

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1006

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 2-1-84
DATE FOR REVIEW
DATE DUE 2-8-84

Adopted w/a hearing
Adopted w/o hearing
Temporary rule ✓

Approved 2-8-84 MJC Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State Revisor approved 2/2/84 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 1.26.84 Date combined w/ FofF

✓ Notice of Intent to Solicit Outside Opinion SR. 7.25.83

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
12.9.83 At least ~~30~~ 20 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
12.12.83 At least ~~30~~/20 days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
Approving H.E.'s Report
Approving agency action

✓ Agency's Findings of Fact combined w/ Order Adopting

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

Order Approving Incorporation by Reference

Statement of Need and Reasonableness

Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : MICHAEL A. HATCH
DEPARTMENT OF COMMERCE

DATE: 2/9/84

Attn: RODNEY A. WILSON
Special Assistant-Attorney General

FROM : MARTY CASSERY
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Temporary Rules Governing Joint Self-Insurance Employee Health Plans.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

MJC/ap

AG copy.

Department of Commerce

Adopted Temporary Rules Governing Joint Self-Insurance Employee Health Plans

Temporary Rules as Adopted

4 MCAR S 1.850 [Temporary] Statutory authority.

Rules 4 MCAR SS 1.850-1.866 [Temporary] are adopted under the authority of Laws of Minnesota 1983, chapter 241, section 6.

4 MCAR S 1.851 [Temporary] Purpose.

Rules 4 MCAR SS 1.850-1.866 [Temporary] govern the formation, operation, and dissolution of groups of employers which jointly self-insure employee health, dental, or short-term disability benefits. These rules are intended to ensure that a group's financial integrity is maintained, and that groups are administered competently and equitably.

4 MCAR S 1.852 [Temporary] Scope.

The following are subject to the requirements of 4 MCAR SS 1.850-1.866 [Temporary]:

A. employers authorized to transact business in Minnesota that seek to jointly self-insure employee health, dental, or short-term disability benefits;

B. self-insurance plan administration companies licensed under Minnesota Statutes, section 60A.23, subdivision 8, clause (3), that provide services to a plan; and

C. insurance companies licensed under Minnesota Statutes, section 60A.07, subdivision 4, or service plan corporations licensed under Minnesota Statutes, section 62C.08, that provide required stop-loss coverage to a plan.

F&F

4 MCAR S 1.853 [Temporary] Definitions.

For the purposes of 4 MCAR SS 1.850-1.866 [Temporary], the terms in A.-W. have the meanings given them unless the context clearly indicates a different meaning.

A. Annual premium. "Annual premium" means the total premium

paid or to be paid by all members during a single fiscal year of a plan.

B. Board. "Board" means a plan's board of trustees.

C. Bylaws. "Bylaws" means the adopted statement which prescribes the scope, government, and administration of a plan, as required by 4 MCAR S 1.854 [Temporary].

D. Commissioner. "Commissioner" means the commissioner of the Department of Commerce.

E. Coverage. "Coverage" means the right of a covered employee or other beneficiary to indemnification by a plan by virtue of the coverage document.

F. Coverage document. "Coverage document" means the document that specifies the characteristics and duration of coverage provided through a plan.

G. Covered employee. "Covered employee" means an employee of a plan member covered through the plan, and a former employee receiving continued coverage under Minnesota Statutes, section 62A.17. "Covered employee" does not include dependents or other persons included under the coverage extended to a current or former employee, or persons covered under individual insurance policies according to Minnesota Statutes, sections 62A.17, subdivision 6, or 62E.16.

H. Days. "Days" means calendar days.

I. Financial administrator. "Financial administrator" means the bank or investment company under contract with the board for investment of the plan's assets and other financial services.

J. Fund year. "Fund year" means the fiscal year of a plan, which is the calendar year.

K. Insurer. "Insurer" means an insurance company licensed under Minnesota Statutes, section 60A.07, subdivision 4, and authorized by Minnesota Statutes, section 60A.06 to write the kind of insurance offered or a service plan corporation licensed under Minnesota Statutes, section 62C.08.

L. Member. "Member" means an employer who participates in a plan. Reference to actions of a member includes actions on behalf of the member's employees and other covered persons.

M. Plan. "Plan" means an employee benefit joint self-insurance plan approved under 4 MCAR SS 1.850-1.866 [Temporary]. Reference to actions of a plan includes actions by the plan's agents if the plan has delegated authority to these agents.

N. Plan director. "Plan director" means the person vested with authority for the plan's operation between meetings of the board. The plan director shall be a member of the board.

O. Premium. "Premium" means the amount paid or to be paid for coverage by members to a plan under 4 MCAR S 1.861 [Temporary] A. This term does not include assessments or penalties.

P. Reinsurance. "Reinsurance" means a stop-loss coverage agreement.

Q. Reinsurer. "Reinsurer" means an insurance company or service plan corporation providing stop-loss coverage, notwithstanding that primary coverage provided through a self-insurance plan is not insurance.

R. Reserve. "Reserve" means a liability corresponding to an estimate of the amount necessary to pay future losses or expenses under 4 MCAR S 1.862 [Temporary].

S. Runoff plan. "Runoff plan" means a plan that no longer has authority to self-insure, but that continues to exist for the purpose of paying claims, preparing reports, and administering transactions associated with the period when the plan provided coverage.

T. Self-insure. "Self-insure" means to assume primary liability or responsibility for certain risks or benefits, rather than transferring liability or responsibility to some other entity.

U. Separate employer. "Separate employer," for the purposes of meeting the minimum three-employer requirement, means an employer that is not the parent, subsidiary, or affiliate with a common parent of any other employer in the plan.

V. Service company. "Service company" means an entity licensed under Minnesota Statutes, section 60A.23, subdivision 8

and rules adopted thereunder as a self-insurance plan administrator.

W. Short-term disability benefit. "Short-term disability benefit" means income replacement payments of not more than one year's duration.

4 MCAR S 1.854 [Temporary] Bylaws.

A. Content. A plan's bylaws may contain provisions that do not conflict with 4 MCAR SS 1.850-1.866 [Temporary]. A plan's bylaws must, at a minimum, contain the following provisions:

1. the plan's name, purpose, and initial date of existence;

2. definitions of key terms;

3. a statement of the powers, duties, and responsibilities assigned to the plan director, the plan's board of trustees, the service company, and the financial administrator, and reserved to the plan's membership;

4. the number, term of office, method of selection, and method of replacement of the members of the plan's board of trustees;

5. the procedure for calling special meetings of the board;

6. the method of periodic selection and review of the service company and financial administrator;

7. the procedure for amending the bylaws;

8. the procedure for resolving disputes among members, which shall not include submitting the disputes to the commissioner;

9. the criteria for membership in the plan, including standards of financial integrity and loss experience;

10. the procedure for adding new members to the plan;

11. the criteria for expulsion from the plan, including nonpayment of premium;

12. the procedure for withdrawal and expulsion of members from the plan;

13. a statement of the coverages which the plan intends to provide;

14. the procedure for adding and dropping members' participation in a particular coverage;

15. a schedule for premium payments by members and, if applicable, their employees;

16. the procedure for changing premium rates;

17. the procedure for levying and collecting an assessment;

18. the procedure for distribution of dividends, and the eligibility of past members and past covered employees for dividends; and

19. the procedure for distribution of assets remaining upon the plan's dissolution.

B. Adoption and changes. The bylaws of a plan must be adopted in writing by all initial members, and filed with the commissioner at the time of application. Changes in the bylaws must be made according to the procedures specified in the bylaws, which shall provide either approval by a specific percentage of the plan's members, or approval by a specific percentage of the board members. Changes do not become effective until 21 days after the vote of the plan's or board's membership has been tallied, unless a later date is specified. The proposed bylaw change must be filed with the commissioner not less than 14 days before it is to be effective. The commissioner shall disallow the change before its effective date if it is inconsistent with a Minnesota statute or rule, or any lawful order of the commissioner.

4 MCAR S 1.855 [Temporary] Board.

A. Structure. A plan must have a board of trustees consisting of officials or employees of the plan's members. No plan member may have more than one representative on the board. No board member may be an employee, agent, or representative of a service company, financial administrator, insurance company, or any person or entity under contract with the plan. Board members shall be elected by majority vote of the plan's members. The terms of board members must be staggered to provide continuity. The board shall meet no less than four

times annually.

B. Duties. The board is responsible for operation of the plan, and shall delegate some or all of its responsibilities to the plan director between board meetings. All responsibilities of the plan not expressly delegated by the board or 4 MCAR SS 1.850-1.866 [Temporary] are the responsibility of the board. The board shall have at a minimum the following responsibilities:

1. fiduciary responsibility for the plan's operation and financial condition;

2. selection, supervision, and evaluation of the service company, financial administrator, accountant, reinsurer, and any other contractors;

3. monitoring the overall financial condition of the plan; making recommendations for changes in premium, reserve, or investment practices; and declaring assessments or dividends as appropriate to the plan's financial condition;

4. approving all reports concerning the plan's operations and status to the commissioner and the plan's members;

5. monitoring delinquent premiums, loss experience, and the financial condition of individual members; and as required by the bylaws, initiating or recommending to the membership disciplinary action or expulsion;

6. as required by the bylaws, acting upon applications for membership in the plan or recommending acceptance or rejection to the membership;

7. as permitted by the bylaws, making changes to the bylaws for the improvement of the operation and financial integrity of the plan, or recommending these changes to the members; and

8. monitoring the compliance of the plan with all statutes and rules governing its operation.

4 MCAR S 1.856 [Temporary] Application.

A. Form. Three or more employers may apply to the commissioner for authority to form a self-insurance plan, using forms available from the commissioner. Applications must be submitted not later than 60 days prior to the requested date for

authority to self-insure. All reinsurance contracts must be submitted not later than 30 days prior to the requested date. Applications submitted without responses to certain questions, or with responses which in the commissioner's judgment are inadequate, must be returned to the applicant for resubmission. Applications not returned to the applicant for resubmission within 14 days of receipt must be approved or disapproved within 60 days of receipt.

B. Exemptions. Joint self-insurance plans which offer a program of coverage qualified under the Employees Retirements Income Security Act (ERISA), United States Code, title 29, sections 1001 et seq., are exempted from 4 MCAR SS 1.850-1.866 [Temporary] upon filing with the commissioner notice of this qualification from the United States Department of Labor.

C. Merger. Two or more existing plans may apply to merge, provided the new plan assumes all obligations of the former plan. Applications are subject to the same requirements as prospective new plans.

D. Approval and disapproval. Upon approval of an application, the commissioner shall issue an order authorizing the proposed joint self-insurance plan. Approval of applications for authority to self-insure must be granted if the proposed plan conforms with all requirements of 4 MCAR SS 1.850-1.866 [Temporary]; with all applicable requirements of Minnesota Statutes, chapters 62A, 62D, 62E, and 72A as described in 4 MCAR S 1.860 [Temporary] A.; with Minnesota Statutes, sections 72A.19 to 72A.32; and with other applicable Minnesota statutes and rules.

4 MCAR S 1.857 [Temporary] Termination, revocation, runoff, and dissolution.

A. Voluntary termination. A plan may voluntarily terminate its authority to self-insure by action of the membership. The plan shall notify the commissioner of this action. Termination is not effective until 45 days after the action of the membership or 30 days after written notification to the commissioner, whichever is later, or a later date if specified

by the membership. Voluntary termination of self-insurance authority does not constitute plan dissolution under D.

B. Revocation of authority. The authority of a plan to self-insure may be revoked by order of the commissioner upon ten days written notice for any of the following reasons:

1. failure of the plan to comply with 4 MCAR SS 1.850-1.866 [Temporary]; with all applicable requirements of Minnesota Statutes, chapters 62A, 62D, and 62E as described in 4 MCAR S 1.860 [Temporary] A.; or with other applicable Minnesota statutes or rules;

2. failure of the plan to comply with any lawful order of the commissioner;

3. commission by the plan of an unfair or deceptive practice as defined in Minnesota Statutes, sections 72A.17 to 72A.32, or in rules adopted under Minnesota Statutes, section 72A.19, subdivision 2; or

4. a deterioration of the plan's financial integrity to the extent that its present or future ability to meet obligations promptly and in full is in doubt.

C. Runoff plans. A plan shall continue to exist after its authority to self-insure has been terminated, for the purpose of paying claims, preparing reports, and administering transactions associated with the period when the plan provided coverage. Notwithstanding termination of authority to self-insure, a plan shall continue to comply with all applicable provisions of 4 MCAR SS 1.850-1.866 [Temporary], and with all other applicable Minnesota statutes and rules.

