

4123-17-15

**Staff leasing/professional employer arrangements.**

(A) As used in this rule:

- (1) "Staff leasing/professional employer organization" (PEO) means a person or employer ~~which~~ who arranges with one or more client employers, under written contract, to employ all or part of the work force for a client employer and to place those assigned workers on a permanent basis to the client employer. "Staff leasing/professional employer organization" does not include a temporary service agency.

A staff leasing/professional employer organization must meet the following criteria:

- (a) Notify all assigned workers that they are employed by the ~~staff leasing/professional employer organization~~ PEO;
- (b) Assume responsibility for payment of wages and related taxes for assigned workers from their own account(s) not contingent on receipt of payment from the client employer;
- (c) Be responsible for maintaining both adequate and required employment-related records for employees, and for reporting such information as may be required by appropriate governmental agencies;
- (d) Comply with applicable state laws regarding workers' compensation insurance coverage.

~~Staff leasing/professional employer organization does not include a temporary service agency.~~

- (2) "Temporary service agency" means an employer ~~which~~ who is in the business of employing individuals for the purpose of utilizing the services of the individuals for a temporary period of time. For example, a person or client employer may utilize individuals from a temporary services agency for positions vacant due to absences, for temporary skill shortages, or for seasonal workloads.
- (3) "Client employer" means a person or employer who obtains all or part of its work force from a professional employer arrangement. Client employer does not mean an employer who is a noncomplying employer as defined in rule 4123-14-01 of the Administrative Code, ~~noncomplying employers within the meaning of the law.~~

- (4) "Person" includes an individual, firm, association, corporation, partnership, limited liability corporation, or other legal entity.
- (5) "Employer" means an employer under divisions (B)(1) and (B)(2) of section 4123.01 of the Revised Code. The employer is an amenable employer for workers' compensation purposes where the assigned workers are counted as the employees of the employer for the purposes of section 4123.01 of the Revised Code.
- (6) "Assigned worker" means a person performing service for a client employer under a staff leasing/professional employer arrangement.
- (7) "Staff leasing/professional employer arrangement" means an arrangement, under written contract, whereby:
- (a) A ~~staff leasing/professional employer organization~~ PEO assigns workers to perform services to a client employer;
  - (b) The arrangement is intended to be, or is, ongoing rather than temporary in nature.
- (B) Where a client employer enters into a staff leasing/professional employer arrangement, the ~~staff leasing/professional employer organization~~ PEO shall be considered the succeeding employer, solely for purpose of workers' compensation experience, and shall be subject to rule 4123-17-02 of the Administrative Code; ~~basic or manual rate~~.
- If the contractual agreement between a ~~staff leasing/professional employer organization~~ PEO and a client employer is terminated, the portion of the experience of the ~~staff leasing/professional employer organizations~~ PEO related to the client employer shall be transferred to the client employer.
- (C) A ~~staff leasing/professional employer organization~~ PEO shall notify the bureau of workers' compensation of the client employer's name, bureau of workers' compensation risk number, and federal tax identification number within thirty calendar days of entering into a staff leasing/professional employer arrangement with a client employer.
- (D) A ~~staff leasing/professional employer organization~~ PEO shall maintain complete records, separately listing the payroll of its client employers. Claims ~~will~~ shall be separately identified according to the client employer.

(E) ~~A staff leasing/professional employer organization which~~ PEO that enters into a staff leasing/professional employer arrangement with a noncomplying employer or a ~~staff leasing/professional employer organization which~~ PEO that fails to comply with this rule shall not be considered the employer for workers' compensation purposes. In these instances the payroll of the assigned workers shall be reported by the client employer under its workers' compensation risk number for workers' compensation premium and claims purposes, unless prohibited by federal law. Claims that are filed by the client employer's assigned workers shall be charged to the experience of the client employer.

(F) PEO payroll reporting.

(1) A PEO shall submit an electronic payroll report in the format provided by the bureau of all payroll reported by the PEO. The payroll of each client employer shall be listed separately with the appropriate payroll reported to each manual classification assigned to that client employer. The bureau will provide the PEO the electronic payroll report, which shall include the following:

(a) The PEO policy number;

(b) All manual numbers assigned to the PEO by the bureau;

(c) The policy numbers of all client employers of the PEO for which the bureau has a record; and

(d) All manual classifications assigned to the client employers by the bureau.

The PEO shall report appropriately and accurately its own payroll as well as the payroll reported on behalf of the PEO's client employers listed by client and by manual classification for the appropriate payroll period requested. The PEO shall submit the completed report to the bureau by the reporting deadline each payroll period.

(2) A PEO shall submit an electronic claims report in the format provided by the bureau of all claims that have occurred or have been filed on behalf of each client employer for the period of the lease agreement. The claims that have occurred or have been filed on behalf of each client employer shall be listed separately for each payroll period. The bureau will provide a report to the PEO, which will include the PEO policy number and the policy number of all client employers of the PEO for which the bureau has record. The PEO shall list appropriately and accurately all claims that have occurred or have been filed on behalf of each client employer during the period(s) of the lease agreement. The PEO shall submit the completed report to the bureau by the reporting deadline each payroll period.

The bureau shall investigate the PEO's failure to report payroll and claims separately for each client employer as required by this rule to determine possible fraud or misrepresentation, and may impose sanctions, including an assessment of a penalty under rule 4123-17-14.1 of the Administrative Code.

(G) A PEO is not permitted to change the legal entity name or doing business as (DBA) of the client employer policy to that of the PEO name.

Effective:

R.C. 119.032 review dates: 11/28/2003

WITHDRAWN ELECTRONICALLY

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Certification

09/01/2004

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Date

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