
29 C.F.R. § 2520.101-2

Filing by multiple employer welfare arrangements and certain other related entities.

(a) *Basis and scope.* Section 101(g) of the Employee Retirement Income Security Act (ERISA), as amended by the Patient Protection and Affordable Care Act, requires the Secretary of Labor (the Secretary) to establish, by regulation, a requirement that multiple employer welfare arrangements (MEWAs) providing benefits that consist of medical care (as described in paragraph (b)(6) of this section), which are not group health plans, to register with the Secretary prior to operating in a State. Section 101(g) also permits the Secretary to require, by regulation, such MEWAs to report, not more frequently than annually, in such form and manner as the Secretary may require, for the purpose of determining the extent to which the requirements of part 7 of subtitle B of title I of ERISA (part 7) are being carried out in connection with such benefits. Section 734 of ERISA provides that the Secretary may promulgate such regulations as may be necessary or appropriate to carry out the provisions of part 7. This section sets out requirements for reporting by MEWAs that provide benefits that consist of medical care and by certain entities that claim not to be a MEWA solely due to the exception in section 3(40)(A)(i) of ERISA (referred to in this section as Entities Claiming Exception or ECEs). The reporting requirements apply regardless of whether the MEWA or ECE is a group health plan.

(b) *Definitions.* As used in this section, the following definitions apply:

(1) *Administrator* means—(i) The person specifically so designated by the terms of the instrument under which the MEWA or ECE is operated;

(ii) If the MEWA or ECE is a group health plan and the administrator is not so designated, the plan sponsor (as defined in section 3(16)(B) of ERISA); or

(iii) In the case of a MEWA or ECE for which an administrator is not designated and a plan sponsor cannot be identified, jointly and severally, the person or persons actually responsible (whether or not so designated under the terms of the instrument under which the MEWA or ECE is operated) for the control, disposition, or management of the cash or property received by or contributed to the MEWA or ECE, irrespective of whether such control, disposition, or management is exercised directly by such person or persons or indirectly through an agent, custodian, or trustee designated by such person or persons.

(2) *Entity Claiming Exception (ECE)* means an entity that claims it is not a MEWA on the basis that the entity is established or maintained pursuant to one or more agreements that the Secretary finds to be collective bargaining agreements within the meaning of section 3(40)(A)(i) of ERISA and § 2510.3-40.

(3) *Excepted benefits* means *excepted benefits* within the meaning of section 733(c) of ERISA and § 2590.701-2 of this chapter.

(4) *Group health plan* means a *group health plan* within the meaning of section 733(a) of ERISA and § 2590.701-

2 of this chapter.

(5) *Health insurance issuer* means a *health insurance issuer* within the meaning of section 733(b)(2) of ERISA and § 2590.701-2 of this chapter.

(6) *Medical care* means *medical care* within the meaning of section 733(a)(2) of ERISA and § 2590.701-2 of this chapter.

(7) *Multiple employer welfare arrangement (MEWA)* means a *multiple employer welfare arrangement* within the meaning of section 3(40) of ERISA.

(8) *Operating* means any activity including but not limited to marketing, soliciting, providing, or offering to provide benefits consisting of *medical care*.

(9) *Origination* means, with regard to an ECE, the occurrence of any of the following events (an ECE is considered to have been *originated* only when an event described below occurs)—

(i) The ECE begins operating with regard to the employees of two or more employers (including one or more self-employed individuals);

(ii) The ECE begins operating following a merger with another ECE (unless all of the ECEs that participate in the merger previously were last originated at least three years prior to the merger); or

(iii) The number of employees receiving coverage for medical care under the ECE is at least 50 percent greater than the number of such employees on the last day of the previous calendar year (unless the increase is due to a merger with another ECE under which all ECEs that participate in the merger were last originated at least three years prior to the merger).

(10) *Reporting or to report* means to file the Form M-1 as required pursuant to sections 101(g) of ERISA; § 2520.101-2; or the instructions to the Form M-1.

(11) *Special filing event* means, with regard to an ECE—

(i) The ECE begins knowingly operating in any additional State or States that were not indicated on a previous report filed pursuant to paragraph (e)(1)(i) or (f)(2)(i) of this section; or

(ii) The ECE experiences a material change as defined in the Form M-1 instructions.

(12) *State* means *State* within the meaning of § 2590.701-2 of this chapter.

(c) *Persons required to report*—(1) *General rule*. Except as provided in paragraph (c)(2) of this section, the following persons are required to report under this section:

(i) The administrator of a MEWA regardless of whether the entity is a group health plan; and

(ii) The administrator of an ECE during the three-year period following an event described in paragraph (b)(9) of this section.

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