D. Dissolution. A plan that desires to cease existence shall apply to the commissioner for authorization to dissolve. Applications must be approved or disapproved within 60 days of receipt. Dissolution without authorization is prohibited and void, and does not absolve a plan from fulfilling its continuing obligations, and does not absolve its members from assessment under 4 MCAR S 1.865 [Temporary]. The plan's assets at the time of dissolution must be distributed to the members and covered employees as provided in the bylaws. Authorization to dissolve

must be granted if either of the following conditions are met:

1. the plan demonstrates that it has no outstanding liabilities, including incurred but not reported liabilities; or

2. the plan has obtained an irrevocable commitment from a licensed insurance company which provides for payment of all outstanding liabilities, and for providing all related services, including payment of claims, preparation of reports, and administration of transactions associated with the period when the plan provided coverage.

4 MCAR S 1.858 [Temporary] Administration.

A. Service company. A plan shall contract with a licensed service company for services necessary to the day-to-day operations of the plan, except services and responsibilities reserved to the members, the board, the plan director, the financial administrator, or other contractors. Subject to the oversight of the board and the plan director, the service company shall provide all services directly related to the administration of coverage, including but not limited to accounting and recordkeeping; billing and collection of premiums and assessments; claims investigation, settlement, and reserving; claims payment, including claims wholly or partially subject to reinsurance or member deductibles; general administration; loss control, safety programs, or both; and underwriting. The services may be provided directly by the service company or by subcontractors to the service company.

B. Financial administrator. A plan shall contract with a financial administrator for investment of the plan's assets and for other financial or accounting services. No staff members of the financial administrator may be an owner, officer, employee, or agent of the service company, or of a subcontractor of the service company.

C. Recordkeeping. A plan shall maintain within the state of Minnesota all records as are necessary to verify the accuracy and completeness of all reports submitted to the commissioner under 4 MCAR S 1.866 [Temporary]. The commissioner shall have access to the plan's records in order to ascertain the plan's

compliance with 4 MCAR SS 1.850-1.866 [Temporary]. All records concerning claims, reserves, financial transactions, and other matters necessary to the plan's operations are the plan's property. The plan is responsible for reasonable costs associated with the transfer of such records from a service company, financial administrator, or other contractor.

4 MCAR S 1.859 [Temporary] Membership.

A. Availability. Plan membership is available only to employers domiciled and authorized to transact business in Minnesota. No employer may be a member of more than one plan authorized under 4 MCAR SS 1.850-1.866 [Temporary]. A plan may establish other nondiscriminatory criteria for membership. Nothing in these rules requires a plan to offer membership to an employer which does not meet the plan's underwriting standards.

B. Joining. Admission of new members must comply with the standards and procedures specified in the bylaws. Membership is not effective until the applicant has signed a membership agreement affirming its commitment to comply with the bylaws and 4 MCAR SS 1.850-1.866 [Temporary].

C. Voluntary withdrawal. A member shall notify the plan of its desire to withdraw not less than 30 days before the date upon which it desires to withdraw. If the board determines that the withdrawal would cause the plan to be in violation of the minimum number of covered employees requirement of Minnesota Statutes, section 62H.01, or any other requirement of 4 MCAR SS 1.850-1.866 [Temporary], the plan shall notify the commissioner under E. Withdrawal from a plan is prohibited and void unless:

1. the member has belonged to the plan continuously until the end of the current fund year, or until the end of the succeeding fund year for new members which join in the last three months of the fund year, or a longer period if required by the bylaws, provided that members may be expelled from a plan at any time; and

2. all outstanding premiums and assessments owed by the member have been paid.

D. Expulsion. At least annually the plan shall review the

status and experience of each member by comparison with the criteria for expulsion in the bylaws. Expulsion of a member is subject to the procedures and requirements for voluntary withdrawal of a member.

E. Minimum covered employees and employers. At least monthly a plan shall monitor the number of employees it covers. If the number of covered employees is less than 300, the plan shall notify the commissioner at least monthly of the number of covered employees. If the number of covered employees becomes less than 250, or the number of members becomes less than three, the plan shall notify the commissioner of its intent to terminate its self-insurance authority or its proposal for restoring compliance with Laws of Minnesota 1983, chapter 241, section 1. If the proposal is unlikely, in the commissioner's judgment, to restore compliance within 120 days, or if after 90 days the plan continues to have less than 250 covered employees or less than three members, the commissioner shall revoke the plan's authority.

F. Runoff plan membership. After revocation of a plan's authority to self-insure, or after written notification to the commissioner of intent to terminate self-insurance authority voluntarily, no member may join, leave, or be expelled from the plan.

4 MCAR S 1.860 [Temporary] Coverage.

A. Mandated coverages and related requirements. If required under Minnesota Statutes, section 62E.17, a member shall provide health maintenance organization-type coverage which may be made available through the plan. A plan shall provide a qualified Medicare supplement coverage, as defined in Minnesota Statutes, section 62E.07, to eligible employees and shall make a conversion coverage option available. A plan shall conform to the requirements of Minnesota Statutes, chapters 62A, 62D, and 62E, and related rules, as applicable to group insurance coverage as defined in Minnesota Statutes, section 62A.10; Medicare supplement coverage as described in Minnesota Statutes, section 62A.31; and plans of health coverage as defined in

Minnesota Statutes, section 62E.02. These requirements include but are not limited to filing and obtaining approval for coverage documents and rates; coverage document language requirements; mandated benefits; employee notice requirements; requirements to offer continuation of coverage to employees and other covered persons; and requirements to offer conversion coverage to employees and other covered persons, for which purpose carriers licensed under Minnesota Statutes, section 60A.06, subdivision 1, clause (5)(a), chapter 62C or 62D are eligible. Any changes in the coverage offered by a plan must comply with Minnesota Statutes, chapters 62A, 62D, and 62E. All insurance type coverage documents must be filed and approved or disapproved under Minnesota Statutes, section 62A.02.

B. Scope of coverage. All coverages offered by a plan must be available according to the same underwriting standards to all employees of all members.

C. Term of coverage. A plan shall not commit itself to providing coverage for any period which extends beyond the term of any reinsurance contracts required under 4 MCAR S 1.863 [Temporary].

D. Continuing responsibility. Notwithstanding cancellation or termination of coverage to a particular employee or other covered persons, ceasing to offer a coverage, or termination or revocation of authority to self-insure, a plan retains indefinitely all responsibilities to covered employees associated with the period while coverage was in force, unless the plan dissolves under 4 MCAR S 1.857 [Temporary] D.

4 MCAR S 1.861 [Temporary] Premiums and dividends.

A. Premium payments. At the time coverage documents and rates are filed with the commissioner for approval, a plan shall specify for each coverage the portion of premium to be paid by members and the portion to be paid by covered employees. The fund year is the basis for calculating premiums, subject to mid-year adjustments. Any delinquencies in payments by employees must be paid on their behalf by the employer, with the employer having the right to seek reimbursement from the

employee, or from the plan if payment is later made directly to the plan. A plan shall promptly take appropriate action to collect any members' premiums or assessments which are past due. A plan may permit payments to be made in installments, provided payment is always to be received in advance of the date when premium is to be earned.

B. Dividends. A plan may declare a dividend or distribution provided its surplus account is fully funded, under 4 MCAR S 1.862 [Temporary] C.1.; or provided the policy year-end settle-up calculation and payments have been made concerning any funds advanced from the reinsurer under 4 MCAR S 1.862 [Temporary] C.2. The apportionment of dividends must be based on the relative amounts of premium paid, and must provide for payments to members and to covered employees.

4 MCAR S 1.862 [Temporary] Reserves.

A. Loss and premium reserves. A plan shall establish loss reserves for all incurred losses, both reported and unreported, and for unearned premiums. To the extent that the amount of a loss is uncertain, reserves must be set conservatively. As the degree of uncertainty concerning a loss is changed by new events or information, the amount of the reserve must be changed appropriately. Accounting for reserves must be as provided on the forms required under 4 MCAR S 1.866 [Temporary] A.

B. Full funding requirement. A plan shall provide for the full funding of its unpaid losses by establishing a loss ratio reserve for each fund year, in the amount of the premium collected for coverage during that fund year; multiplied by the loss ratio percentage fixed in the aggregate excess stop-loss reinsurance contract under 4 MCAR S 1.863 [Temporary] C.; less the amount of losses paid, loss reserves, and unearned premium reserves attributable to that fund year. For the purpose of establishing the loss ratio reserve amount, the amount of premiums paid for individual excess stop-loss reinsurance coverage during that fund year must be deducted from "premium collected," and the amount of loss payments received for that fund year pursuant to said reinsurance must be deducted from

"losses paid." Loss ratio reserves remaining one year after the fund year's conclusion may be eliminated.

C. Surplus requirement. A plan shall protect itself from cash flow difficulties by either:

1. Establishing a surplus account equal to the greater of:

a. three times the average paid monthly premium during the plan's most recent fund year;

b. for plans which do not yet have one fund year's experience, three times estimated monthly premium; or

c. $100,000.

The surplus account must not be drawn upon unless other assets are inadequate or unavailable to pay current expenses. Surplus account assets must not be offset against loss or premium reserve liabilities established under A., or any other plan liabilities. The plan shall notify the commissioner not later than seven days after the amount in the surplus account decreases below the required amount, and of the plan's intentions to restore the required amount. The plan must restore the required amount not later than 60 days after the deficiency originated. Repeated failure to maintain the required surplus amount is grounds for revocation of self-insurance authority.

2. Obtaining a provision in the aggregate excess stop-loss reinsurance contract required under 4 MCAR S 1.863 [Temporary], which requires the reinsurer to advance funds to the plan at any time at the plan's request. Any funds so advanced must be included in the settle-up calculation at the conclusion of the fund year. No limit may be set on the amount of funds which the plan may require to be so advanced.

4 MCAR S 1.863 [Temporary] Reinsurance.

A. Purchase and alteration. The plan shall inform the commissioner at least 90 days prior to expiration of its reinsurance contract if it intends not to renew a reinsurance contract, or if the reinsurance contracts will not be renewed by the reinsurer. Alteration of a reinsurance contract mid-term with the effect of reducing coverage is prohibited. Under Laws

of Minnesota 1983, chapter 241, section 2, reinsurance contracts are noncancellable for a minimum of two years, for any cause including nonpayment of reinsurance premium. If more than one reinsurance contract is obtained in fulfillment of this section's requirements, their expiration dates must be the same.

B. Individual excess. A plan's individual excess stop-loss reinsurance must provide for the reinsurer to assume all liability in excess of $25,000 per person per year. A plan may apply to the commissioner for increasing the individual excess stop-loss reinsurance limit up to $50,000. The commissioner shall approve this application coverage, if the increased limit would not be detrimental to the solvency and stability of the plan, considering the plan's experience, size, surplus, and other factors that affect financial integrity.

C. Aggregate excess. A plan's aggregate excess stop-loss reinsurance must provide for the reinsurer to assume all liability in excess of a specified loss ratio for a particular fund year, based on actual premium collected and paid losses attributable to that fund year. For this purpose, "loss ratio" means the percentage which paid losses constitute of premium collected, excluding losses assumed by individual excess stop-loss reinsurance and premiums paid for said reinsurance.

D. Delinquencies and insolvencies. One of a plan's reinsurance contracts shall provide for the reinsurer:

1. at the plan's or the commissioner's request, to pay premium to the plan on behalf of a member that fails to pay due to insolvency, unauthorized withdrawal from the plan, or any other reason; and

2. at the commissioner's request, to assume direct responsibility for a plan's coverage and other responsibilities under these rules and related statutes if the plan becomes insolvent, ceases operations without authorization, or otherwise fails to fulfill its responsibilities under these rules and related statutes.

This reinsurance contract may provide for the reinsurer to have a cause of action to collect from the plan or a member on

whose behalf the reinsurer is called upon to pay premium, pay claims, or incur other extraordinary expenses; provided that the reinsurer is obligated to fulfill its responsibilities under this paragraph while this action is pending. The reinsurance contract must provide that the reinsurer's responsibilities extend to matters arising during or attributable to the contract period, and that these responsibilities do not terminate with the end of the contract period.

E. Return of liability. No liability or other responsibilities transferred to a reinsurer pursuant to this rule may, directly or indirectly, be returned to a plan, a member, or a member's parent, subsidiary, or affiliate.

4 MCAR S 1.864 [Temporary] Financial integrity.

A. Fidelity bond. All contractors and individuals who handle plan funds or who will have authority to gain access to plan funds, including board members, shall be covered by a fidelity bond purchased by the plan. The bond must cover losses from dishonesty, robbery, forgery or alteration, misplacement, or mysterious and unexplainable disappearance. The coverage must be not less than the amount indicated by the following table. "Exposure Index" means the total of plan assets multiplied by five percent, and plan annual income multiplied by ten percent, to be refigured at the end of each fund year.

