

WAC 200-110-040 Standards for solvency—Program funding requirements. (1) All individual and joint health and welfare programs self-insuring medical benefits shall(~~(~~

~~(a)) establish program reserves in an amount equal to ((eight)) sixteen weeks of program expenses(~~(~~~~

~~(b) Maintain an aggregate stop-loss insurance policy with an attachment point set at or below one hundred twenty five percent of annual expected claim costs; and~~

~~(c) Establish by ordinance or resolution of the governing body, an additional contingency reserve in the following amounts:~~

~~(i) For joint programs, an amount equal to at least eight weeks of program expenses;~~

~~(ii) For individual programs, an amount equal to at least eight weeks of program expenses (recommended), or a different amount approved by the state risk manager in writing.~~

~~(2) In lieu of the requirements stated in WAC 82-65-040(1), all individual and joint health and welfare programs self-insuring medical benefits must obtain an independent actuarial study and fund to the actuarially determined program liability.~~

~~(3) All individual and joint health and welfare self-insurance programs providing either vision, dental or prescription drug benefit programs or any combination of programs thereof shall establish and maintain program reserves in an amount not less than eight weeks of program expenses for each program offered. An additional contingency reserve established by the governing body is recommended, but not required).~~

(2) All individual and joint health and welfare self-insurance programs providing either vision, dental or prescription drug benefits or any combination of programs thereof shall establish and maintain program reserves in an amount not less than eight weeks of program expenses for each program offered. An additional contingency reserve is recommended, but not required.

(3) In lieu of the requirements stated in subsections (1) and (2) of this section, all individual and joint health and welfare self-insurance programs providing either medical, vision, dental or prescription drug benefits or any combination thereof must obtain an independent actuarial study of estimated outstanding program liabilities as of fiscal year ending and maintain funds equal to or greater than the actuarially determined program liability at fiscal year ending.

(4) All programs in existence less than one year shall establish reserves according to the initial plan submitted and approved by the state risk manager.

(5) Self-insurance programs that do not meet requirements for program reserves as of the program's year end shall notify the state risk manager of the condition. The state risk manager shall require the program submit a corrective action plan within sixty days of year end. The state risk manager will notify the program in writing of denial or approval of the corrective action plan within thirty days of submission.

(6) Failure to meet the requirements of the approved corrective action plan may result in further remedial action by the state risk

manager, including the service of a cease and desist order upon the program.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-060 Standards for operations—Standards for management—Disclosures. (1) All individual health and welfare self-insurance programs shall furnish each employee or retiree covered by the program with a written description or access to an electronic description of the benefits allowable under the program, together with:

- (a) Applicable restrictions, limitations, and exclusions;
- (b) The procedure for filing a claim for benefits;
- (c) The procedure for requesting an adjudication of disputes or appeals arising from beneficiaries regarding the payment or denial of any claim for benefits; and
- (d) A schedule of any direct monetary contributions toward the program financing required by the employee.

Such benefits or procedures shall not be amended without written notice to the covered employees at least thirty days in advance of the effective date of the change unless exigent circumstances can be demonstrated.

(2) All joint self-insurance programs shall ensure every member of the program receives written plan documents or access to electronic plan documents which describe:

- (a) All coverages or benefits currently provided by the program, including any applicable restrictions, limitations, and exclusions;
- (b) The method by which members pay assessments;
- (c) The procedure for filing a claim; and
- (d) The procedure for a member to request an adjudication of disputes or appeals arising from coverage, claim payment or denial, membership, and other issues.

Such statements shall not be amended without written notice to the members at least thirty days in advance of the effective date of the change unless exigent circumstances can be demonstrated.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-090 Standards for management—Standards for operations—Financial plans. (1) All self-insurance programs shall maintain a written plan for managing the financial resources of the program. The financial plan shall include:

- (a) A procedure for accounting for moneys received, payments made and liabilities of the joint program which complies with generally accepted accounting principles. For individual programs, a separate fund to account for revenues and expenses associated with the program is recommended, but not required;
- (b) An investment policy which conforms to RCW 48.62.111 governing the investments of the program; and

(c) All individual and joint self-insurance programs shall ensure the preparation and submission of accurate and timely annual ((financial)) reports to the state risk manager within one hundred fifty days of fiscal year end.

