

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
EMPLOYER/INSURER COVERAGE RESPONSIBILITY**

436-050-0175 Annual Reporting Requirements**(1) Annual Financial Report.**

Every self-insured employer must file an annual financial report with the director, subject to the following:

- (a) The report must include the employer's audited financial statements or annual report with audited financial statement for the just completed fiscal year, and SEC Form 10K, if issued;
- (b) The report must be filed within the following time frames:
 - (A) A self-insured employer that is not a municipal or public corporation as defined in ORS 297.405 must make the filing within 120 days of the end of its fiscal year; or
 - (B) A self-insured employer that is a municipal or public corporation as defined in ORS 297.405 must make the filing within 180 days of the end of its fiscal year;
- (c) If audited financial statements are not available for filing within the time frames of subsection (b), the self-insured employer may file a financial statement that is certified by the employer that the financial statement is true and accurate and presents the employer's financial condition and results of operations as of the date of the statement. The director may require a self-insured employer to submit an audited financial statement if the certified financial statement submitted is insufficient to evaluate the employer's financial status;
- (d) The financial statements and reports must include information sufficient to determine the self-insured employer's financial viability under OAR 436-050-0150 or OAR 436-050-0260; and
- (e) All financial statements and annual financial reports filed under this section will be retained by the director for a period of at least three years.

(2) Additional requirements for self-insured employer groups.

In addition to the requirements of section (1) of this rule, by March 1 of each year each self-insured employer group must file with the director:

- (a) A statement certifying the group meets or exceeds the combined net worth requirement under OAR 436-050-0260(3)(a), as of the date of the statement;
- (b) A copy of the fidelity bond furnished to the group by the administrator or a copy of the comprehensive crime policy obtained by the group, in an amount sufficient to protect the group against the misappropriation or misuse of any moneys or securities. If the group previously filed a copy of a fidelity bond or policy that covers more than one year, and that fidelity bond or policy is still in effect, the group may include a statement in their annual report referring the director to the copy on file in place of providing an additional copy; and
- (c) If the self-insured employer group consists of private employer members:

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
EMPLOYER/INSURER COVERAGE RESPONSIBILITY**

(A) A statement certifying that each member of the group meets the individual net worth requirement under OAR 436-050-0260(3)(b), as of the member's most recent fiscal year end; and

(B) A list of the group's current board members and their professional affiliations.

(3) Claim loss data reporting.

The self-insured employer must report claim loss data to the director by March 1 of each year for the purposes of experience rating modification, retrospective rating calculations, and determining deposits. [Bulletin 209](#) provides guidelines for self-insured employers and their authorized representatives to use in submitting the required data. The report must be certified to be true and accurate by an authorized representative of the employer, and must include:

(a) A report of losses for each year in the experience rating period. The report must cover all claims incurred during the reporting period and must be valued as of January 1 of the current year, and must include:

(A) Contract medical expenses;

(B) Total medical reimbursement amount;

(C) The number of claims for which medical reimbursement is claimed; and

(D) Separate lists including all claims with total incurred losses above and below the National Council on Compensation Insurance split point published in [Bulletin 209](#).

The lists must include:

(i) The worker's name, listed in alphabetical order;

(ii) The date of injury;

(iii) The claim number;

(iv) The total amount paid;

(v) The medical reimbursement amount claimed, if applicable;

(vi) Outstanding reserves; and

(vii) Total incurred losses;

(b) A report of losses covering the self-insured employer's non-experience period. The report must list all open claims and must be valued as of January 1 of the current year, and must include:

(A) The worker's name, listed in alphabetical order;

(B) The date of injury;

(C) The claim number;

(D) The total amount paid;

(E) Outstanding reserves; and

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
EMPLOYER/INSURER COVERAGE RESPONSIBILITY**

- (F) Total incurred losses;
- (c) Identification of claims involving:
 - (A) Catastrophes;
 - (B) The Workers with Disabilities Program;
 - (C) Permanent total disability;
 - (D) Fatal benefits;
 - (E) Third party recoveries; and
 - (F) Total incurred losses that exceed, or are expected to exceed, the self-insured retention level of the self-insured employer's excess insurance policy;
- (d) If the self-insured employer is a city, county, or qualified self-insured employer group that is exempted from the security deposit requirements under ORS 656.407(3) and OAR 436-050-0185:
 - (A) The procedures, methods, and criteria used in the process of determining the amount of their actuarially sound workers' compensation loss fund, including procedures for determining the amount for injuries incurred but not reported; and
 - (B) Upon the director's request, an actuarial study that demonstrates its loss reserve account is actuarially sound and adequately funded under OAR 436-050-0185(2)(a)(D).

(4) Director's requests for additional information.

The director may require a self-insured employer to provide additional information, or submit financial statements, reports, or claims loss data more frequently.

- (a) The director may require additional information or financial statements for reasons including, but not limited to:
 - (A) Changes in the financial status or viability of a self-insured employer or group; and
 - (B) Changes in the net worth, group membership, or private employer group's board membership of a self-insured employer group.
- (b) The director may require a self-insured employer to submit additional claim loss data if the nature of the employer's business has changed since the last annual loss report for reasons including, but not limited to, mergers or acquisitions, changes in employment level, nature of employment, or incurred claims costs.

(5) Sanctions for failure to comply with this rule.

If a self-insured employer does not comply with the requirements of this rule, the director may:

- (a) Require the self-insured employer to increase its deposit and premium assessments by 25 percent;

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
WORKERS' COMPENSATION DIVISION
EMPLOYER/INSURER COVERAGE RESPONSIBILITY**

- (b) Conduct an audit to obtain the necessary loss information at the self-insured employer's expense;
- (c) Assess civil penalties of up to \$250 per day that the information is not provided beyond the deadline; or
- (d) Revoke the employer's self-insurance certification under OAR 436-050-0200 or OAR 436-050-0340.

(6) Claims reserve audits.

To ensure each self-insured employer's claims are valued appropriately for use in deposit, experience rating, and retrospective rating calculations, the director will perform routine claims reserve audits.

- (a) The values determined at audit will be used to calculate the self-insured employer's security deposit, experience rating factor, and retrospective rating adjustment.
- (b) If there is a 10 percent or greater difference between the values determined by the director at audit and the values that were reported by the self-insured employer, the director may assess civil penalties against the employer.

Statutory authority: ORS 656.407, 656.430, and 656.726(4)

Statutes implemented: ORS 656.407 and 656.430

Hist: Amended 12/14/17 as WCD Admin. Order 17-061, eff. 1/1/18

Amended 11/7/22 as Admin. Order 22-065, eff. 1/1/23

See also the *Index to Rule History*: https://wcd.oregon.gov/laws/Documents/Rule_history/436_history.pdf.