Exposure Index	Minimum Bond Amount
$ 500,000 or less	$100,000
500,001 - 750,000	125,000
750,001 - 1,000,000	150,000
1,000,001 - 1,375,000	175,000
1,375,001 - 1,750,000	200,000
1,750,001 - 2,125,000	225,000
2,125,001 - 2,500,000	250,000
2,500,001 - 3,325,000	300,000
3,325,001 - 4,175,000	350,000
4,175,001 - 5,000,000	400,000
5,000,001 - 6,075,000	450,000
6,075,001 or more	500,000

B. Integrity of funds. The assets of a plan must not be commingled with the assets of any member. The assets of a plan must not be loaned to anyone for any purpose, or used as security for a loan. The assets of a plan must be employed solely for the purposes stated in the plan's bylaws, and in compliance with the requirements of 4 MCAR SS 1.850-1.866 [Temporary] and applicable Minnesota insurance statutes. No member, covered employee, or other covered person has a right to an asset of a plan except:

1. for benefits under the coverage documents;

2. for dividends declared under 4 MCAR S 1.861 [Temporary] B.; and

3. for a portion of the assets remaining upon the dissolution of the plan under 4 MCAR S 1.857 [Temporary] D.

C. Sources and uses of funds. A plan may expend funds for payment of losses and expenses, and for other costs customarily borne by commercial insurers under conventional insurance policies. A plan shall not borrow money or issue debt instruments. A plan may bring legal suits to collect delinquent debts. A plan shall receive funds only from:

1. its members as premiums, assessments, or penalties;

2. its reinsurers or indemnitors pursuant to reinsurance or indemnification agreements;

3. dividends, interest, or the proceeds of sale of investments;

4. refunds of excess payments; or

5. collection by lawsuit, subrogation, or otherwise of money owed to the plan.

D. Separate accounts. A plan may establish separate accounts for the payment of claims or certain types of expenses. These accounts must be used only by the plan's service company, its authorized subcontractors, or the plan's financial administrator, as appropriate to the account's purpose. The amount in such special accounts must not exceed an amount which is reasonably sufficient to pay the claims or expenses for which it is established. All monetary and

investment assets not in these accounts must be under the control of the plan's financial administrator.

E. Investments. Under Laws of Minnesota 1983, chapter 241, section 5, a plan's assets must be invested according to the requirements of Minnesota Statutes, section 475.66, as regards both permitted types of investments and permitted maturities. In addition, a plan shall not invest in securities or debt of a member, or a member's parent, subsidiary, or affiliate; or any company or reinsurer under contract with the plan.

4 MCAR S 1.865 [Temporary] Financial condition.

The board and the plan director shall monitor the plan's revenues, expenses, and loss development, and evaluate its current and expected financial condition. For this purpose the board or the plan director shall, at least quarterly, cause unaudited financial statements to be prepared for the current and most recent fund years. These statements must be filed with the commissioner not later than 30 days after the end of the quarter or other statement period. As necessary to maintain the plan's sound financial condition or to forestall a rapid decrease in members likely to require the plan's termination, the commissioner shall increase the premium rates, order that an assessment be levied against the members, or order termination of the plan's self-insurance authority. Members shall not require covered employees to pay a portion of an assessment, nor shall covered employees be required to pay any amount for premium increases on coverage in force. The amount of an assessment must not be more than the amount of a member's most recent annual premium, including the portion paid by covered employees.

4 MCAR S 1.866 [Temporary] Reporting.

A. Financial statements. The financial statements required of the plan by Laws of Minnesota 1983, chapter 241, section 5 must contain at a minimum a balance sheet, statement of revenues and expenses, statement of loss development, and schedule of investments. The statements must be prepared on forms available

from the commissioner, or equivalent forms. The financial statements must be filed no later than 30 days after the fund year's conclusion. The financial statements must be audited by an independent certified public accountant, and an audit report must be filed with the commissioner not later than 60 days after the fund year's conclusion.

B. Extraordinary audits. Upon sufficient cause, the commissioner may require a plan to investigate the accuracy of one or more entries on its financial statements, and to report its findings. As a condition of these investigations, the commissioner may require a plan to contract with a qualified actuary, claims specialist, auditor, or other specialists as appropriate to the type of entry being investigated. On the basis of the investigation's findings, the commissioner may require changes in the plan's reserving, accounting, or recordkeeping practices. These extraordinary audits are in addition to the commissioner's rights to examine self-insurance plans under Minnesota Statutes, sections 60A.03 and 60A.031. Sufficient cause includes:

1. losses which appear significantly different than losses experienced by other self-insurance plans or insurance companies for similar coverage;

2. unusual changes in the amount of entries from period to period which are not sufficiently explained by the financial statements or footnotes; or

3. other indications that a plan's financial statements may not accurately reflect the plan's status and transactions.

C. Annual status report. Not later than 30 days after the fund year's conclusion, a plan shall file with the commissioner a statement describing any changes which have occurred in the information filed with its initial application for authority to self-insure, or with the plan's most recent status report. The status report must be filed on a form available from the commissioner.

D. Narrative report. Not later than 30 days after the fund year's conclusion, the board shall file with the commissioner a

narrative report concerning the performance of the plan and its agents during the most recent fund year, and the status of the plan as of the last day of the most recent fund year. The report shall address the performance of the service company, financial administrator, and their major subcontractors; the adequacy of premiums, reserves, reinsurance, and current member resources as regards the plan's financial integrity; and any other issues which the board wishes to bring to the commissioner's attention.

E. Penalty. The financial statements, status report, and narrative report required under A., C., and D. are considered together to be a plan's annual statement. This filing and other filings required by these rules are subject to Minnesota Statutes, section 72A.061.

F. Revenue fee. Not later than 60 days after each fund year's conclusion, a plan shall file a report with the commissioner of revenue disclosing the total amount of claims paid during the fund year, with no deduction for claims wholly or partially reimbursed through reinsurance. The report must be filed on a form available from the commissioner of revenue. At the time of filing the report, the plan shall pay the fee required by Laws of Minnesota 1983, chapter 241, section 7 to the commissioner of revenue in the amount of two percent of the total amount of claims paid during the fund year, with no deduction for claims wholly or partially reimbursed through reinsurance.

10:22 AM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 9 1984

Secretary of State

APPROVED AS TO FORM AND LEGALITY
February 4 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Matthew J Cassely
SPECIAL ASSISTANT ATTORNEY GENERAL

Temporary Rules as Proposed (all new material)

4 MCAR S 1.850 [Temporary] Statutory authority.

Rules 4 MCAR SS 1.850-1.866 [Temporary] are adopted under the authority of Laws of Minnesota 1983, chapter 241, section 6.

4 MCAR S 1.851 [Temporary] Purpose.

Rules 4 MCAR SS 1.850-1.866 [Temporary] govern the formation, operation, and dissolution of groups of employers which jointly self-insure employee health, dental, or short-term disability benefits. These rules are intended to ensure that a group's financial integrity is maintained, and that groups are administered competently and equitably.

4 MCAR S 1.852 [Temporary] Scope.

The following are subject to the requirements of 4 MCAR SS 1.850-1.866 [Temporary]:

A. employers authorized to transact business in Minnesota that seek to jointly self-insure employee health, dental, or short-term disability benefits;

B. self-insurance plan administration companies licensed under Minnesota Statutes, section 60A.23, subdivision 8, clause (3), that provide services to a plan; and

C. insurance companies licensed under Minnesota Statutes, section 60A.07, subdivision 4, that provide required stop-loss coverage to a plan.

4 MCAR S 1.853 [Temporary] Definitions.

For the purposes of 4 MCAR SS 1.850-1.866 [Temporary], the terms in A.-W. have the meanings given them unless the context clearly indicates a different meaning.

A. Annual premium. "Annual premium" means the total premium paid or to be paid by all members during a single fiscal year of a plan.

B. Board. "Board" means a plan's board of trustees.

C. Bylaws. "Bylaws" means the adopted statement which prescribes the scope, government, and administration of a plan, as required by 4 MCAR S 1.854 [Temporary].

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D. Commissioner. "Commissioner" means the commissioner of the Department of Commerce.

E. Coverage. "Coverage" means the right of a covered employee or other beneficiary to indemnification by a plan by virtue of the coverage document.

F. Coverage document. "Coverage document" means the document that specifies the characteristics and duration of coverage provided through a plan.

G. Covered employee. "Covered employee" means an employee of a plan member covered through the plan, and a former employee receiving continued coverage under Minnesota Statutes, section 62A.17. "Covered employee" does not include dependents or other persons included under the coverage extended to a current or former employee, or persons covered under individual insurance policies according to Minnesota Statutes, sections 62A.17, subdivision 6, or 62E.16.

H. Days. "Days" means calendar days.

I. Financial administrator. "Financial administrator" means the bank or investment company under contract with the board for investment of the plan's assets and other financial services.

J. Fund year. "Fund year" means the fiscal year of a plan, which is the calendar year.

K. Insurer. "Insurer" means an insurance company licensed under Minnesota Statutes, section 60A.07, subdivision 4, and authorized by Minnesota Statutes, section 60A.06 to write the kind of insurance offered.

L. Member. "Member" means an employer who participates in a plan. Reference to actions of a member includes actions on behalf of the member's employees and other covered persons.

M. Plan. "Plan" means an employee benefit joint self-insurance plan approved under 4 MCAR SS 1.850-1.866 [Temporary]. Reference to actions of a plan includes actions by the plan's agents if the plan has delegated authority to these agents.

N. Plan director. "Plan director" means the person vested with authority for the plan's operation between meetings of the

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board. The plan director shall be a member of the board.

O. Premium. "Premium" means the amount paid or to be paid for coverage by members to a plan under 4 MCAR S 1.861 [Temporary] A. This term does not include assessments or penalties.

P. Reinsurance. "Reinsurance" means a stop-loss coverage agreement.

Q. Reinsurer. "Reinsurer" means an insurance company providing stop-loss coverage, notwithstanding that primary coverage provided through a self-insurance plan is not insurance.

R. Reserve. "Reserve" means a liability corresponding to an estimate of the amount necessary to pay future losses or expenses under 4 MCAR S 1.862 [Temporary].

S. Runoff plan. "Runoff plan" means a plan that no longer has authority to self-insure, but that continues to exist for the purpose of paying claims, preparing reports, and administering transactions associated with the period when the plan provided coverage.

T. Self-insure. "Self-insure" means to assume primary liability or responsibility for certain risks or benefits, rather than transferring liability or responsibility to some other entity.

U. Separate employer. "Separate employer," for the purposes of meeting the minimum three-employer requirement, means an employer that is not the parent, subsidiary, or affiliate with a common parent of any other employer in the plan.

V. Service company. "Service company" means an entity licensed under Minnesota Statutes, section 60A.23, subdivision 8 and rules adopted thereunder as a self-insurance plan administrator.

W. Short-term disability benefit. "Short-term disability benefit" means income replacement payments of not more than one year's duration.

4 MCAR S 1.854 [Temporary] Bylaws.

A. Content. A plan's bylaws may contain provisions that do not conflict with 4 MCAR SS 1.850-1.866 [Temporary]. A plan's

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bylaws must, at a minimum, contain the following provisions:

1. the plan's name, purpose, and initial date of existence;

2. definitions of key terms;

3. a statement of the powers, duties, and responsibilities assigned to the plan director, the plan's board of trustees, the service company, and the financial administrator, and reserved to the plan's membership;

4. the number, term of office, method of selection, and method of replacement of the members of the plan's board of trustees;

5. the procedure for calling special meetings of the board;

6. the method of periodic selection and review of the service company and financial administrator;

7. the procedure for amending the bylaws;

8. the procedure for resolving disputes among members, which shall not include submitting the disputes to the commissioner;

9. the criteria for membership in the plan, including standards of financial integrity and loss experience;

10. the procedure for adding new members to the plan;

11. the criteria for expulsion from the plan, including nonpayment of premium;

12. the procedure for withdrawal and expulsion of members from the plan;

13. a statement of the coverages which the plan intends to provide;

14. the procedure for adding and dropping members' participation in a particular coverage;

15. a schedule for premium payments by members and, if applicable, their employees;

16. the procedure for changing premium rates;

17. the procedure for levying and collecting an assessment;

18. the procedure for distribution of dividends, and the

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eligibility of past members and past covered employees for dividends; and

19. the procedure for distribution of assets remaining upon the plan's dissolution.

B. Adoption and changes. The bylaws of a plan must be adopted in writing by all initial members, and filed with the commissioner at the time of application. Changes in the bylaws must be made according to the procedures specified in the bylaws, which shall provide either approval by a specific percentage of the plan's members, or approval by a specific percentage of the board members. Changes do not become effective until 21 days after the vote of the plan's or board's membership has been tallied, unless a later date is specified. The proposed bylaw change must be filed with the commissioner not less than 14 days before it is to be effective. The commissioner shall disallow the change before its effective date if it is inconsistent with a Minnesota statute or rule, or any lawful order of the commissioner.

