



BUREAU OF INSURANCE

SELF-FUNDED MULTIPLE EMPLOYER WELFARE ARRANGEMENT SECTION 38.2-3420 OF THE CODE OF VIRGINIA 14 VAC 5-415 OF THE VIRGINIA ADMINISTRATIVE CODE

REQUIREMENTS FOR ORGANIZING AND LICENSING IN VIRGINIA

No person shall establish or operate a self-funded multiple employer welfare arrangement (self-funded MEWA) in this Commonwealth without first obtaining a license from the Bureau of Insurance (Bureau). The term “self-funded MEWA” includes a benefits consortium established under [Chapter 55](#) (§ 59.1-589 et. seq.) of Title 59.1 of the Code of Virginia. To be considered for a license, an applicant must submit a completed *Application for Initial License as a Self-Funded Multiple Employer Welfare Arrangement* to the Bureau’s Financial Regulation Division pursuant to [§ 38.2-3420](#) of the Code of Virginia and 14 VAC 5-415 of the Virginia Administrative Code.

Prospective applicants should contact the Bureau about their intention to establish a self-funded MEWA in Virginia. By doing so, the applicant will have the opportunity to submit a more thorough and acceptable application.

The following definitions may prove useful in reviewing these requirements:

“Self-funded multiple employer welfare arrangement” or “self-funded MEWA” means any multiple employer welfare arrangement that is not fully insured by a licensed insurance company. This term includes a benefit consortium established under Chapter 55 (§ 59.1-589 et seq.) of Title 59.1 of the Code of Virginia.

“Benefits consortium” means a trust that is a self-funded MEWA, as defined in § 38.2-3420 of the Code of Virginia, and that complies with the conditions set forth in § 59.1-590 of the Code of Virginia.

Any person may apply to the Commission for a license to establish and operate a self-funded MEWA pursuant to § 38.2-3420 of the Code of Virginia and 14 VAC 5-415 of the Virginia Administrative Code.

LICENSE REQUIREMENTS

1. Each license application, along with the required attachments, must be accompanied by a nonrefundable application fee of \$500 payable to the Treasurer of Virginia.
2. If the applicant intends to operate as a **Virginia-domestic business entity**, it must secure the proper certification from the Clerk's Office of the State Corporation Commission (Clerk's Office). If the applicant is a **foreign business entity**, it must secure the proper Certificate of Authority from the Clerk's Office. These certifications are in addition to the license received from the Bureau. Foreign business entities may file with the Clerk's Office during the tentative approval stage of the application. Applicants may contact the Clerk's Office at (804) 371-9733, or the web site at www.scc.virginia.gov/clk for instructions on filing.

BUREAU CONTACT

Applicants should submit the application electronically and direct all questions regarding the requirements for licensing to the following person:

Daryl Hepler, Manager
Financial Analysis - Managed Care
State Corporation Commission
Bureau of Insurance
P.O. Box 1157
Richmond, VA 23218
Telephone: (804) 371-9999
Facsimile: (804) 371-9511
Daryl.Hepler@scc.virginia.gov



STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

**APPLICATION FOR INITIAL LICENSE AS A
SELF-FUNDED MULTIPLE EMPLOYER WELFARE ARRANGEMENT**

Section 38.2-3420 of the Code of Virginia
14 VAC 5-415 of the Virginia Administrative Code

(Please read these instructions completely before filing an application.)
(All citations to the insurance statutes of Virginia are in Title 38.2 of the Code of Virginia.)

Section I. Initial Review Documents and Disclosure

In its initial application, an applicant for a license as a Self-Funded Multiple Employer Welfare Arrangement (self-funded MEWA) must submit or disclose the following:

1. Non-refundable application fee of \$500.00
2. Name of applicant _____
3. DBA/Trade, Assumed or Fictitious Name (if applicable) _____
4. Street Address of applicant _____

5. Mailing Address _____

6. Internet Website Address _____
7. Name of sponsoring association _____
8. Organizational Structure of applicant (Date of formation _____)

9. Is the applicant applying to be a Benefits Consortium pursuant to Chapter 55 of Title 59.1 of the Code of Virginia? _____(Yes or No)
10. State of Domicile _____
11. Federal Employer Identification Number _____
12. National Association of Insurance Commissioners Number (if applicable) _____
13. Contact Person _____
 Title _____
 Telephone _____
 Fax Number _____
 Email _____
14. If the applicant is a Virginia-domiciled entity, provide a copy of the applicable certificate received from the Clerk’s Office.
- If the applicant is a foreign-domiciled entity, provide: (a) the state of domicile, and (b) a copy of the Certificate of Incorporation from the home state. If the applicant has filed with the Clerk’s Office, also provide a copy of the Certificate of Authority.
15. Provide a copy of the basic organizational documents of the applicant, including, but not limited to, the articles of incorporation, articles of association, trust agreement, or other applicable documents, and all amendments to those documents.
16. Submit a copy of the bylaws, rules and regulations or any similar document regulating the conduct of the internal affairs of the applicant.
17. List the name, address, and official position of each member of the governing body of the applicant and any person with authority to manage or establish policy for the applicant.