Joint self-insurance programs ((shall ensure the submission of)) providing medical benefits must submit to the state risk manager unaudited financial statements as prescribed by the state auditor's office within one hundred fifty days of fiscal year end. Joint self-insurance programs ((shall ensure the submission of)) providing medical benefits must submit to the state risk manager audited financial statements ((to the state risk manager)) as prescribed by the state auditor's office within one year of the program's fiscal year end.

(2) No financial plan of an individual self-insurance program shall permit interfund loans from assets held against liabilities for unpaid claims and claim adjustment expenses except for those amounts which are clearly inactive or in excess of program reserve and contingency reserve requirements.

(3) No financial plan of a joint self-insurance program shall permit loans to any member.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-100 Standards for management—Standards for contracts—Third-party administrator contracts. Before contracting for third-party administrator professional services, all self-insurance programs shall establish and maintain written procedures for contracting with third-party administrators. Entering a contract for services shall not relieve the governing body of the self-insurance program of its ultimate governing, managerial and financial responsibilities. The procedures shall, as a minimum:

(1) Provide a method of third-party administrator selection using a competitive solicitation process;

(2) Require a complete written description of the services to be provided, remuneration levels, contract period and expiration date;

(3) Provide for the confidentiality of the program's information, data and other intellectual property developed or shared during the course of the contract;

(4) Provide for the program's ownership of the information, data, and other intellectual property developed or shared during the course of the contract;

(5) Provide for the expressed authorization of the self-insurance program, consultants to the program, the state auditor, the state risk manager, or their designees, to enter the third-party administrator's premises to inspect and audit the records and performance of the third-party administrator which pertains to the program and to obtain such records electronically ((with)) when audit travel costs can be eliminated or reduced;

(6) Require the compliance with all applicable local, state and federal laws;

(7) Establish a monitoring and acceptance procedure to determine compliance with third-party administrator contract requirements; and

(8) Establish indemnification provisions and set forth insurance requirements between the parties.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-110 Standards for contracts—~~Joint self-insurance programs—Competitive solicitation standards for consultant contracts.~~ Every joint self-insurance program shall use a competitive solicitation process in the selection of consultants. The process shall provide an equal and open opportunity to qualified parties and shall culminate in a selection based on preestablished criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts. Bid responses, solicitation documents and evidence of publication shall be retained in accordance with laws governing public records and shall be available for review by the state risk manager and state auditor.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-130 Standards for management and operations—~~State risk manager reports.~~ (1) Every individual and joint health and welfare self-insurance program authorized to transact business in the state of Washington shall electronically submit the annual report to the state risk manager no later than one hundred fifty days following the completion of the program's fiscal year. Programs that terminate operations shall continue to submit annual reports until all claims have been paid.

(2) Joint self-insurance programs offering medical benefits shall electronically submit annual financial statements in the format prescribed by the state auditor's office. All individual and joint self-insurance programs shall electronically submit the revenue, expenses and other financial data on a form provided by the state risk manager.

(3) All individual and joint self-insurance programs providing medical benefits and maintaining reserves of less than ((eight)) ~~sixteen~~ weeks of program expenses shall submit ((an)) a written actuarial ((study)) estimate of outstanding program liabilities as of fiscal year ending.

(4) All individual and joint self-insurance programs shall submit electronically a list of contracted consultants with the annual report to the state risk manager.

(5) Joint self-insurance programs shall submit electronically the following additional information as part of the annual report to the state risk manager:

(a) Details of changes in articles of incorporation, bylaws or interlocal agreement;

(b) Details of ongoing significant services provided by contract to nonmembers;

(c) List of local government members added to or terminated from the program.

(6) All individual and joint self-insurance programs not meeting reserve requirements as of fiscal year ending as described in WAC ((82-65-040 shall)) 200-110-040 may be required by the state risk manager to submit quarterly reports ((in electronic form)) until notified by the state risk manager that reserving standards have been met.

(7) Failure to provide required financial reports may result in corrective action by the state risk manager. Such actions may include:

(a) Increase in frequency of examinations;

(b) On-site monitoring by the state risk manager;

(c) Service of a cease and desist order upon the program.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-150 Standards for management and operations—Conflict of interest. (1) Every individual and joint self-insurance program shall require the third-party administrator(~~(, the actuary,)~~) and the broker of record to contract separately with the self-insurance program. Each contract (~~((shall require that a written statement be submitted to the program on a form provided by the state risk manager providing assurance))~~) between a self-insurance program and a broker or third-party administrator must include a statement that no conflict of interest exists prior to acceptance of the contract by the self-insurance program.