4 MCAR S 1.855 [Temporary] Board.

A. Structure. A plan must have a board of trustees consisting of officials or employees of the plan's members. No plan member may have more than one representative on the board. No board member may be an employee, agent, or representative of a service company, financial administrator, insurance company, or any person or entity under contract with the plan. Board members shall be elected by majority vote of the plan's members. The terms of board members must be staggered to provide continuity. The board shall meet no less than four times annually.

B. Duties. The board is responsible for operation of the plan, and shall delegate some or all of its responsibilities to the plan director between board meetings. All responsibilities of the plan not expressly delegated by the board or 4 MCAR SS 1.850-1.866 [Temporary] are the responsibility of the board. The board shall have at a minimum the following responsibilities:

1. fiduciary responsibility for the plan's operation and

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financial condition;

2. selection, supervision, and evaluation of the service company, financial administrator, accountant, reinsurer, and any other contractors;

3. monitoring the overall financial condition of the plan; making recommendations for changes in premium, reserve, or investment practices; and declaring assessments or dividends as appropriate to the plan's financial condition;

4. approving all reports concerning the plan's operations and status to the commissioner and the plan's members;

5. monitoring delinquent premiums, loss experience, and the financial condition of individual members; and as required by the bylaws, initiating or recommending to the membership disciplinary action or expulsion;

6. as required by the bylaws, acting upon applications for membership in the plan or recommending acceptance or rejection to the membership;

7. as permitted by the bylaws, making changes to the bylaws for the improvement of the operation and financial integrity of the plan, or recommending these changes to the members; and

8. monitoring the compliance of the plan with all statutes and rules governing its operation.

4 MCAR S 1.856 [Temporary] Application.

A. Form. Three or more employers may apply to the commissioner for authority to form a self-insurance plan, using forms available from the commissioner. Applications must be submitted not later than 60 days prior to the requested date for authority to self-insure. All reinsurance contracts must be submitted not later than 30 days prior to the requested date. Applications submitted without responses to certain questions, or with responses which in the commissioner's judgment are inadequate, must be returned to the applicant for resubmission. Applications not returned to the applicant for resubmission within 14 days of receipt must be approved or disapproved within 60 days of receipt.

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B. Exemptions. Joint self-insurance plans which offer a program of coverage qualified under the Employees Retirements Income Security Act (ERISA), United States Code, title 29, sections 1001 et seq., are exempted from 4 MCAR SS 1.850-1.866 [Temporary] upon filing with the commissioner notice of this qualification from the United States Department of Labor.

C. Merger. Two or more existing plans may apply to merge, provided the new plan assumes all obligations of the former plan. Applications are subject to the same requirements as prospective new plans.

D. Approval and disapproval. Upon approval of an application, the commissioner shall issue an order authorizing the proposed joint self-insurance plan. Approval of applications for authority to self-insure must be granted if the proposed plan conforms with all requirements of 4 MCAR SS 1.850-1.866 [Temporary]; with all applicable requirements of Minnesota Statutes, chapters 62A, 62D, 62E, and 72A as described in 4 MCAR S 1.860 [Temporary] A.; with Minnesota Statutes, sections 72A.19 to 72A.32; and with other applicable Minnesota statutes and rules.

4 MCAR S 1.857 [Temporary] Termination, revocation, runoff, and dissolution.

A. Voluntary termination. A plan may voluntarily terminate its authority to self-insure by action of the membership. The plan shall notify the commissioner of this action. Termination is not effective until 45 days after the action of the membership or 30 days after written notification to the commissioner, whichever is later, or a later date if specified by the membership. Voluntary termination of self-insurance authority does not constitute plan dissolution under D.

B. Revocation of authority. The authority of a plan to self-insure may be revoked by order of the commissioner upon ten days written notice for any of the following reasons:

1. failure of the plan to comply with 4 MCAR SS 1.850-1.866 [Temporary]; with all applicable requirements of Minnesota Statutes, chapters 62A, 62D, and 62E as described in 4

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MCAR S 1.860 [Temporary] A.; or with other applicable Minnesota statutes or rules;

2. failure of the plan to comply with any lawful order of the commissioner;

3. commission by the plan of an unfair or deceptive practice as defined in Minnesota Statutes, sections 72A.17 to 72A.32, or in rules adopted under Minnesota Statutes, section 72A.19, subdivision 2; or

4. a deterioration of the plan's financial integrity to the extent that its present or future ability to meet obligations promptly and in full is in doubt.

C. Runoff plans. A plan shall continue to exist after its authority to self-insure has been terminated, for the purpose of paying claims, preparing reports, and administering transactions associated with the period when the plan provided coverage. Notwithstanding termination of authority to self-insure, a plan shall continue to comply with all applicable provisions of 4 MCAR SS 1.850-1.866 [Temporary], and with all other applicable Minnesota statutes and rules.

D. Dissolution. A plan that desires to cease existence shall apply to the commissioner for authorization to dissolve. Applications must be approved or disapproved within 60 days of receipt. Dissolution without authorization is prohibited and void, and does not absolve a plan from fulfilling its continuing obligations, and does not absolve its members from assessment under 4 MCAR S 1.865 [Temporary]. The plan's assets at the time of dissolution must be distributed to the members and covered employees as provided in the bylaws. Authorization to dissolve must be granted if either of the following conditions are met:

1. the plan demonstrates that it has no outstanding liabilities, including incurred but not reported liabilities; or

2. the plan has obtained an irrevocable commitment from a licensed insurance company which provides for payment of all outstanding liabilities, and for providing all related services, including payment of claims, preparation of reports, and administration of transactions associated with the period when

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the plan provided coverage.

4 MCAR S 1.858 [Temporary] Administration.

A. Service company. A plan shall contract with a licensed service company for services necessary to the day-to-day operations of the plan, except services and responsibilities reserved to the members, the board, the plan director, the financial administrator, or other contractors. Subject to the oversight of the board and the plan director, the service company shall provide all services directly related to the administration of coverage, including but not limited to accounting and recordkeeping; billing and collection of premiums and assessments; claims investigation, settlement, and reserving; claims payment, including claims wholly or partially subject to reinsurance or member deductibles; general administration; loss control, safety programs, or both; and underwriting. The services may be provided directly by the service company or by subcontractors to the service company.

B. Financial administrator. A plan shall contract with a financial administrator for investment of the plan's assets and for other financial or accounting services. No staff members of the financial administrator may be an owner, officer, employee, or agent of the service company, or of a subcontractor of the service company.

C. Recordkeeping. A plan shall maintain within the state of Minnesota all records as are necessary to verify the accuracy and completeness of all reports submitted to the commissioner under 4 MCAR S 1.866 [Temporary]. The commissioner shall have access to the plan's records in order to ascertain the plan's compliance with 4 MCAR SS 1.850-1.866 [Temporary]. All records concerning claims, reserves, financial transactions, and other matters necessary to the plan's operations are the plan's property. The plan is responsible for reasonable costs associated with the transfer of such records from a service company, financial administrator, or other contractor.

4 MCAR S 1.859 [Temporary] Membership.

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A. Availability. Plan membership is available only to employers domiciled and authorized to transact business in Minnesota. No employer may be a member of more than one plan authorized under 4 MCAR SS 1.850-1.866 [Temporary]. A plan may establish other nondiscriminatory criteria for membership. Nothing in these rules requires a plan to offer membership to an employer which does not meet the plan's underwriting standards.

B. Joining. Admission of new members must comply with the standards and procedures specified in the bylaws. Membership is not effective until the applicant has signed a membership agreement affirming its commitment to comply with the bylaws and 4 MCAR SS 1.850-1.866 [Temporary].

C. Voluntary withdrawal. A member shall notify the plan of its desire to withdraw not less than 30 days before the date upon which it desires to withdraw. If the board determines that the withdrawal would cause the plan to be in violation of the minimum number of covered employees requirement of Minnesota Statutes, section 62H.01, or any other requirement of 4 MCAR SS 1.850-1.866 [Temporary], the plan shall notify the commissioner under E. Withdrawal from a plan is prohibited and void unless:

1. the member has belonged to the plan continuously until the end of the current fund year, or until the end of the succeeding fund year for new members which join in the last three months of the fund year, or a longer period if required by the bylaws, provided that members may be expelled from a plan at any time; and

2. all outstanding premiums and assessments owed by the member have been paid.

D. Expulsion. At least annually the plan shall review the status and experience of each member by comparison with the criteria for expulsion in the bylaws. Expulsion of a member is subject to the procedures and requirements for voluntary withdrawal of a member.

E. Minimum covered employees and employers. At least monthly a plan shall monitor the number of employees it covers. If the number of covered employees is less than 300, the plan

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shall notify the commissioner at least monthly of the number of covered employees. If the number of covered employees becomes less than 250, or the number of members becomes less than three, the plan shall notify the commissioner of its intent to terminate its self-insurance authority or its proposal for restoring compliance with Laws of Minnesota 1983, chapter 241, section 1. If the proposal is unlikely, in the commissioner's judgment, to restore compliance within 120 days, or if after 90 days the plan continues to have less than 250 covered employees or less than three members, the commissioner shall revoke the plan's authority.

F. Runoff plan membership. After revocation of a plan's authority to self-insure, or after written notification to the commissioner of intent to terminate self-insurance authority voluntarily, no member may join, leave, or be expelled from the plan.

4 MCAR S 1.860 [Temporary] Coverage.

A. Mandated coverages and related requirements. If required under Minnesota Statutes, section 62E.17, a member shall provide health maintenance organization-type coverage which may be made available through the plan. A plan shall provide a qualified Medicare supplement coverage, as defined in Minnesota Statutes, section 62E.07, to eligible employees and shall make a conversion coverage option available. A plan shall conform to the requirements of Minnesota Statutes, chapters 62A, 62D, and 62E, and related rules, as applicable to group insurance coverage as defined in Minnesota Statutes, section 62A.10; Medicare supplement coverage as described in Minnesota Statutes, section 62A.31; and plans of health coverage as defined in Minnesota Statutes, section 62E.02. These requirements include but are not limited to filing and obtaining approval for coverage documents and rates; coverage document language requirements; mandated benefits; employee notice requirements; requirements to offer continuation of coverage to employees and other covered persons; and requirements to offer conversion coverage to employees and other covered persons, for which

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purpose carriers licensed under Minnesota Statutes, section 60A.06, subdivision 1, clause (5)(a), chapter 62C or 62D are eligible. Any changes in the coverage offered by a plan must comply with Minnesota Statutes, chapters 62A, 62D, and 62E. All insurance type coverage documents must be filed and approved or disapproved under Minnesota Statutes, section 62A.02.

B. Scope of coverage. All coverages offered by a plan must be available according to the same underwriting standards to all employees of all members.

C. Term of coverage. A plan shall not commit itself to providing coverage for any period which extends beyond the term of any reinsurance contracts required under 4 MCAR S 1.863 [Temporary].

D. Continuing responsibility. Notwithstanding cancellation or termination of coverage to a particular employee or other covered persons, ceasing to offer a coverage, or termination or revocation of authority to self-insure, a plan retains indefinitely all responsibilities to covered employees associated with the period while coverage was in force, unless the plan dissolves under 4 MCAR S 1.857 [Temporary] D.

4 MCAR S 1.861 [Temporary] Premiums and dividends.

A. Premium payments. At the time coverage documents and rates are filed with the commissioner for approval, a plan shall specify for each coverage the portion of premium to be paid by members and the portion to be paid by covered employees. The fund year is the basis for calculating premiums, subject to mid-year adjustments. Any delinquencies in payments by employees must be paid on their behalf by the employer, with the employer having the right to seek reimbursement from the employee, or from the plan if payment is later made directly to the plan. A plan shall promptly take appropriate action to collect any members' premiums or assessments which are past due. A plan may permit payments to be made in installments, provided payment is always to be received in advance of the date when premium is to be earned.

B. Dividends. A plan may declare a dividend or distribution

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provided its surplus account is fully funded, under 4 MCAR S 1.862 [Temporary] C.1.; or provided the policy year-end settle-up calculation and payments have been made concerning any funds advanced from the reinsurer under 4 MCAR S 1.862 [Temporary] C.2. The apportionment of dividends must be based on the relative amounts of premium paid, and must provide for payments to members and to covered employees.

4 MCAR S 1.862 [Temporary] Reserves.

A. Loss and premium reserves. A plan shall establish loss reserves for all incurred losses, both reported and unreported, and for unearned premiums. To the extent that the amount of a loss is uncertain, reserves must be set conservatively. As the degree of uncertainty concerning a loss is changed by new events or information, the amount of the reserve must be changed appropriately. Accounting for reserves must be as provided on the forms required under 4 MCAR S 1.866 [Temporary] A.