<u>Name</u>	<u>Official Position</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

For each individual, provide an NAIC Biographical Affidavit. The Biographical Affidavit must be certified by an independent third party that has conducted a comprehensive review of the applicant’s background and has certified that the Biographical Affidavit has no inaccurate or conflicting information and no material omissions. NAIC Biographical

Affidavits must be current and shall not be signed by the affiant more than one year prior to the date the application is filed. The form can be accessed through the NAIC's website at www.naic.org/industry_ucaa.htm.

18. If the applicant is a member of a holding company system, submit an organizational chart which depicts the affiliate relationships among the members. As used herein, "affiliate" means a person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the member specified. "Control" shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing collectively 10% or more of the voting securities of any other person.
19. Financial statements showing the applicant's assets, liabilities, and sources of financial support, and a copy of the applicant's most recent audited financial statement completed no more than one year prior to the date of application.
20. Submit a complete description of the applicant and its method of operation, including, but not limited to:
 - a. A detailed description of the applicant's marketing information that addresses: (i) marketing methods, (ii) health care delivery system, (iii) product mix and, (iv) the management team, along with any contract for these services.
 - b. A statement regarding the sources of working capital as well as any other sources of funding. Attach any funding agreements or mechanisms in place or contemplated.
 - c. A description of any insurance, reinsurance, or alternative coverage arrangements proposed, including specific, aggregate, and terminal excess insurance, or stop loss insurance.
21. A financial feasibility plan which includes: (i) detailed enrollment projections, (ii) the methodology for determining premium rates to be charged during at least the first three years of operations and extending one year beyond the anticipated break-even point certified by an actuary, and (iii) a projection, along with material assumptions, of balance sheets; cash flow statements showing capital expenditures and purchase and sale of investments; and income statements on a quarterly basis for at least three years and extending one year beyond the anticipated break-even point.
22. The names, addresses, and qualifications of individuals responsible for the conduct of the applicant's affairs, including any third-party administrators.
23. The names, addresses, and qualifications of persons who will solicit, negotiate, procure, or effect applications for coverage with the self-funded MEWA.
24. Copies of: (i) policies providing specific, aggregate, and terminal excess insurance; (ii) fiduciary liability insurance; (iii) the bond that satisfies the requirements of ERISA; and (iv) guarantees or standby letters of credit.
25. A copy of the self-funded MEWA's Form M-1, Report for Multiple Employer Welfare Arrangements, for the applicable plan year.

26. Proposed coverage documents, including but not limited to the group policy, evidence of coverage, schedule of benefits, enrollment applications, should be submitted to the Bureau for review in SERFF under the “Self-Funded MEWA” TOI and Sub-TOI. The filing should also include a completed and signed Essential Health Benefits checklist, Embedded Dental checklist and Mental Health and Substance Use Disorder Benefits Parity checklist, which can be found on this [page](#).
27. A rate filing in SERFF under the “Self-Funded MEWA” TOI and Sub-TOI reflecting compliance with § 38.2-3420 B 3 that includes: (i) the methodology for determining premium rates to be charged during at least the first three years of operations and extending one year beyond the anticipated break-even point, certified by an actuary; (ii) the rating manual and (iii) an actuarial memorandum demonstrating the following:
- The health benefit plan offers a minimum level of coverage designed to provide benefits that are actuarially equivalent to 60 percent of the full actuarial value of the benefits provided under the plan;
 - Discriminatory rules based on health status related to eligibility or premium or contribution requirements as imposed on health carriers pursuant to § 38.2-3432.2 are not being used;
 - Base rates have been formed on an actuarially sound, modified community rating methodology that considers the pooling of all participant claims; and
 - Each employer member's specific risk profile will be utilized to determine premiums by actuarially adjusting above or below established base rates and utilize either pooling or reinsurance of individual large claimants to reduce the adverse impact on any specific employer member's premiums.

Note: The signed attestation form should be submitted upon receipt of tentative approval of the application.

28. If applicable, applicants that are domiciled in Virginia need to provide the following items:
- a. The most recent financial statements that include a balance sheet, income statement, reconciliation of capital and surplus and a cash flow statement. Applicants should use the NAIC Health Organization Annual Statement Blank, if available. The financial statements must be attested to and signed by two principal officers and notarized.

