

Julsrud, Amy C. (DES)

From: Vyrle Hill <Vyrle@wcrp.wa.gov>
Sent: Wednesday, October 09, 2013 5:15 PM
To: DES Rules; Proctor, Devin (DES)
Cc: Stuber, Shannon (DES); 'Dick Rodruck'; 'btalbott@9mile.org'; 'WCrago@ephrata.org'; 'Ann Bennett'; 'dcallahan@wsrmp.com' (dcallahan@wsrmp.com); 'Mark Kammers'; 'dbrugmann@sssc.org'; 'JHutton@cvsd.org'; 'Loy Dale'; 'Al Hatten'; Hopkins, Luann; 'Larry Bailey'; 'Bill Gregory'; 'shutsell@co.lincoln.wa.us'; 'Peggy Sandberg'; 'Jerry Spears'; 'PReay@ci.college-place.wa.us'; 'Ron.Cowan@bellingshamschools.org'; 'bthurston@rosalia.wednet.edu'; Susan Looker; 'Leah Vergosen'; 'rortiz@enduris.us'; 'Sadie Armijo'; 'Jim Cherf'; 'Rich Moore'; 'Eric Homer'; 'Brian Turnbull'; Tammy Devlin; 'Marcia Fromhold (marciafromhold@comcast.net)'; Ryherd, Majken; 'Jim Richards'; Triplett, Linda; 'Kathleen Lince'; Christenson, John (DES)
Subject: RULEMAKING COMMENTS: Chapter 200-100 WAC
Follow Up Flag: Follow up
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Devin Proctor, Rules and Policy Coordinator
Washington State Department of Enterprise Services
Contracts and Legal Services Division

Mr. Proctor;

We are writing to share our comments and suggestions that relate to the amendments to Chapter 200-100 WAC presently under consideration by DES. We apologize for not appearing at one or both of last week's public hearings to present these in person. But we were informed of a serious development late the week before that all but consumed us last week.

I trust you will appropriately consider the comments and suggestions that follow. For ease of review, specific comments/suggestions are presented by the Chapter section of reference. These are followed by more thought-provoking comments pertinent to WAC 200-100-03001 (2).

WAC 200-100-02023: We find the proposed changes conform with our Board's recommendations provided earlier. We have no comment or suggestion regarding the language proposed to be deleted or to be added.

WAC 200-100-03001

1. We suggest that the last word in subsection (1) be made plural, i.e. "level" should be "levels".
2. We suggest that the intent of the rule would be better communicated if the last sentence in subsection (2) were changed to: "The state risk manager... upon the program(,) and/or to require... fiscal year end."
3. We suggest that the intent of the new paragraph in subsection (4) would be better understood if the words "one or more of" were added near the end of the preamble and the word "or" at the end of sub-subsection (c) were changed to "and"; that is, to modify the new paragraph (preamble) to: "Joint self-insurance programs... may be subject to one or more of the following requirements:" and that sub-subsection (c) read: "On-site monitoring by the state risk manager; (,) and".
4. We suggest minor changes to the new subsection (6) as follows: "All joint self-insurance programs... unpaid claims estimates at the seventy percent(,) confidence level, as determined by... cease and desist order".

WAC 200-100-037: We find the proposed changes conform with our Board's recommendations provided earlier. We have no comment or suggestion regarding the language proposed to be deleted or to be added.

WAC 200-100-060: We find the proposed changes conform with our Board's recommendations provided earlier. We have no comment or suggestion regarding the language proposed to be added.

Following another and even closer review of the "shall establish and maintain primary (and secondary) assets" references in both WAC 200-100-03001 (2) and (3), we might now better understand the SAO's initial Restricted Assets accounting/reporting directives. But we also know that the intent of these rules were intended to measure and assure solvency of the pooling entities. Net Position might be a better accounting basis and measurement tool.

Yet until that alternative concept is developed and appropriately discussed, might you consider clarifying the intent of the rules by changing the first sentence in subsections (2) and (3) as follows:

- (2) *The governing body of the joint self-insurance program shall ~~((establish and maintain))~~ possess primary assets ~~((in an amount))~~ that in total are at least ~~((equal))~~ equivalent to the unpaid claims estimate at the expected level as determined by the program's actuary as of fiscal year end.*
- (3) *The governing body of ~~((the))~~ every joint self-insurance program operating under this chapter shall ~~((establish and maintain))~~ possess ~~((total))~~ primary and secondary assets ~~((in an amount))~~ that in total are ~~((equal))~~ equivalent to or greater than the unpaid claims estimate at the ~~((seventy))~~ eighty percent confidence level as determined by the program's actuary as of fiscal year end.*

Please accept our sincere thanks for the opportunity to comment and to provide the above suggested changes for your further consideration. Do not hesitate to contact us should you need further clarification.

Respectfully submitted,

Vyrle L. Hill

Executive Director

Washington Counties Risk Pool

2558 R W Johnson Rd S.W., Suite 106

Tumwater, WA 98512-6103

Office: 360/292-4495

Mobile: 360/480-2116

Email: vyrle@wcrp.wa.gov

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