution or rules and regulations must be signed and dated by the Secretary of the association.

3. Trusts or Agreements

Submit a copy of any Trust Agreement between the association and the arrangement and any By-Laws establishing the arrangement. The Trust Agreement must be signed by a trustee.

If the trust agreement or By-Laws do not specifically indicate that the trustees have complete fiscal control over and are responsible for all operations of the arrangement, that the trustees have authority to approve applications of association members for participation in the arrangement, and that the trustees have authority to contract with an authorized administrator or service company to administer the day-to-day affairs of the arrangement, attach other documents which specify their authority.

4. Plan Document or other documentation or instruments describing the rights and obligations of the employers, employees and beneficiaries with respect to the multiple employer welfare arrangement.
5. Summary Plan Description (SPD).

Note: Effective July 1, 1997, the SPD must include the necessary required language pursuant to legislation passed by Kennedy-Kassenbaum bill.

The Plan must include provisions from the Texas Insurance Code for the following:

Art. 3.51-14	Coverage for Certain Serious Mental Illnesses
Art. 3.95-1.6	Health Benefit Plan
Art. 3.95-4	Benefits Allowed
Art. 3.95-4.1	Coverage Requirements
Art. 3.95-4.2	Dependent Children
Art. 3.95-4.3	Renewability of Coverage; Cancellation
Art. 3.95-4.4	Refusal to Renew
Art. 3.95-4.5	Notice of Covered Persons
Art. 3.95-4.6	Premium Rates; Adjustments
Art. 3.95-4.7	Fair Marketing
Art. 3.95-4.8	Preexisting Condition Provisions
Art. 3.95-4.9	Written Statement of Denial, Cancellation, or Refusal to Renew
Art. 3.95-4.10	Third Party Administrator
Art. 21.21-5	Victims of Family Violence
Art. 21.24-2	Group Coverage of Certain Students
Art. 21.53-A	Benefits for Certain Bone and Joint Procedures
Art. 21.53-D	Coverage for Reconstructive Surgery After Mastectomy
Art. 21.53-D	Access to Certain Obstetrical or Gynecological Care
Art. 21.53-D	Guidelines for Diabetes Care
Art. 21.53F	Telemedicine
Art. 21.53F	Coverage for Childhood Immunizations
Art. 21.53F	Coverage for Minimum Inpatient Stay in Health Care Facility and Postdelivery Care Following Birth of Child
Art. 21.53F	Coverage of Certain Tests for Detection of Prostate Cancer
Art. 21.53-G	Coverage for Supplies and Services Associated with Treatment of Diabetes
Art. 21.73	Use of Genetic Testing Information by Insurers

The Plan with components and characteristics consistent with 29 U.S.C. S 1022, including the following items:

1.	name and type of administration of the plan;
2.	name and address of the administrator;

3.	names and addresses of any trustee or trustee if they are persons different from the administrator;
4.	plan requirement with respect to eligibility for participation and benefits;
5.	a description of provisions relating to nonforfeitable benefits if any are included in the plan;
6.	a description of circumstances which may result in disqualification, ineligibility, or denial or loss of benefits;
7.	the source of financing of the plan;
8.	the identity of any organization through which benefits are provided;
9.	the date of the end of the plan year and whether the records of the plan are kept on a calendar, policy or fiscal year basis;
10.	the procedures to be followed in presenting claims for benefits under the plan;
11.	remedies available under the plan for redress of claims which are denied in whole or in part; and
12.	a statement of guaranty fund non-participation.

Article 3.95-2(b)(2) - Financial statements:

1. The financial statement must be a current audited financial statement, certified by an independent certified public accountant. If the arrangement is already in operation, please submit an annual income statement developed on a generally accepted accounting principle basis for the past five years.

Note: The current financial statement should include a balance sheet. If the organization is already in business, it should also include an income statement, as well as a statement of changes in the financial position. Each arrangement must demonstrate that it will have adequate funding to continually meet the minimum fund balance requirements pursuant to Article 3.95-2(d) (10).