(2) All self-insurance programs shall meet the following standards regarding restrictions on the financial interests of the program administrators:

(a) No member of the board of directors; trustee; administrator, including a third-party administrator; or any other person having responsibility for the management or administration of a self-insurance program or the investment or other handling of the program's money shall:

(i) Receive directly or indirectly or be pecuniarily interested in any fee, commission, compensation, or emolument arising out of any transaction to which the program is or is expected to be a party except for salary or other similar compensation regularly fixed and allowed for because of services regularly rendered to the program.

(ii) Receive compensation as a consultant to the program while also acting as a member of the board of directors, trustee, third-party administrator, or as an employee.

(iii) Have any direct or indirect pecuniary interest in any loan or investment of the program.

(b) No consultant or legal counsel to the self-insurance program shall directly or indirectly receive or be pecuniarily interested in any commission or other compensation arising out of any contract or transaction between the self-insurance program and any insurer, health care service contractor, health care supply provider or consultant.

(c) Brokers of record for the self-insurance program may receive compensation for insurance transactions performed within the scope of

their licenses. The terms of compensation shall be provided for by contract between the broker of record and the self-insurance program, and the amount or percentage of the compensation must be disclosed in ~~((writing))~~ the contract between the parties. Contracts between brokers of record and the self-insurance program shall include a provision that contingent commissions or other form of compensation not specified in the contract shall not be paid to the broker of record as a result of any self-insurance program insurance transactions. ~~((The self-insurance program shall establish a contract provision which requires the broker provide to the program a written annual report on a form provided by the state risk manager which discloses the actual financial compensation received. The report shall include verification that no undisclosed commission was received as a result of any such insurance transaction made on behalf of the program.))~~

(d) No third-party administrator shall serve as an officer or on the board of directors of a self-insurance program.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-160 Standards for operations—State risk manager—Expense and operating cost fees. (1) The state risk ~~((manager, with concurrence from the health and welfare advisory board,))~~ manager shall fix state risk manager fees to cover expenses and operating costs of the state risk manager's office in administering chapter 48.62 RCW. Such fees shall be levied against each individual and joint health and welfare benefit self-insurance program regulated by chapter 48.62 RCW. Services covered by the state risk manager fees will include program reviews, monitoring and continuing oversight.

(2) The state risk manager fees shall be paid by each self-insurance program to the state of Washington, ~~((office of financial management))~~ department of enterprise services, within sixty days of the date of invoice. Any self-insurance program failing to remit its fee when due is subject to denial of permission to operate or to a cease and desist order until the fee is paid.

(3) A self-insurance program that has voluntarily or involuntarily terminated shall continue to pay an administrative fee until such time as all liabilities for unpaid claims and claim adjustment expenses and all administrative responsibilities of the self-insurance program have been satisfied.

(4) The state risk manager shall assess each prospective joint health and welfare self-insurance program and each prospective individual health and welfare benefit self-insurance program, an initial investigation fee at a rate determined annually by the state risk manager ~~((, with the concurrence of the advisory boards))~~.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-220 Standards for operation—Providing services to nonmembers. (1) Nonmember local governments may purchase claims administration, risk management, claims processing and/or other ongoing significant support services through an interlocal agreement as authorized by chapter 39.34 RCW. Nonmembers shall not participate in any coverages of the joint self-insurance program including the self-insured retention layer and the excess insurance or reinsurance layer. This section is not intended to preclude nonmembers purchasing services from becoming members of the joint self-insurance program, provided the nonmember meets the requirements of WAC ((82-65-210)) 200-110-210 and is eligible for membership as authorized by RCW 48.62.021(1). This section is not intended to limit programs from providing occasional risk management or other support services to nonmembers, but is intended to provide standards for members providing ongoing significant services to nonmembers.

(2) A program intending to provide ongoing significant services to nonmembers shall submit a written plan to the state risk manager for approval prior to providing services. The plan shall include, at a minimum, the services to be provided, the time frame for providing such services, the expected revenues and expenditures resulting from providing said services, and a written legal determination of all potential federal and state tax liabilities created by providing services to nonmembers. The arrangement to provide such services shall be approved in writing by the state risk manager within sixty days of the joint self-insurance program's final plan submission.