The applicant's capital and surplus shall include minimum net worth in an amount at least equal to \$4 million.
 - b. A copy of the most recent audited financial reports certified by an independent certified public accountant.
29. Applicants that are domiciled outside of the Commonwealth of Virginia need to provide the following items:
- a. Annual statements prepared using the NAIC Health Organization Annual Statement Blank, for the latest two years preceding the date of application. All annual statements are to be prepared in accordance with the Health Organization Quarterly and Annual

Statement Instructions and the Accounting Practices and Procedures Manual adopted by the NAIC:

- i. Annual statements must contain the opinion of a qualified actuary regarding the adequacy of loss reserves and any other actuarial items.
- ii. The *Management's Discussion and Analysis* should accompany the latest annual statement, disclosing information on the self-funded MEWA's financial position, results of operations, changes in capital and surplus accounts, and cash flow.

The applicant's capital and surplus shall include minimum net worth in an amount at least equal to \$4 million.

- b. A copy of the sponsoring association's financial statement for the year-end immediately preceding the submission of the application.
- c. Applicant's quarterly statements, prepared in accordance with accounting practices and procedures adopted by the NAIC. Applications received after May 15th of any given year must include a properly executed first quarter statement signed in the original by the appropriate company officers; applications received after August 15th must include a properly executed and signed second quarter statement; applications received after November 15th must include a properly executed and signed third quarter statement.
- d. Full Report of Examination made by the state of incorporation, certified by the commissioner of insurance of that state. Organizational examinations may be accepted for newly formed self-funded MEWAs. **Five-year rule:** The balance sheet date of the Report must be no more than five years prior to the date of the most recent annual statement. The report must be relevant to the company's current management and method of operation.
- e. Copies of audited financial reports for the two complete fiscal years immediately preceding the date of application, certified by an independent certified public accountant. Include copies of any management letters with recommendations prepared by the independent certified public accountants.
- f. If applicable, a copy of the most recently filed holding company registration statement with all amendments as filed with the domiciliary state's insurance commissioner, director or superintendent, or with such regulatory official of the state of domicile of the principal insurer in the applicant's holding company system.
- g. If applicable, the latest annual report of the company having ultimate control over the applicant.
- h. A description of all material litigation involving the company which is currently pending or was concluded during the last three years, including fines or administrative procedures against the company by any state or federal agency.
- i. A current Certificate of Compliance executed by the insurance department of the state of incorporation.

- j. A list of states in which the applicant is not licensed but has an application pending.
- k. If a license has been refused or denied by any jurisdiction, an explanation along with a copy of the refusal or denial letter/document.

NOTARIAL ACKNOWLEDGMENT REQUIRED OF ALL APPLICANTS

Dated and signed this _____ day of _____, 20____ at _____.
 _____ being duly sworn according to law, deposes and says that the answers to the questions and the declarations contained in this application are true and correct.

 Signature of the President/CEO
 of the Self-Funded MEWA

 Full Legal Name of the Applicant
 (Type or Print)

State of _____

City/County of _____

Personally appeared before me the above named _____ personally known to me, who, being duly sworn, deposes and says that he/she executed the above instrument and that the statements and answers contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this _____ day of _____, 20_____.

(SEAL)

 Notary Public

My Commission Expires: _____

It is the intent of the Bureau to process all applications in a timely manner. When necessary, the Bureau will contact the applicant regarding the need for any additional information in order to continue and complete the review process. Failure by the applicant to respond adequately to requests for such additional information within a reasonable timeframe, or failure to demonstrate compliance with the licensing standards prescribed by law, will be grounds for denial of the application, subject to the applicant's right to demand a hearing before the Commission.

If the Bureau determines that an application meets the requirements of § 38.2-3420 of the Code of Virginia and 14 VAC 5-415 of the Virginia Administrative Code, the Bureau of Insurance will issue a letter of tentative approval directing the applicant to complete the remaining requirements for licensure in Section II below.

Section II. Tentative Approval

During the second stage of review, the following documents will need to be submitted along with any other items requested by the licensing analyst, within sixty (60) days of the date of the letter of tentative approval:

1. The applicant will be requested to make a deposit of not less than \$300,000 with the financial institution designated by the Treasurer of Virginia as custodian for deposits as required by [§ 38.2-1045](#).
2. *For non-Virginia domiciled applicants:* The applicant must record its existence to the extent required by appropriate governing statutes of Virginia and designate a resident of Virginia as agent for service of process. The applicant must provide evidence to the Bureau that such existence has been properly registered. For filing instructions and forms, the applicant may contact the Clerk of the Commission at www.scc.virginia.gov/clk or at (804) 371-9733.
3. A signed attestation [form](#).

The Bureau will issue a license to an applicant once it determines that the applicant has complied with the requirements of Section II and all other licensing standards provided by § 38.2-3420 of the Code of Virginia and 14 VAC 5-415 of the Virginia Administrative Code. [NOTE: Failure to complete the above within the sixty (60) day deadline may result in a denial of the application.]