B. Full funding requirement. A plan shall provide for the full funding of its unpaid losses by establishing a loss ratio reserve for each fund year, in the amount of the premium collected for coverage during that fund year; multiplied by the loss ratio percentage fixed in the aggregate excess stop-loss reinsurance contract under 4 MCAR S 1.863 [Temporary] C.; less the amount of losses paid, loss reserves, and unearned premium reserves attributable to that fund year. For the purpose of establishing the loss ratio reserve amount, the amount of premiums paid for individual excess stop-loss reinsurance coverage during that fund year must be deducted from "premium collected," and the amount of loss payments received for that fund year pursuant to said reinsurance must be deducted from "losses paid." Loss ratio reserves remaining one year after the fund year's conclusion may be eliminated.

C. Surplus requirement. A plan shall protect itself from cash flow difficulties by either:

1. Establishing a surplus account equal to the greater of:

a. three times the average paid monthly premium during the plan's most recent fund year;

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b. for plans which do not yet have one fund year's experience, three times estimated monthly premium; or

c. $100,000.

The surplus account must not be drawn upon unless other assets are inadequate or unavailable to pay current expenses. Surplus account assets must not be offset against loss or premium reserve liabilities established under A., or any other plan liabilities. The plan shall notify the commissioner not later than seven days after the amount in the surplus account decreases below the required amount, and of the plan's intentions to restore the required amount. The plan must restore the required amount not later than 60 days after the deficiency originated. Repeated failure to maintain the required surplus amount is grounds for revocation of self-insurance authority.

2. Obtaining a provision in the aggregate excess stop-loss reinsurance contract required under 4 MCAR S 1.863 [Temporary], which requires the reinsurer to advance funds to the plan at any time at the plan's request. Any funds so advanced must be included in the settle-up calculation at the conclusion of the fund year. No limit may be set on the amount of funds which the plan may require to be so advanced.

4 MCAR S 1.863 [Temporary] Reinsurance.

A. Purchase and alteration. The plan shall inform the commissioner at least 90 days prior to expiration of its reinsurance contract if it intends not to renew a reinsurance contract, or if the reinsurance contracts will not be renewed by the reinsurer. Alteration of a reinsurance contract mid-term with the effect of reducing coverage is prohibited. Under Laws of Minnesota 1983, chapter 241, section 2, reinsurance contracts are noncancellable for a minimum of two years, for any cause including nonpayment of reinsurance premium. If more than one reinsurance contract is obtained in fulfillment of this section's requirements, their expiration dates must be the same.

B. Individual excess. A plan's individual excess stop-loss reinsurance must provide for the reinsurer to assume all

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liability in excess of $25,000 per person per year. A plan may apply to the commissioner for increasing the individual excess stop-loss reinsurance limit up to $50,000. The commissioner shall approve this application coverage, if the increased limit would not be detrimental to the solvency and stability of the plan, considering the plan's experience, size, surplus, and other factors that affect financial integrity.

C. Aggregate excess. A plan's aggregate excess stop-loss reinsurance must provide for the reinsurer to assume all liability in excess of a specified loss ratio for a particular fund year, based on actual premium collected and paid losses attributable to that fund year. For this purpose, "loss ratio" means the percentage which paid losses constitute of premium collected, excluding losses assumed by individual excess stop-loss reinsurance and premiums paid for said reinsurance.

D. Delinquencies and insolvencies. One of a plan's reinsurance contracts shall provide for the reinsurer:

1. at the plan's or the commissioner's request, to pay premium to the plan on behalf of a member that fails to pay due to insolvency, unauthorized withdrawal from the plan, or any other reason; and

2. at the commissioner's request, to assume direct responsibility for a plan's coverage and other responsibilities under these rules and related statutes if the plan becomes insolvent, ceases operations without authorization, or otherwise fails to fulfill its responsibilities under these rules and related statutes.

This reinsurance contract may provide for the reinsurer to have a cause of action to collect from the plan or a member on whose behalf the reinsurer is called upon to pay premium, pay claims, or incur other extraordinary expenses; provided that the reinsurer is obligated to fulfill its responsibilities under this paragraph while this action is pending. The reinsurance contract must provide that the reinsurer's responsibilities extend to matters arising during or attributable to the contract period, and that these responsibilities do not terminate with

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the end of the contract period.

E. Return of liability. No liability or other responsibilities transferred to a reinsurer pursuant to this rule may, directly or indirectly, be returned to a plan, a member, or a member's parent, subsidiary, or affiliate.

4 MCAR S 1.864 [Temporary] Financial integrity.

A. Fidelity bond. All contractors and individuals who handle plan funds or who will have authority to gain access to plan funds, including board members, shall be covered by a fidelity bond purchased by the plan. The bond must cover losses from dishonesty, robbery, forgery or alteration, misplacement, or mysterious and unexplainable disappearance. The coverage must be not less than the amount indicated by the following table. "Exposure Index" means the total of plan assets multiplied by five percent, and plan annual income multiplied by ten percent, to be refigured at the end of each fund year.

Exposure Index	Minimum Bond Amount
$ 500,000 or less	$100,000
500,001 - 750,000	125,000
750,001 - 1,000,000	150,000
1,000,001 - 1,375,000	175,000
1,375,001 - 1,750,000	200,000
1,750,001 - 2,125,000	225,000
2,125,001 - 2,500,000	250,000
2,500,001 - 3,325,000	300,000
3,325,001 - 4,175,000	350,000
4,175,001 - 5,000,000	400,000
5,000,001 - 6,075,000	450,000
6,075,001 or more	500,000

B. Integrity of funds. The assets of a plan must not be commingled with the assets of any member. The assets of a plan must not be loaned to anyone for any purpose, or used as security for a loan. The assets of a plan must be employed solely for the purposes stated in the plan's bylaws, and in compliance with the requirements of 4 MCAR SS 1.850-1.866 [Temporary] and applicable Minnesota insurance statutes. No

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member, covered employee, or other covered person has a right to an asset of a plan except:

1. for benefits under the coverage documents;

2. for dividends declared under 4 MCAR S 1.861 [Temporary] B.; and

3. for a portion of the assets remaining upon the dissolution of the plan under 4 MCAR S 1.857 [Temporary] D.

C. Sources and uses of funds. A plan may expend funds for payment of losses and expenses, and for other costs customarily borne by commercial insurers under conventional insurance policies. A plan shall not borrow money or issue debt instruments. A plan may bring legal suits to collect delinquent debts. A plan shall receive funds only from:

1. its members as premiums, assessments, or penalties;

2. its reinsurers or indemnitors pursuant to reinsurance or indemnification agreements;

3. dividends, interest, or the proceeds of sale of investments;

4. refunds of excess payments; or

5. collection by lawsuit, subrogation, or otherwise of money owed to the plan.

D. Separate accounts. A plan may establish separate accounts for the payment of claims or certain types of expenses. These accounts must be used only by the plan's service company, its authorized subcontractors, or the plan's financial administrator, as appropriate to the account's purpose. The amount in such special accounts must not exceed an amount which is reasonably sufficient to pay the claims or expenses for which it is established. All monetary and investment assets not in these accounts must be under the control of the plan's financial administrator.

E. Investments. Under Laws of Minnesota 1983, chapter 241, section 5, a plan's assets must be invested according to the requirements of Minnesota Statutes, section 475.66, as regards both permitted types of investments and permitted maturities. In addition, a plan shall not invest in securities or debt of a

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member, or a member's parent, subsidiary, or affiliate; or any company or reinsurer under contract with the plan.

4 MCAR S 1.865 [Temporary] Financial condition.

The board and the plan director shall monitor the plan's revenues, expenses, and loss development, and evaluate its current and expected financial condition. For this purpose the board or the plan director shall, at least quarterly, cause unaudited financial statements to be prepared for the current and most recent fund years. These statements must be filed with the commissioner not later than 30 days after the end of the quarter or other statement period. As necessary to maintain the plan's sound financial condition or to forestall a rapid decrease in members likely to require the plan's termination, the commissioner shall increase the premium rates, order that an assessment be levied against the members, or order termination of the plan's self-insurance authority. Members shall not require covered employees to pay a portion of an assessment, nor shall covered employees be required to pay any amount for premium increases on coverage in force. The amount of an assessment must not be more than the amount of a member's most recent annual premium, including the portion paid by covered employees.

4 MCAR S 1.866 [Temporary] Reporting.

A. Financial statements. The financial statements required of the plan by Laws of Minnesota 1983, chapter 241, section 5 must contain at a minimum a balance sheet, statement of revenues and expenses, statement of loss development, and schedule of investments. The statements must be prepared on forms available from the commissioner, or equivalent forms. The financial statements must be filed no later than 30 days after the fund year's conclusion. The financial statements must be audited by an independent certified public accountant, and an audit report must be filed with the commissioner not later than 60 days after the fund year's conclusion.

B. Extraordinary audits. Upon sufficient cause, the

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commissioner may require a plan to investigate the accuracy of one or more entries on its financial statements, and to report its findings. As a condition of these investigations, the commissioner may require a plan to contract with a qualified actuary, claims specialist, auditor, or other specialists as appropriate to the type of entry being investigated. On the basis of the investigation's findings, the commissioner may require changes in the plan's reserving, accounting, or recordkeeping practices. These extraordinary audits are in addition to the commissioner's rights to examine self-insurance plans under Minnesota Statutes, sections 60A.03 and 60A.031. Sufficient cause includes:

1. losses which appear significantly different than losses experienced by other self-insurance plans or insurance companies for similar coverage;

2. unusual changes in the amount of entries from period to period which are not sufficiently explained by the financial statements or footnotes; or

3. other indications that a plan's financial statements may not accurately reflect the plan's status and transactions.

C. Annual status report. Not later than 30 days after the fund year's conclusion, a plan shall file with the commissioner a statement describing any changes which have occurred in the information filed with its initial application for authority to self-insure, or with the plan's most recent status report. The status report must be filed on a form available from the commissioner.

D. Narrative report. Not later than 30 days after the fund year's conclusion, the board shall file with the commissioner a narrative report concerning the performance of the plan and its agents during the most recent fund year, and the status of the plan as of the last day of the most recent fund year. The report shall address the performance of the service company, financial administrator, and their major subcontractors; the adequacy of premiums, reserves, reinsurance, and current member resources as regards the plan's financial integrity; and any

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other issues which the board wishes to bring to the commissioner's attention.

E. Penalty. The financial statements, status report, and narrative report required under A., C., and D. are considered together to be a plan's annual statement. This filing and other filings required by these rules are subject to Minnesota Statutes, section 72A.061.

F. Revenue fee. Not later than 60 days after each fund year's conclusion, a plan shall file a report with the commissioner of revenue disclosing the total amount of claims paid during the fund year, with no deduction for claims wholly or partially reimbursed through reinsurance. The report must be filed on a form available from the commissioner of revenue. At the time of filing the report, the plan shall pay the fee required by Laws of Minnesota 1983, chapter 241, section 7 to the commissioner of revenue in the amount of two percent of the total amount of claims paid during the fund year, with no deduction for claims wholly or partially reimbursed through reinsurance.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD458T

Agency: Department of Commerce

Division:

Agency Contact: John Klein

Rule Numbers: 4 MCAR SS 1.850-1.866 [Temporary]

Title: Proposed Temporary Rules Relating to Joint Self-insurance Employee Health Plan

Type of Rules: Temporary

Incorporations by Reference: None

Duplication of Statutory Language: None

The attached rules are approved as to form.



Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948

Date: November 29, 1983

STATE OF MINNESOTA
COMMISSIONER OF COMMERCE

In the matter of Adopted Temporary Rules Governing Joint Self-Insurance Employee Health Plans.

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING TEMPORARY RULES

Notice of Intent to Adopt Temporary Rules to govern joint self-insurance employee health plans was published December 12, 1983, at 8 State Register 1387 - 1395. The twenty-day comment period has now expired.

After affording interested persons an opportunity to present written and oral data, statements and documents, having considered all of the files and proceeding herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules, I make the following:

FINDINGS OF FACT

1. The reason for the changes at 4 MCAR §§ 1.852.C, 1.853.K, and 1.853.Q is to clarify that service plan corporations licensed under Minnesota Statutes, section 62C.08, are qualified providers of stop-loss coverage as required by the rules. Service plan corporations possess comparable financial resources and health insurance expertise to insurance companies licensed under Minnesota Statutes, section 60A.07, subdivision 4.

Based upon the foregoing findings of fact, I make the following:

CONCLUSIONS

1. Pursuant to 9 MCAR § 2.111, the amendments to the rules that have been made after publication of the proposed rules in the State Register do not result in rules that are substantially different from the proposed rules published in the State Register.