(3) Every joint self-insurance program providing ongoing significant services to nonmembers as of the effective date of these regulations must submit a written plan meeting the requirements stated herein.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-230 Standards for operation—Communication with members—Annual membership report. Every joint self-insurance program shall make available to each member a copy of the program's annual membership report. The annual membership report shall include, at a minimum, financial information which includes the ((comparative balance sheet)) statement of net position and statement of revenues((and)) and expenses ((and net assets)). The reports shall be delivered to each member by electronic or regular mail. Programs may meet the delivery requirement by publishing and maintaining the membership report on the official web site of the program for a minimum of three years from the date of publication.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-240 Standards for operation—Notice of regular meetings of the governing body. Every joint self-insurance program shall provide every member with a notice of the time and place of each regular meeting of the governing body at least ten days prior to the meeting. The notice shall be ~~((delivered))~~ provided in electronic or paper form, and the time and location of each meeting shall be included in such notice. The state risk manager shall be provided a copy of all meeting notifications to members in the same form, manner and time as provided to members. In addition to electronic or regular mail, programs shall publish notification of regular meetings on the electronic web site of the program accessible to the public. Notice of regular meetings shall comply with the meeting notification requirements of chapter 42.30 RCW or be published at least ten days in advance of regular meetings, whichever notification time is greater.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-260 Standards for operations—Meeting agendas—Meeting minutes. Every joint self-insurance program will provide the state risk manager and every member with a preliminary agenda in advance of each meeting of the governing body. The agenda shall be delivered by electronic mail and shall be posted on the web site of the program accessible to the public. Meeting minutes, after approval, shall be ~~((provided to the state risk manager and every member of the program by electronic mail and shall be))~~ posted on the web site of the program accessible to the public.

AMENDATORY SECTION (Amending WSR 11-23-093, filed 11/17/11, effective 11/17/11)

WAC 200-110-280 Standards for operation—Changes to interlocal agreement. (1) Changes to any terms of the interlocal agreement shall be by amendment and shall be approved by ~~((a majority of the members, or by a greater majority if provided for in the bylaws or interlocal agreement of the joint self insurance program. Changes to the interlocal agreement shall be approved during a regular meeting of the governing body or by mail in ballot. If mail in ballots are used, the ballots are to be secured and remain unopened until the next regular meeting of the governing body. The opening and counting of the ballots shall be conducted by the governing body of the joint self insurance program during the next regular meeting and retained in compliance with public records retention laws. Each ballot shall be read orally as to the member name and vote, either in the affirmative or negative, and recorded in the meeting minutes))~~ the governing body of each joint self-insurance program during a regular meeting of the governing body.

(2) Amendments to the interlocal agreement shall be adopted by ordinance or resolution of the governing board or council of each member and signed by an authorized representative of each member. The resolution or ordinance shall include, but not be limited to, an acknowledgment that the member is subject to assessments and reassessments if required by the joint self-insurance program. The signed amendment and copy of the ordinance or resolution, as appropriate, shall be submitted to, and retained by, the joint self-insurance program. Copies of the interlocal agreement and subsequent amendments shall be published on the electronic web site of the joint self-insurance program.

(3) Changes to any terms of the interlocal agreement shall require amendment using the approval and adoption process described above.

(4) ~~((The addition of new members to a joint self insurance program and/or the subscription of the interlocal agreement by said new members shall not be considered as amendments to the interlocal agreement.))~~ Each new member joining a joint self-insurance program after the formation of the program shall sign a copy of the most current interlocal agreement and copies of all subsequent amendments to that agreement that have been adopted by the governing body of the joint self-insurance program. The joint self-insurance program shall retain the signed interlocal agreements and amendments until termination of the program occurs.

(5) When a new interlocal agreement is adopted by the governing body of the joint self-insurance program to replace the existing interlocal agreement and incorporate amendments, the new interlocal agreement shall be adopted by ordinance or resolution of each member of the joint self-insurance program. The new interlocal agreement shall be signed by an authorized representative of each member. The signed interlocal agreement and a copy of the ordinance or resolution adopting the program shall be submitted to, and retained by, the joint self-insurance program until termination of the program occurs.