



Minnesota Workers' Compensation
Insurers Association, Inc.
7701 France Avenue South ▪ Suite 450
Minneapolis, MN 55435-3200

January 9, 2014

ALL ASSOCIATION MEMBERS

Circular Letter 14-1645

RE: Revisions to the *Minnesota Basic Manual* – Employee Leasing Arrangements

The Minnesota Department of Commerce has approved the above filing to become effective 12:01 a.m., February 1, 2014, for new and renewal business.

The purpose of this filing item is to amend the Employee Leasing Arrangements rule in the ***Minnesota Basic Manual*** to add clarifying language on how executive officers, sole proprietors, partners, and members of LLC's are treated under Employee Leasing Arrangements.

Please refer to the attached Exhibit I, which illustrates revisions to the ***Minnesota Basic Manual***.

If you have any questions regarding this matter please direct them to MWCIA's Member & Customer Services staff at 952.897.1737 (Option 1) or via email at underwriting@mwcia.org.

EXHIBIT I

MINNESOTA BASIC MANUAL

RULES

SUPPLEMENTAL PAGES

Effective February 1, 2014

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
<p>E. Employee Leasing Arrangements</p> <p>As respects employee leasing arrangements in Minnesota, the following definitions shall apply:</p> <p>Employee Leasing Arrangements are contractual arrangements whereby an entity (the client company) leases for a fee or other compensation any or all of its employees from another entity (the employee leasing company). Employee leasing arrangements include, but are not limited to, full service or long term leasing arrangements under which the leasing company provides employees to the client company and undertakes some of the employment responsibilities for those leased employees</p> <p>Client Company means the entity who obtains any or all of its employees from another entity under an employee leasing arrangement which is identified in Item 1 of the Information Page and on the Minnesota Employee Leasing Endorsement (WC 22</p>	<p>SAME</p>	

EXHIBIT I

MINNESOTA BASIC MANUAL

RULES

SUPPLEMENTAL PAGES

Effective February 1, 2014

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
<p>03 04).</p> <p>Leasing Company means the entity which leases employees to the client company under an employee leasing arrangement and which is identified in Item 1 of the Information Page.</p> <p>Temporary Help Services means a service under which an entity hires its own employees and assigns those employees to a client for a limited time [generally less than thirty (30) days] to address special circumstances such as temporary skill shortages or temporary special assignments and projects.</p> <p>In Minnesota, it is the responsibility of the employee leasing company to purchase and maintain a separate workers' compensation policy for each client company to cover the exposure of their leased employees. The experience of any employees leased to a client company shall be</p>	<p>SAME</p>	

EXHIBIT I

MINNESOTA BASIC MANUAL

RULES

SUPPLEMENTAL PAGES

Effective February 1, 2014

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
<p>combined with the experience of the non-leased employees of the client company for purposes of calculating an experience modification factor for the client company. The experience modification of the client company shall apply to both the policy for their non-leased employees as well as any policy maintained by an employee leasing company for their leased employees. If the leasing company qualifies for an experience modification factor, it shall be based only on the experience of their non-leased employees. <i>Refer to the Minnesota Experience Rating Plan Manual for additional information on Employee Leasing Arrangements and experience rating.</i></p> <p>Each employee leasing arrangement requires that a separate policy be issued to cover the leased employees of each client company. This policy does not satisfy a client company's obligation to secure its own workers' compensation policy for employees not covered under the employee leasing arrangement. An employee leasing arrangement further obligates the client company to comply with</p>	<p>SAME</p>	

EXHIBIT I

MINNESOTA BASIC MANUAL

RULES

SUPPLEMENTAL PAGES

Effective February 1, 2014

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
<p>Part Four (Your Duty If Injury Occurs) of the policy and also recognizes the carrier's rights to defend under Part One and Part Two, their right to audit under Part Five, and the carrier's right to inspect under Part Six. If a policy covering the leased employees is being cancelled, it is the responsibility of the employee leasing company to notify the client company of the cancellation.</p> <p>[Note: Cancellation of one client company policy does not affect the rights and obligations of the leasing company with respect to any other workers' compensation policy they may have in force to cover other employee leasing arrangements.]</p>	<p>SAME</p>	

EXHIBIT I

MINNESOTA BASIC MANUAL

RULES

SUPPLEMENTAL PAGES

Effective February 1, 2014

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
<p>Policies written to provide coverage for employee leasing arrangements must be issued to the employee leasing company. The policy must list both the leasing company and the client company as named insureds under Item 1. The employee leasing company shall be listed as the primary insured on the policy and the client company shall be listed as the secondary insured. In addition, Minnesota Employee Leasing Endorsement WC 22 03 04 must be attached to each employee leasing arrangement policy identifying the client company on the policy. It is also the responsibility of the employee leasing company to notify the client company if coverage on the policy insuring the employee leasing arrangement is being cancelled.</p>	SAME	
<p>Separate policies must be maintained by both the employee leasing company <i>and</i> the client company to insure the exposures of any leased or non-leased employees that are not part of an employee leasing arrangement are covered in accordance with Minnesota's workers' compensation law. Minnesota Exclusion Of Coverage For Leased Employees Endorsement WC 22 03 05 must be attached to the leasing company's policy to specify it</p>	SAME	

EXHIBIT I

MINNESOTA BASIC MANUAL

RULES

SUPPLEMENTAL PAGES

Effective February 1, 2014

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
does not provide coverage for any employees leased to others under an employee leasing arrangement.		
NONE	<p><u>Executive officers, sole proprietors, partners, and LLC members of a client who are leased workers from a PEO under a PEO arrangement will be:</u></p> <ul style="list-style-type: none"> • <u>Treated as leased workers of the client for the purposes of classification assignment and premium determination.</u> • <u>Charged for payroll under the client policy as an employee and not subject to executive officer, sole proprietor, partner, or LLC member payroll limitations in accordance with Rule 2-E of the Minnesota Basic Manual.</u> <p><u>Executive officers, sole proprietors, partners, and LLC members of a client who are not leased</u></p>	<p>EXPLAINS WHEN TO APPLY PAYROLL LIMITATIONS OF CERTAIN INDIVIDUALS UNDER AN EMPLOYEE LEASING ARRANGEMENT</p>

EXHIBIT I

MINNESOTA BASIC MANUAL

RULES

SUPPLEMENTAL PAGES

Effective February 1, 2014

CURRENT PHRASEOLOGY	PROPOSED PHRASEOLOGY	NOTE
NONE	<p><u>workers from a PEO under a PEO arrangement will be:</u></p> <ul style="list-style-type: none">• <u>Treated as non-leased workers of the client for the purposes of classification assignment and premium determination.</u>• <u>Charged for payroll under a separate policy that provides coverage for the client's direct workers as permitted under state regulation or law, and subject to the executive officer, sole proprietor, partner, or LLC member payroll limitations in accordance with Rule 2-E of the Minnesota Basic Manual, unless the applicable exclusion/inclusion documentation is provided.</u>	<p>EXPLAINS WHEN TO APPLY PAYROLL LIMITATIONS OF CERTAIN INDIVIDUALS UNDER AN EMPLOYEE LEASING ARRANGEMENT</p>