2. Any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

NOW, THEREFORE, IT IS HEREBY ORDERED that these temporary rules identified as 4 MCAR §§ 1.850 - 1.866 are adopted this 26th day of January, 1984, pursuant to the authority invested in my by Minn. Stat. § 62H.06.

MICHAEL A. HATCH
Commissioner of Commerce

500 Metro Square Building
St. Paul, Minnesota 55101
Telephone: (612) 296-6848

The state's investigation of appellant's business operations pursuant to Minn. Stat. § 8.31 (1982) is not discriminatory enforcement and does not violate the equal protection clause of the fourteenth amendment.

Affirmed in part, reversed in part, and remanded for further proceedings. Simonett, J.

C8-82-1062 State of Minnesota, Appellant, vs. Donald Marvil Yahnke. Scott County.

Affidavit in support of application for search warrant established probable cause to justify the search of defendant's residence; trial court erred in ruling that the search was illegal and in suppressing evidence as the fruit of that search.

Reversed and remanded for trial. Kelley, J.

C4-82-765 St. Paul Fire Fighters, Local 21, vs. City of St. Paul, Appellant. Ramsey County.

The decision to establish a training program in which all fire captains must participate in an inherent managerial policy decision which a public employer is not required to negotiate.

A public employer is required to negotiate those aspects of implementation of a managerial policy decision which affect working conditions and are neither essential to the basic decision nor inimical to public safety and welfare.

Affirmed as modified. Coyne, J.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Commerce Department

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Medical Fee Review for Workers' Compensation

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing medical fee review for workers' compensation. Promulgation of these rules is authorized by Minnesota Statutes 1982, section 176.136.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: John Klein, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3238.

All statements of information and comment shall be accepted until August 20, 1983. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Reynaud L. Harp
Deputy Commissioner of Commerce

Commerce Department

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Joint Self-Insurance Employee Health Plans

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing joint self-insurance employee health plans. Promulgation of these rules is authorized by Minnesota Statutes, section 62H.06 (Laws 1983, Ch. 241, § 6).

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: John Klein, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3238.

All statements of information and comment shall be accepted until September 30, 1983. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Reynaud L. Harp
Deputy Commissioner of Commerce

Metropolitan Council

Notice of Preliminary Review Schedule Metropolitan Development Framework: Interim Economic Policies

Four years ago, the Metropolitan Council began a process to build a better understanding of the regional economy and to examine how the Council's decisions impact the business community. An Economic Technical Advisory Committee (ETAC) made up of business, labor and government representatives assisted in the process and suggested further research. The Council has followed up on that research, and the goals and policies recommended in the Interim Economic Policies discussion paper are based on the concerns raised by ETAC and the staff research.

The goals and policies discussed in the paper will be adopted on an interim basis in early 1984 and will be incorporated into a revised Metropolitan Development Framework Guide chapter in late 1984.

The basic premise behind the recommended goals and policies is that economic development and business concerns need to be more specifically considered in the Council's decisions. The paper contains policies related to investments in the regional systems, regional coordination of economic development, financing of economic development and increasing access to employment opportunities.

The following is a tentative schedule for reviewing and adopting the interim economic policies.

MDF INTERIM ECONOMIC POLICIES ADOPTION SCHEDULE

July	1	(Friday)	Staff draft completed
July	26	(Tuesday)	Mailed to Economic Development Committee (EDC)
August	1	(Monday)	EDC review public meeting draft
August	8	(Monday)	Formal staff positions taken / EDC approves public meeting draft
August	10	(Wednesday)	Mail public meeting draft
August	30	(Tuesday)	Public meeting
August	31	(Wednesday)	Public meeting
September	9	(Friday)	Public meeting record closed
September	12	(Monday)	EDC reviews public hearing draft (based on public meeting revisions)
September	19	(Monday)	EDC reviews public hearing draft
September	26	(Monday)	EDC approves public hearing draft
September	29	(Thursday)	Council sets public hearing date
November	9	(Wednesday)	Public hearing held
November	28	(Monday)	Public hearing record closed
December	12	(Monday)	Hearing record and final document available
January	9	(Monday)	EDC reviews and recommends adoption
January	19	(Thursday)	Council adopts

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of
Temporary Rules Governing Joint
Self-Insurance Employee Health Plans

ORDER FOR NOTICE
OF INTENT TO ADOPT
TEMPORARY RULES

IT IS ORDERED this 29th day of November, 1983 that Notice of Intent to Adopt Temporary Rules in the above-entitled matter be given to all persons who have registered their names with the Department of Commerce for that purpose and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

State of Minnesota
Department of Commerce

Proposed Temporary Rules Governing Joint
Self-Insurance Employee Health Plans

Notice is hereby given that the Department of Commerce proposed to adopt the above-entitled temporary rules. These temporary rules are promulgated pursuant to Minnesota Statutes, section 62H.06.

All interested persons may submit comments on the proposed temporary rules for 20 days immediately following publication of this material in the State Register by writing to John Klein, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. The temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rules. Pursuant to Minnesota Statutes, section 14.35 these temporary rules shall be in effect for a period of 180 days following adoption and approval by the Attorney General.

A copy of the proposed temporary rules is attached to this Notice.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Adoption of
Temporary Rules Governing Joint
Self-Insurance Employee Health Plans

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Debbi J. Lindlief, being first duly sworn, deposes and says:

That on the 9th day of December, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Debbi J. Lindlief

Subscribed and sworn to before me this
12th day of December, 1983.

Elizabeth D Moran

ELIZABETH D. MORAN
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Mar. 23, 1990

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Temporary Rules Governing Joint Self-Insurance
Employee Health Plans

I certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 8th day of December, 1983.

Debbi J. Lindsley

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Robins, Zelle, Larson & Kaplan
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Office of Administrative Hearings
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Minn. Government Report
B-12 Press Room, State Capitol
St. Paul, MN 55155

Minnesota League of Credit Unions
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St. Paul, MN 55103

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St. Paul, MN 55104

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Minn. School of Real Est. Inc.
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Union Fidelity Life Insurance Co.
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Trevose, PA 19049
Attn: Edward G. Farmer, Jr., V.P.

Jerome Scheibl, Vice President
Wausau Insurance Group
2000 Westwood Dr.
Wausau, WI 55401

Workers Comp. Reinsurance Assoc.
900 Minnesota Mutual Life Center
400 North Robert Street
St. Paul, MN 55101

C. For flexible premium policies, a report must be sent to the policyholder if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day. The report must indicate the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of the amount.

Department of Commerce

Proposed Temporary Rules Governing Joint Self-Insurance Employee Health Plans

Notice is hereby given that the Deparxment of Commerce proposed to adopt the above-entitled temporary rules. These temporary rules are promulgated pursuant to Minnesota Statutes, section 62H.06.

All interested persons may submit comments on the proposed temporary rules for 20 days immediately following publication of this material in the *State Register* by writing to John Klein, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101. The temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rules. Pursuant to Minnesota Statutes, section 14.35 these temporary rules shall be in effect for a period of 180 days following adoption and approval by the Attorney General.

A copy of the proposed temporary rules is attached to this Notice.

Michael A. Hatch
Commissioner of Commerce

Temporary Rules as Proposed (all new material)

4 MCAR § 1.850 [Temporary] Statutory authority.

Rules 4 MCAR §§ 1.850-1.866 [Temporary] are adopted under the authority of Laws of Minnesota 1983, chapter 241, section 6.

4 MCAR § 1.851 [Temporary] Purpose.

Rules 4 MCAR §§ 1.850-1.866 [Temporary] govern the formation, operation, and dissolution of groups of employers which jointly self-insure employee health, dental, or short-term disability benefits. These rules are intended to ensure that a group's financial integrity is maintained, and that groups are administered competently and equitably.

4 MCAR § 1.852 [Temporary] Scope.

The following are subject to the requirements of 4 MCAR §§ 1.850-1.866 [Temporary]:

A. employers authorized to transact business in Minnesota that seek to jointly self-insure employee health, dental, or short-term disability benefits;

B. self-insurance plan administration companies licensed under Minnesota Statutes, section 60A.23, subdivision 8, clause (3), that provide services to a plan; and

C. insurance companies licensed under Minnesota Statutes, section 60A.07, subdivision 4, that provide required stop-loss coverage to a plan.

4 MCAR § 1.853 [Temporary] Definitions.

For the purposes of 4 MCAR §§ 1.850-1.866 [Temporary], the terms in A.-W. have the meanings given them unless the context clearly indicates a different meaning.

A. Annual premium. "Annual premium" means the total premium paid or to be paid by all members during a single fiscal year of a plan.

B. Board. "Board" means a plan's board of trustees.

C. Bylaws. "Bylaws" means the adopted statement which prescribes the scope, government, and administration of a plan, as required by 4 MCAR § 1.854 [Temporary].

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D. Commissioner. "Commissioner" means the commissioner of the Department of Commerce.

E. Coverage. "Coverage" means the right of a covered employee or other beneficiary to indemnification by a plan by virtue of the coverage document.

F. Coverage document. "Coverage document" means the document that specifies the characteristics and duration of coverage provided through a plan.

G. Covered employee. "Covered employee means an employee of a plan member covered through the plan, and a former employee receiving continued coverage under Minnesota Statutes, section 62A.17. "Covered employee" does not include dependents or other persons included under the coverage extended to a current or former employee, or persons covered under individual insurance policies according to Minnesota Statutes, sections 62A.17, subdivision 6, or 62E.16.

H. Days. "Days" means calendar days.

I. Financial administrator. "Financial administrator" means the bank or investment company under contract with the board for investment of the plan's assets and other financial services.

J. Fund year. "Fund year" means the fiscal year of a plan, which is the calendar year.

K. Insurer. "Insurer" means an insurance company licensed under Minnesota Statutes, section 60A.07, subdivision 4, and authorized by Minnesota Statutes, section 60A.06 to write the kind of insurance offered.

L. Member. "Member" means an employer who participates in a plan. Reference to actions of a member includes actions on behalf of the member's employees and other covered persons.

M. Plan. "Plan" means an employee benefit joint self-insurance plan approved under 4 MCAR §§ 1.850-1.866 [Temporary]. Reference to actions of a plan includes actions by the plan's agents if the plan has delegated authority to these agents.

N. Plan director. "Plan director" means the person vested with authority for the plan's operation between meetings of the board. The plan director shall be a member of the board.

O. Premium. "Premium" means the amount paid or to be paid for coverage by members to a plan under 4 MCAR § 1.861 [Temporary] A. This term does not include assessments or penalties.

P. Reinsurance. "Reinsurance" means a stop-loss coverage agreement.

Q. Reinsurer. "Reinsurer" means an insurance company providing stop-loss coverage, notwithstanding that primary coverage provided through a self-insurance plan is not insurance.

R. Reserve. "Reserve" means a liability corresponding to an estimate of the amount necessary to pay future losses or expenses under 4 MCAR § 1.862 [Temporary].

S. Runoff plan. "Runoff plan" means a plan that no longer has authority to self-insure, but that continues to exist for the purpose of paying claims, preparing reports, and administering transactions associated with the period when the plan provided coverage.

T. Self-insure. "Self-insure" means to assume primary liability or responsibility for certain risks or benefits, rather than transferring liability or responsibility to some other entity.

U. Separate employer. "Separate employer," for the purposes of meeting the minimum three-employer requirement, means an employer that is not the parent, subsidiary, or affiliate with a common parent of any other employer in the plan.

V. Service company. "Service company" means an entity licensed under Minnesota Statutes, section 60A.23, subdivision 8 and rules adopted thereunder as a self-insurance plan administrator.

W. Short-term disability benefit. "Short-term disability benefit" means income replacement payments of not more than one year's duration.

4 MCAR § 1.854 [Temporary] Bylaws.

A. Content. A plan's bylaws may contain provisions that do not conflict with 4 MCAR §§ 1.850-1.866 [Temporary]. A plan's bylaws must, at a minimum, contain the following provisions:

1. the plan's name, purpose, and initial date of existence;

2. definitions of key terms;

3. a statement of the powers, duties, and responsibilities assigned to the plan director, the plan's board of trustees, the service company, and the financial administrator, and reserved to the plan's membership;

4. the number, term of office, method of selection, and method of replacement of the members of the plan's board of trustees;

5. the procedure for calling special meetings of the board;

6. the method of periodic selection and review of the service company and financial administrator;

7. the procedure for amending the bylaws;

8. the procedure for resolving disputes among members, which shall not include submitting the disputes to the commissioner;

9. the criteria for membership in the plan, including standards of financial integrity and loss experience;

10. the procedure for adding new members to the plan;

11. the criteria for expulsion from the plan, including nonpayment of premium;

12. the procedure for withdrawal and expulsion of members from the plan;

13. a statement of the coverages which the plan intends to provide;

14. the procedure for adding and dropping members' participation in a particular coverage;

15. a schedule for premium payments by members and, if applicable, their employees;

16. the procedure for changing premium rates;

17. the procedure for levying and collecting an assessment;

18. the procedure for distribution of dividends, and the eligibility of past members and past covered employees for dividends; and

19. the procedure for distribution of assets remaining upon the plan's dissolution.