2. A projected income statement on a monthly basis, for a minimum of three years and should be developed on a generally accepted accounting principle basis.
3. A projected cash flow analysis on a monthly basis, for a minimum of three years.
4. A projected balance sheet, for a minimum of three years and should be developed on a generally accepted accounting principle basis. It should be accompanied by statements of changes in financial position for the same time period.
5. A statement of the proposed initial cash and cash reserves summary. This should be all inclusive (loan receipts, loan repayments, stock sales, etc.) Also, include a description of the source and terms of the funding.
6. Existing arrangements should submit a copy of their Federal Form 5500 or Form _____.

Article 3.95-2(b) (3) - Fidelity Bond:

The applicant must provide a copy of the fidelity bond issued in the name of the arrangement protecting its trustees, directors, officers, employees, administrator or other individuals responsible for servicing the employer welfare benefit plan, against acts of fraud or dishonesty. Such bond should be in an amount equal to the greater of 10% of the premiums and contributions received by the MEWA, or 10% of the benefits paid, during the preceding calendar year, with a minimum of \$10,000 and a maximum of \$500,000.

Article 3.95-2(b)(4) - Business Plan:

The applicant must provide a business plan, which includes five major areas.

1. **Current Operations:** The applicant should identify the number of employers (no less than five) currently participating in the multiple employer welfare arrangement. The number of participant units and number of dependents covered by the multiple employer welfare arrangement should be included.
2. **Management:** The applicant should indicate if each trustee is either an owner, partner, officer, or directors, and/or employee of a participating employer or is committed to participate in the multiple employer welfare arrangement. In addition, the applicant should provide the name and address of the employer represented by each trustee and by each officer and provide the association of the trustee or officer with such employer. The applicant must list the individuals responsible for managing or handling funds or assets of the multiple employer welfare arrangement. A biographical affidavit must be completed and filed for each trustee, or officer or director or administrator of the multiple employer welfare arrangement.
3. **Administration:** The applicant must give the name of the service company or third party administrator responsible for servicing the program of the multiple employer welfare arrangement and should attach a copy of the company's Texas license. In addition, a copy of the agreement between the multiple employer welfare arrangement and the service company or third party administrator should be submitted, signed by the administrator and trustees of the multiple employer welfare arrangement.
4. **Claims Adjusting and Underwriting:** The applicant should indicate that the multiple employer welfare arrangement has provided a sufficient number of competent persons to service its program in the areas of claims adjusting and underwriting. Applicant should also describe the present or proposed plan to service billings, claims, and underwriting. The criteria for underwriting should be justified.
5. **Marketing and Growth:** The applicant should provide an outline and description of the management's marketing efforts. Applicant should list the names of all persons directly employed by the arrangement, who solicit participants or adjust claims, indicating whether such person has a license issued by the Department and if so, what type of license. For the individuals without licenses, applicant should provide their qualifications.

Article 3.95-2(b)(5) - Initial Actuarial Opinion:

An actuarial opinion must be prepared by an actuary, who is not an employee of the multiple employer welfare arrangement and who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.). The actuarial opinion shall include:

1. A description of the actuarial soundness of the multiple employer welfare arrangement, including any recommended actions that the multiple employer welfare arrangement should take to improve its actuarial soundness;
2. the recommended amount of cash reserves the multiple employer welfare arrangement should maintain which shall not be less than the greater of 20% of the total contributions for the current plan year; cash reserves shall be calculated with proper actuarial regard for known claims, paid and outstanding; a history of incurred but not reported claims, claims handling expenses, unearned premium, an estimate for bad debts, a trend factor, and a margin for error; cash reserves required by this article shall be maintained in cash or federally guaranteed obligations of less than five-year maturity that have a fixed or recoverable principal amount of such other investments as the commissioner of board may authorize by rule; and
3. the recommended level of specific and aggregate stop-loss insurance the multiple employer welfare arrangement should maintain.