B. Adoption and changes. The bylaws of a plan must be adopted in writing by all initial members, and filed with the commissioner at the time of application. Changes in the bylaws must be made according to the procedures specified in the bylaws, which shall provide either approval by a specific percentage of the plan's members, or approval by a specific percentage of the board members. Changes do not become effective until 21 days after the vote of the plan's or board's membership has been tallied, unless a later date is specified. The proposed bylaw change must be filed with the commissioner not less than 14 days before it is to be effective. The commissioner shall disallow the change before its effective date if it is inconsistent with a Minnesota statute or rule, or any lawful order of the commissioner.

4 MCAR § 1.855 [Temporary] Board.

A. Structure. A plan must have a board of trustees consisting of officials or employees of the plan's members. No plan member may have more than one representative on the board. No board member may be an employee, agent, or representative of a service company, financial administrator, insurance company, or any person or entity under contract with the plan. Board members shall be elected by majority vote of the plan's members. The terms of board members must be staggered to provide continuity. The board shall meet no less than four times annually.

B. Duties. The board is responsible for operation of the plan, and shall delegate some or all of its responsibilities to the plan director between board meetings. All responsibilities of the plan not expressly delegated by the board or 4 MCAR §§ 1.850-1.866 [Temporary] are the responsibility of the board. The board shall have at a minimum the following responsibilities:

1. fiduciary responsibility for the plan's operation and financial condition;

2. selection, supervision, and evaluation of the service company, financial administrator, accountant, reinsurer, and any other contractors;

3. monitoring the overall financial condition of the plan; making recommendations for changes in premium, reserve, or investment practices; and declaring assessments or dividends as appropriate to the plan's financial condition;

4. approving all reports concerning the plan's operations and status to the commissioner and the plan's members;

5. monitoring delinquent premiums, loss experience, and the financial condition of individual members; and as required by the bylaws, initiating or recommending to the membership disciplinary action or expulsion;

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6. as required by the bylaws, acting upon applications for membership in the plan or recommending acceptance or rejection to the membership;

7. as permitted by the bylaws, making changes to the bylaws for the improvement of the operation and financial integrity of the plan, or recommending these changes to the members; and

8. monitoring the compliance of the plan with all statutes and rules governing its operation.

4 MCAR § 1.856 [Temporary] Application.

A. Form. Three or more employers may apply to the commissioner for authority to form a self-insurance plan, using forms available from the commissioner. Applications must be submitted not later than 60 days prior to the requested date for authority to self-insure. All reinsurance contracts must be submitted not later than 30 days prior to the requested date. Applications submitted without responses to certain questions, or with responses which in the commissioner's judgment are inadequate, must be returned to the applicant for resubmission. Applications not returned to the applicant for resubmission within 14 days of receipt must be approved or disapproved within 60 days of receipt.

B. Exemptions. Joint self-insurance plans which offer a program of coverage qualified under the Employees Retirements Income Security Act (ERISA), United States Code, title 29, sections 1001 et seq., are exempted from 4 MCAR §§ 1.850-1.866 [Temporary] upon filing with the commissioner notice of this qualification from the United States Department of Labor.

C. Merger. Two or more existing plans may apply to merge, provided the new plan assumes all obligations of the former plan. Applications are subject to the same requirements as prospective new plans.

D. Approval and disapproval. Upon approval of an application, the commissioner shall issue an order authorizing the proposed joint self-insurance plan. Approval of applications for authority to self-insure must be granted if the proposed plan conforms with all requirements of 4 MCAR §§ 1.850-1.866 [Temporary]; with all applicable requirements of Minnesota Statutes, chapters 62A, 62D, 62E, and 72A as described in 4 MCAR § 1.860 [Temporary] A.; with Minnesota Statutes, sections 72A.19 to 72A.32; and with other applicable Minnesota statutes and rules.

4 MCAR § 1.857 [Temporary] Termination, revocation, runoff, and dissolution.

A. Voluntary termination. A plan may voluntarily terminate its authority to self-insure by action of the membership. The plan shall notify the commissioner of this action. Termination is not effective until 45 days after the action of the membership or 30 days after written notification to the commissioner, whichever is later, or a later date if specified by the membership. Voluntary termination of self-insurance authority does not constitute plan dissolution under D.

B. Revocation of authority. The authority of a plan to self-insure may be revoked by order of the commissioner upon ten days written notice for any of the following reasons:

1. failure of the plan to comply with 4 MCAR §§ 1.850-1.866 [Temporary]; with all applicable requirements of Minnesota Statutes, chapters 62A, 62D, and 62E as described in 4 MCAR § 1.860 [Temporary] A.; or with other applicable Minnesota statutes or rules;

2. failure of the plan to comply with any lawful order of the commissioner;

3. commission by the plan of an unfair or deceptive practice as defined in Minnesota Statutes, sections 72A.17 to 72A.32, or in rules adopted under Minnesota Statutes, section 72A.19, subdivision 2; or

4. a deterioration of the plan's financial integrity to the extent that its present or future ability to meet obligations promptly and in full is in doubt.

C. Runoff plans. A plan shall continue to exist after its authority to self-insure has been terminated, for the purpose of paying claims, preparing reports, and administering transactions associated with the period when the plan provided coverage. Notwithstanding termination of authority to self-insure, a plan shall continue to comply with all applicable provisions of 4 MCAR §§ 1.850-1.866 [Temporary], and with all other applicable Minnesota statutes and rules.

D. Dissolution. A plan that desires to cease existence shall apply to the commissioner for authorization to dissolve. Applications must be approved or disapproved within 60 days of receipt. Dissolution without authorization is prohibited and void, and does not absolve a plan from fulfilling its continuing obligations, and does not absolve its members from assessment under 4 MCAR § 1.865 [Tempoary]. The plan's assets at the time of dissolution must be distributed to the members and covered employees as provided in the bylaws. Authorization to dissolve must be granted if either of the following conditions are met:

1. the plan demonstrates that it has no outstanding liabilities, including incurred but not reported liabilities; or

2. the plan has obtained an irrevocable commitment from a licensed insurance company which provides for payment of all outstanding liabilities, and for providing all related services, including payment of claims, preparation of reports, and administration of transactions associated with the period when the plan provided coverage.

4 MCAR § 1.858 [Temporary] Administration.

A. Service company. A plan shall contract with a licensed service company for services necessary to the day-to-day operations of the plan, except services and responsibilities reserved to the members, the board, the plan director, the financial administrator, or other contractors. Subject to the oversight of the board and the plan director, the service company shall provide all services directly related to the administration of coverage, including but not limited to accounting and recordkeeping; billing and collection of premiums and assessments; claims investigation, settlement, and reserving; claims payment, including claims wholly or partially subject to reinsurance or member deductibles; general administration; loss control, safety programs, or both; and underwriting. The services may be provided directly by the service company or by subcontractors to the service company.

B. Financial administrator. A plan shall contract with a financial administrator for investment of the plan's assets and for other financial or accounting services. No staff members of the financial administrator may be an owner, officer, employee, or agent of the service company, or of a subcontractor of the service company.

C. Recordkeeping. A plan shall maintain within the state of Minnesota all records as are necessary to verify the accuracy and completeness of all reports submitted to the commissioner under 4 MCAR § 1.866 [Temporary]. The commissioner shall have access to the plan's records in order to ascertain the plan's compliance with 4 MCAR §§ 1.850-1.866 [Temporary]. All records concerning claims, reserves, financial transactions, and other matters necessary to the plan's operations are the plan's property. The plan is responsible for reasonable costs associated with the transfer of such records from a service company, financial administrator, or other contractor.

4 MCAR § 1.859 [Temporary] Membership.

A. Availability. Plan membership is available only to employers domiciled and authorized to transact business in Minnesota. No employer may be a member of more than one plan authorized under 4 MCAR §§ 1.850-1.866 [Temporary]. A plan may establish other nondiscriminatory criteria for membership. Nothing in these rules requires a plan to offer membership to an employer which does not meet the plan's underwriting standards.

B. Joining. Admission of new members must comply with the standards and procedures specified in the bylaws. Membership is not effective until the applicant has signed a membership agreement affirming its commitment to comply with the bylaws and 4 MCAR §§ 1.850-1.866 [Temporary].

C. Voluntary withdrawal. A member shall notify the plan of its desire to withdraw not less than 30 days before the date upon which it desires to withdraw. If the board determines that the withdrawal would cause the plan to be in violation of the minimum number of covered employees requirement of Minnesota Statutes, section 62H.01, or any other requirement of 4 MCAR §§ 1.850-1.866 [Temporary], the plan shall notify the commissioner under E. Withdrawal from a plan is prohibited and void unless:

1. the member has belonged to the plan continuously until the end of the current fund year, or until the end of the succeeding fund year for new members which join in the last three months of the fund year, or a longer period if required by the bylaws, provided that members may be expelled from a plan at any time; and

2. all outstanding premiums and assessments owed by the member have been paid.

D. Expulsion. At least annually the plan shall review the status and experience of each member by comparison with the criteria for expulsion in the bylaws. Expulsion of a member is subject to the procedures and requirements for voluntary withdrawal of a member.

E. Minimum covered employees and employers. At least monthly a plan shall monitor the number of employees it covers. If the number of covered employees is less than 300, the plan shall notify the commissioner at least monthly of the number of covered employees. If the number of covered employees becomes less than 250, or the number of members becomes less than three, the plan shall notify the commissioner of its intent to terminate its self-insurance authority or its proposal for restoring compliance with Laws of Minnesota 1983, chapter 241, section 1. If the proposal is unlikely, in the commissioner's judgment, to restore compliance within 120 days, or if after 90 days the plan continues to have less than 250 covered employees or less than three members, the commissioner shall revoke the plan's authority.

F. Runoff plan membership. After revocation of a plan's authority to self-insure, or after written notification to the commissioner of intent to terminate self-insurance authority voluntarily, no member may join, leave, or be expelled from the plan.

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4 MCAR § 1.860 [Temporary] Coverage.

A. Mandated coverages and related requirements. If required under Minnesota Statutes, section 62E.17, a member shall provide health maintenance organization-type coverage which may be made available through the plan. A plan shall provide a qualified Medicare supplement coverage, as defined in Minnesota Statutes, section 62E.07, to eligible employees and shall make a conversion coverage option available. A plan shall conform to the requirements of Minnesota Statutes, chapters 62A, 62D, and 62E, and related rules, as applicable to group insurance coverage as defined in Minnesota Statutes, section 62A.10; Medicare supplement coverage as described in Minnesota Statutes, section 62A.31; and plans of health coverage as defined in Minnesota Statutes, section 62E.02. These requirements include but are not limited to filing and obtaining approval for coverage documents and rates; coverage document language requirements; mandated benefits; employee notice requirements; requirements to offer continuation of coverage to employees and other covered persons; and requirements to offer conversion coverage to employees and other covered persons, for which purpose carriers licensed under Minnesota Statutes, section 60A.06, subdivision 1, clause (5) (a), chapter 62C or 62D are eligible. Any changes in the coverage offered by a plan must comply with Minnesota Statutes, chapters 62A, 62D, and 62E. All insurance type coverage documents must be filed and approved or disapproved under Minnesota Statutes, section 62A.02.

B. Scope of coverage. All coverages offered by a plan must be available according to the same underwriting standards to all employees of all members.

C. Term of coverage. A plan shall not commit itself to providing coverage for any period which extends beyond the term of any reinsurance contracts required under 4 MCAR § 1.863 [Temporary].

D. Continuing responsibility. Notwithstanding cancellation or termination of coverage to a particular employee or other covered persons, ceasing to offer a coverage, or termination or revocation of authority to self-insure, a plan retains indefinitely all responsibilities to covered employees associated with the period while coverage was in force, unless the plan dissolves under 4 MCAR § 1.857 [Temporary] D.

4 MCAR § 1.861 [Temporary] Premiums and dividends.

A. Premium payments. At the time coverage documents and rates are filed with the commissioner for approval, a plan shall specify for each coverage the portion of premium to be paid by members and the portion to be paid by covered employees. The fund year is the basis for calculating premiums, subject to mid-year adjustments. Any delinquencies in payments by employees must be paid on their behalf by the employer, with the employer having the right to seek reimbursement from the employee, or from the plan if payment is later made directly to the plan. A plan shall promptly take appropriate action to collect any members' premiums or assessments which are past due. A plan may permit payments to be made in installments, provided payment is always to be received in advance of the date when premium is to be earned.

B. Dividends. A plan may declare a dividend or distribution provided its surplus account is fully funded, under 4 MCAR § 1.862 [Temporary] C.1.; or provided the policy year-end settle-up calculation and payments have been made concerning any funds advanced from the reinsurer under 4 MCAR § 1.862 [Temporary] C.2. The apportionment of dividends must be based on the relative amounts of premium paid, and must provide for payments to members and to covered employees.

4 MCAR § 1.862 [Temporary] Reserves.

A. Loss and premium reserves. A plan shall establish loss reserves for all incurred losses, both reported and unreported, and for unearned premiums. To the extent that the amount of a loss is uncertain, reserves must be set conservatively. As the degree of uncertainty concerning a loss is changed by new events or information, the amount of the reserve must be changed appropriately. Accounting for reserves must be as provided on the forms required under 4 MCAR § 1.866 [Temporary] A.

B. Full funding requirement. A plan shall provide for the full funding of its unpaid losses by establishing a loss ratio reserve for each fund year, in the amount of the premium collected for coverage during that fund year; multiplied by the loss ratio percentage fixed in the aggregate excess stop-loss reinsurance contract under 4 MCAR § 1.863 [Temporary] C.; less the amount of losses paid, loss reserves, and unearned premium reserves attributable to that fund year. For the purpose of establishing the loss ratio reserve amount, the amount of premiums paid for individual excess stop-loss reinsurance coverage during that fund year must be deducted from "premium collected," and the amount of loss payments received for that fund year pursuant to said reinsurance must be deducted from "losses paid." Loss ratio reserves remaining one year after the fund year's conclusion may be eliminated.

C. Surplus requirement. A plan shall protect itself from cash flow difficulties by either:

1. Establishing a surplus account equal to the greater of:

   a. three times the average paid monthly premium during the plan's most recent fund year;

   b. for plans which do not yet have one fund year's experience, three times estimated monthly premium; or

   c. $100,000.

The surplus account must not be drawn upon unless other assets are inadequate or unavailable to pay current expenses. Surplus account assets must not be offset against loss or premium reserve liabilities established under A., or any other plan liabilities. The plan shall notify the commissioner not later than seven days after the amount in the surplus account decreases below the required amount, and of the plan's intentions to restore the required amount. The plan must restore the required amount not later than 60 days after the deficiency originated. Repeated failure to maintain the required surplus amount is grounds for revocation of self-insurance authority.

2. Obtaining a provision in the aggregate excess stop-loss reinsurance contract required under 4 MCAR § 1.863 [Temporary], which requires the reinsurer to advance funds to the plan at any time at the plan's request. Any funds so advanced must be included in the settle-up calculation at the conclusion of the fund year. No limit may be set on the amount of funds which the plan may require to be so advanced.

4 MCAR § 1.863 [Temporary] Reinsurance.

A. Purchase and alteration. The plan shall inform the commissioner at least 90 days prior to expiration of its reinsurance contract if it intends not to renew a reinsurance contract, or if the reinsurance contracts will not be renewed by the reinsurer. Alteration of a reinsurance contract mid-term with the effect of reducing coverage is prohibited. Under Laws of Minnesota 1983, chapter 241, section 2, reinsurance contracts are noncancellable for a minimum of two years, for any cause including nonpayment of reinsurance premium. If more than one reinsurance contract is obtained in fulfillment of this section's requirements, their expiration dates must be the same.

B. Individual excess. A plan's individual excess stop-loss reinsurance must provide for the reinsurer to assume all liability in excess of $25,000 per person per year. A plan may apply to the commissioner for increasing the individual excess stop-loss reinsurance limit up to $50,000. The commissioner shall approve this application coverage, if the increased limit would not be detrimental to the solvency and stability of the plan, considering the plan's experience, size, surplus, and other factors that affect financial integrity.

C. Aggregate excess. A plan's aggregate excess stop-loss reinsurance must provide for the reinsurer to assume all liability in excess of a specified loss ratio for a particular fund year, based on actual premium collected and paid losses attributable to that fund year. For this purpose, "loss ratio" means the percentage which paid losses constitute of premium collected, excluding losses assumed by individual excess stop-loss reinsurance and premiums paid for said reinsurance.

D. Delinquencies and insolvencies. One of a plan's reinsurance contracts shall provide for the reinsurer:

1. at the plan's or the commissioner's request, to pay premium to the plan on behalf of a member that fails to pay due to insolvency, unauthorized withdrawal from the plan, or any other reason; and

2. at the commissioner's request, to assume direct responsibility for a plan's coverage and other responsibilities under these rules and related statutes if the plan becomes insolvent, ceases operations without authorization, or otherwise fails to fulfill its responsibilities under these rules and related statutes.

This reinsurance contract may provide for the reinsurer to have a cause of action to collect from the plan or a member on whose behalf the reinsurer is called upon to pay premium, pay claims, or incur other extraordinary expenses; provided that the reinsurer is obligated to fulfill its responsibilities under this paragraph while this action is pending. The reinsurance contract must provide that the reinsurer's responsibilities extend to matters arising during or attributable to the contract period, and that these responsibilities do not terminate with the end of the contract period.

E. Return of liability. No liability or other responsibilities transferred to a reinsurer pursuant to this rule may, directly or indirectly, be returned to a plan, a member, or a member's parent, subsidiary, or affiliate.

4 MCAR § 1.864 [Temporary] Financial integrity.

A. Fidelity bond. All contractors and individuals who handle plan funds or who will have authority to gain access to plan funds, including board members, shall be covered by a fidelity bond purchased by the plan. The bond must cover losses from dishonesty, robbery, forgery or alteration, misplacement, or mysterious and unexplainable disappearance. The coverage must be not less than the amount indicated by the following table. "Exposure Index" means the total of plan assets multiplied by five percent, and plan annual income multiplied by ten percent, to be refigured at the end of each fund year.

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Exposure Index	Minimum Bond Amount
$ 500,000 or less	$100,000
500,001- 750,000	125,000
750,001-1,000,000	150,000
1,000,001-1,375,000	175,000
1,375,001-1,850,000	200,000
1,750,001-2,125,000	225,000
2,125,001-2,500,000	250,000
2,500,001-3,325,000	300,000
3,325,001-4,175,000	350,000
4,175,001-5,000,000	400,000
5,000,001-6,075,000	450,000
6,075,001 or more	500,000

B. Integrity of funds. The assets of a plan must not be commingled with the assets of any member. The assets of a plan must not be loaned to anyone for any purpose, or used as security for a loan. The assets of a plan must be employed solely for the purposes stated in the plan's bylaws, and in compliance with the requirements of 4 MCAR §§ 1.850-1.866 [Temporary] and applicable Minnesota insurance statutes. No member, covered employee, or other covered person has a right to an asset of a plan except:

1. for benefits under the coverage documents;
2. for dividends declared under 4 MCAR § 1.861 [Temporary] B.; and
3. for a portion of the assets remaining upon the dissolution of a plan under 4 MCAR § 1.857 [Temporary] D.

C. Sources and uses of funds. A plan may expend funds for payment of losses and expenses, and for other costs customarily borne by commercial insurers under conventional insurance policies. A plan shall not borrow money or issue debt instruments. A plan may bring legal suits to collect delinquent debts. A plan shall receive funds only from:

1. its members as premiums, assessments, or penalties;
2. its reinsurers or indemnitors pursuant to reinsurance or indemnification agreements;
3. dividends, interest, or the proceeds of sale of investments;
4. refunds of excess payments; or
5. collection by lawsuit, subrogation, or otherwise of money owed to the plan.

D. Separate accounts. A plan may establish separate accounts for the payment of claims or certain types of expenses. These accounts must be used only by the plan's service company, its authorized subcontractors, or the plan's financial administrator, as appropriate to the account's purpose. The amount in such special accounts must not exceed an amount which is reasonably sufficient to pay the claims or expenses for which it is established. All monetary and investment assets not in these accounts must be under the control of the plan's financial administrator.

E. Investments. Under Laws of Minnesota 1983, chapter 241, section 5, a plan's assets must be invested according to the requirements of Minnesota Statutes, section 475.66, as regards both permitted types of investments and permitted maturities. In addition, a plan shall not invest in securities or debt of a member, or a member's parent, subsidiary, or affiliate; or any company or reinsurer under contract with the plan.

4 MCAR § 1.865 [Temporary] Financial condition.

The board and the plan director shall monitor the plan's revenues, expenses, and loss development, and evaluate its current and expected financial condition. For this purpose the board or the plan director shall, at least quarterly, cause unaudited financial statements to be prepared for the current and most recent fund years. These statements must be filed with the commissioner not later than 30 days after the end of the quarter or other statement period. As necessary to maintain the plan's sound financial condition or to forestall a rapid decrease in members likely to require the plan's termination, the commissioner shall increase the premium rates, order that an assessment be levied against the members, or order termination of the plan's self-insurance authority. Members shall not require covered employees to pay a portion of an assessment, nor shall covered employees be required to pay any amount for premium increases on coverage in force. The amount of an assessment must not be more than the amount of a member's most recent annual premium, including the portion paid by covered employees.

4 MCAR § 1.866 [Temporary] Reporting.

A. Financial statements. The financial statements required of the plan by Laws of Minnesota 1983, chapter 241, section 5 must contain at a minimum a balance sheet, statement of revenues and expenses, statement of loss development, and schedule

of investments. The statements must be prepared on forms available from the commissioner, or equivalent forms. The financial statements must be filed no later than 30 days after the fund year's conclusion. The financial statements must be audited by an independent certified public accountant, and an audit report must be filed with the commissioner not later than 60 days after the fund year's conclusion.

B. Extraordinary audits. Upon sufficient cause, the commissioner may require a plan to investigate the accuracy of one or more entries on its financial statements, and to report its findings. As a condition of these investigations, the commissioner may require a plan to contract with a qualified actuary, claims specialist, auditor, or other specialists as appropriate to the type of entry being investigated. On the basis of the investigation's findings, the commissioner may require changes in the plan's reserving, accounting, or recordkeeping practices. These extraordinary audits are in addition to the commissioner's rights to examine self-insurance plans under Minnesota Statutes, sections 60A.03 and 60A.031. Sufficient cause includes:

1. losses which appear significantly different than losses experienced by other self-insurance plans or insurance companies for similar coverage;

2. unusual changes in the amount of entries from period to period which are not sufficiently explained by the financial statements or footnotes; or

3. other indications that a plan's financial statements may not accurately reflect the plan's status and transactions.

C. Annual status report. Not later than 30 days after the fund year's conclusion, a plan shall file with the commissioner a statement describing any changes which have occurred in the information filed with its initial application for authority to self-insure, or with the plan's most recent status report. The status report must be filed on a form available from the commissioner.

D. Narrative report. Not later than 30 days after the fund year's conclusion, the board shall file with the commissioner a narrative report concerning the performance of the plan and its agents during the most recent fund year, and the status of the plan as of the last day of the most recent fund year. The report shall address the performance of the service company, financial administrator, and their major subcontractors; the adequacy of premiums, reserves, reinsurance, and current member resources as regards the plan's financial integrity; and any other issues which the board wishes to bring to the commissioner's attention.

E. Penalty. The financial statements, status reports, and narrative report required under A., C., and D. are considered together to be a plan's annual statement. This filing and other filings required by these rules are subject to Minnesota Statutes, section 72A.061.

F. Revenue fee. No later than 60 days after each fund year's conclusion, a plan shall file a report with the commissioner of revenue disclosing the total amount of claims paid during the fund year, with no deduction for claims wholly or partially reimbursed through reinsurance. The report must be filed on a form available from the commissioner of revenue. At the time of filing the report, the plan shall pay the fee required by Laws of Minnesota 1983, chapter 241, section 7 to the commissioner of revenue in the amount of two percent of the total amount of claims paid during the fund year, with no deduction for claims wholly or partially reimbursed through reinsurance.

Department of Human Rights

Proposed Temporary Rules Governing Case Processing Policies and Procedures, and Restrictions for Apprenticeship Programs

Request for Public Comment

Notice is hereby given that the Department of Human Rights has proposed the following temporary rules for the purpose of implementing the provisions of Laws of 1981, Ch. 330, Sec. 4 and Laws of 1983, Ch. 301, Secs. 198-200.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rules for 20 days immediately following publication of this material in the *State Register*. All submissions must be in writing and addressed to:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

In the Matter of the Proposed Adoption of Rules Governing Joint Self-Insurance Employee Health Plans

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Rodney A. Wilson, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Rodney A. Wilson
Special Assistant Attorney General

Dated: 1/31/84