On finding of good cause, the Commissioner may order an actuarial review of a multiple employer welfare arrangement in addition to the actuarial opinion required by subsection (a)(2) of this article. The cost of any such additional actuarial review shall be paid by the multiple employer welfare arrangement.

Article 3.95-2(b)(6) - Certification:

A certification by the applicant must be made attesting that the MEWA is in compliance with all applicable provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.) This certification must be made by the President and Secretary or the Trustee of the association.

Article 3.95-2(c) - Biographical Affidavit forms (FIN311):

A biographical affidavit must be completed on each officer, director and/or trustee of the MEWA. (Texas or NAIC forms acceptable).

Part II. Review for Initial Certificate of Authority

Once the above items have been submitted to the Department, the Commissioner shall issue a Temporary Certificate of Authority within 60 days, pursuant to Article 3.95-2(d), providing that the following conditions have been met:

1. Employers in the MEWA are members of an association or group of five or more businesses which are in the same trade or industry, including closely related businesses which provide support, services, or supplies primarily to that trade or industry (Article 3.95-2(d)(1));

2. If an association, the association in the MEWA is engaged in substantial activity for its members other than sponsorship of an employers welfare benefit plan (Article 3.95-2(d)(2);
3. If an association, the association in the MEWA has been in existence for a period of not less than two years prior to engaging in any activities relating to the provision of employee health benefits to its members (Article 3.95-2(d)(3);
4. The employee welfare plan of the association of group in the MEWA is controlled and sponsored directly by participating employers, participating employees or both (Article 3.95-2(d)(4);
5. The association or group of employers in the MEWA is a not-for-profit organization (Article 3.95-2(d)(5);
6. The MEWA has within its own organization adequate facilities and competent personnel to service the employer benefit plan or has contracted with a third-party administrator licensed to engage in business in this state (Article 3.95-2(d)(6);
7. The MEWA has applications from not less than five employers and will provide similar benefits for not less than 200 separate participating employees. The annual gross premiums of or contributions to the plan will be not less than the following:
 - \$20,000 for a plan providing only vision benefits;
 - \$75,000 for a plan providing only dental benefits; and
 - \$200,000 for all other plans;(Article 3.95-2(d)(7)
8. The MEWA has a written commitment, binder or policy for stop-loss insurance issued by a licensed insurer in this state, providing not less than 30 notice to the commissioner of any cancellation or non-renewal of coverage and which provides both specific and aggregate coverage with an aggregate retention of no more than 125% of the amount of expected claims for the next plan year and specific retention amount annually determined by the actuarial report (Article 3.95-2(d)(8);
9. Both the specific and aggregate coverage will require all claims to be submitted within 90 days after the claim is incurred and provide a 12 month claims incurred period and 15 month paid claims period for each policy year (Article 3.95-2(d)(9);
10. The contributions shall be set to fund at least 100% of the aggregate retention plus all other costs of the MEWA (Article 3.95-2(d)(10);
11. Pursuant to Article 3.95-2(d)(11), if the reserves exceed the greater of 40% of the total contributions for the preceding plan year or 40% of the total contributions expected for the current plan year, the contributions may be reduced to fund less than 100% of the aggregate retention plus all other costs of the MEWA but in no event less than the level of contributions necessary to fund the minimum reserves required under subsection (a)(2)(B), Article 3.95-8;

12. The reserves required in the above section have been established or will be established before the final certificate of authority is issued (Article 3.95-2(d)(12);
13. The MEWA has established a procedure for handling claims for benefits in the event of dissolution of the MEWA (Article 3.95-2(d)(13); and
14. The MEWA has obtained the required bond (Article 3.95-2(d)(14).

If the Commissioner determines that the above requirements have been met, a Temporary Certificate of Authority will be issued for a period of twelve months. Once the MEWA receives its initial Certificate of Authority, it shall commence business.

When the MEWA obtains its initial or temporary Certificate of Authority, the MEWA may appoint the Commissioner of Insurance as its agent for service of process. The filing fee for such appointment is **\$25.00**. This fee must accompany the Attorney for Service of Process form (FIN377).

Part III. Review for Final Certificate of Authority

Once the MEWA has received its initial C/A, it has twelve months to apply for the final C/A. Such application shall contain the following information:

1. Statement regarding the names and addresses of:
 - a. the association or group of employers sponsoring the MEWA;
 - b. members of the board of trustees or directors, as applicable, of the MEWA;
 - c. If not an association, at least five employers, which information will be confidential;
2. Copies of all plan documents and agreements with service providers; which shall be confidential;
3. Proof of fidelity bond in an amount equal to the greater of 10% of the premiums and contributions received by the MEWA, or 10% of the benefits paid, during the preceding calendar year, with a minimum of \$10,000 and a maximum of \$500,000.
4. A funding report containing:
 - a. a statement certified by the board of trustees or directors, and an actuarial opinion that all applicable requirements of Article 3.95-8 have been met; and
 - b. actuarial opinion which sets forth a description of the extent to which contributions or premium rates:
 1. are not excessive;
 2. are not unfairly discriminatory; and
 3. are adequate to provide for the payment of all obligations and the maintenance of required cash reserves and surplus by the MEWA;

- c. A statement of the current value of the assets and liabilities accumulated by the MEWA and a projection of the assets, liabilities, income, and expenses of the MEWA for the next 12 month period;
 - d. A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves and other expenses associated with operation of the MEWA;
5. Filing fee of **\$1,500.00**. Such fee is due and payable at the time of filing such application.

THE COMMISSIONER SHALL ISSUE A FINAL CERTIFICATE OF AUTHORITY TO THE MEWA IF THE COMMISSIONER IS SATISFIED THAT THE ABOVE REQUIREMENTS HAVE BEEN MET AS NOTED IN AN ONSITE EXAMINATION.

THE COMMISSIONER MAY REFUSE A FINAL C/A IF THE APPLICANT FAILS TO MEET THE ABOVE REQUIREMENTS. NOTICE OF REFUSAL SHALL BE IN WRITING AND SHALL SET FORTH THE REASON FOR DENIAL AND SHALL CONSTITUTE 30 DAYS ADVANCE NOTICE OF REVOCATION OF THE INITIAL C/A.

THE INITIAL C/A MAY BE EXTENDED FOR AN ADDITIONAL YEAR AT THE DISCRETION OF THE COMMISSIONER IF IT IS DETERMINED THAT THE MEWA MAY MEET THE REQUIREMENTS WITHIN ONE YEAR. NO MORE THAN ONE EXTENSION SHALL BE GRANTED.

If the applicant submits a written request for hearing within 30 days after mailing the notice of refusal, revocation of the initial certificate of authority shall be temporarily stayed and the Commissioner shall promptly conduct a hearing to show compliance with this subchapter.

INCOMPLETE APPLICATIONS IMPEDE TIMELY REVIEW BY THE DEPARTMENT; THEREFORE, IT IS EXTREMELY IMPORTANT THAT APPLICATIONS ARE COMPLETE. SUBMIT A COMPLETE FILING TO THE TEXAS DEPARTMENT OF INSURANCE, COMPANY LICENSING AND REGISTRATION OFFICE, MC 103-CL, P. O. BOX 149104, AUSTIN, TX 78714-9104. FOR QUESTIONS OR MORE INFORMATION, CALL (512) 676-6385.

THESE GUIDELINES ARE GENERAL IN NATURE AND DO NOT SUPERCEDE STATUTE OR REGULATION. THEY ARE NOT INTENDED TO BE ALL INCLUSIVE AND ADDITIONAL DOCUMENTATION MAY BE REQUESTED.