

Instructions for Certificate of Authority for Multiple Employer Welfare Arrangement (MEWA)

Part I. Forms and Documents Required to be Filed

Name Application ([Name Application \(FIN300\)](#))

Applicant must file a name application form.

Application to Do Business as a MEWA ([FIN374](#)):

The sponsoring association should complete this form and have it signed by the President or Trustee. Original signatures and association seal (if any) are required on the application form submitted to the Department.

The filing fee for the initial Certificate of Authority is **\$5,000.00**. The fee is due and payable at the time of filing.

Required documentation:

1. Certified copy of the Articles of Incorporation, complete with original signature and/or seal of the proper official of the Secretary of State's office.
2. By-Laws, Constitution or Rules and Regulations
The by-laws, constitution or rules and regulations must be signed and dated by the Secretary of the association.
3. Trusts or Agreements
Submit a copy of any Trust Agreement between the association and the arrangement and any By-Laws establishing the arrangement. The Trust Agreement must be signed by a trustee.

If the trust agreement or By-Laws do not specifically indicate that the trustees have complete fiscal control over and are responsible for all operations of the arrangement, that the trustees have authority to approve applications of association members for participation in the arrangement, and that the trustees have authority to contract with an authorized administrator or service company to administer the day-to-day affairs of the arrangement, attach other documents which specify their authority.

4. Plan Document or other documentation or instruments describing the rights and obligations of the employers, employees and beneficiaries with respect to the MEWA.
5. Summary Plan Description (SPD).

Note: Effective July 1, 1997, the SPD must include the necessary required language pursuant to legislation passed by Kennedy- Kassenbaum bill.

The Plan must include provisions from the Texas Insurance Code for the following:

Sec. 1355.004	Coverage for Certain Serious Mental Illnesses
Sec. 846.001(3)	Health Benefit Plan
Sec. 846.201	Benefits Allowed
Sec. 846.252	Coverage Requirements
Sec. 846.258	Dependent Children
Sec. 846.206	Renewability of Coverage; Cancellation
Sec. 846.207	Refusal to Renew
Sec. 846.208	Notice of Covered Persons
Sec. 846.007	Premium Rates; Adjustments
Sec. 846 sub G	Fair Marketing
Sec. 846.202	Preexisting Condition Provisions
Sec. 846.209	Written Statement of Denial, Cancellation, or Refusal to Renew
Sec. 846.303	Third Party Administrator
Sec. 544.151	Victims of Family Violence
Sec. 1503.003	Group Coverage of Certain Students
Chapter 1360	Benefits for Certain Bone and Joint Procedures
Sec. 1357.004	Coverage for Reconstructive Surgery After Mastectomy
Sec. 1451.255	Access to Certain Obstetrical or Gynecological Care
Sec. 1358.001	Guidelines for Diabetes Care
Sec. 1455.004	Telemedicine
Sec. 1367.053	Coverage for Childhood Immunizations
Sec. 1366.055	Coverage for Minimum Inpatient Stay in Health Care Facility and Postdelivery Care Following Birth of Child
Sec. 1362.002	Coverage of Certain Tests for Detection of Prostate Cancer
Sec. 1358.054	Coverage for Supplies and Services Associated with Treatment of Diabetes
Sec. 546.051	Use of Genetic Testing Information by Insurers

The Plan with components and characteristics consistent with 29 U.S.C. Sec. 1022, including the following items:

1.	name and type of administration of the plan;
2.	name and address of the administrator;
3.	names and addresses of any trustee or trustee if they are persons different from the administrator;
4.	plan requirement with respect to eligibility for participation and benefits;
5.	a description of provisions relating to nonforfeitable benefits if any are included in the plan;
6.	a description of circumstances which may result in disqualification, ineligibility, or denial or loss of benefits;
7.	the source of financing of the plan;
8.	the identity of any organization through which benefits are provided;
9.	the date of the end of the plan year and whether the records of the plan are kept on a calendar, policy or fiscal year basis;
10.	the procedures to be followed in presenting claims for benefits under the plan;
11.	remedies available under the plan for redress of claims which are denied in whole or in part; and
12.	a statement of guaranty fund non-participation.

If the MEWA will offer a plan subject to Texas Insurance Code Section 846.0035, it must submit items 1-3 below.

1. A detailed compliance plan addressing the following requirements:
 - Insurance Code Chapter 421;
 - Insurance Code Chapter 422;
 - Insurance Code Chapter 1451, Subchapters C, F, and K; and
 - Insurance Code Chapter 4201.

2. Will the MEWA provide a comprehensive health benefit plan that is structured in the manner of a preferred provider benefit plan, or an exclusive provider benefit plan as defined in Insurance Code Section 1301.001?

Yes **No**

If **No**, describe the health care provider and benefit structure of the plan and explain how it does not qualify as a preferred provider benefit plan or an exclusive provider benefit plan.

- If **Yes**, a detailed compliance plan addressing the following requirements:
- Insurance Code Chapter 1301; and
 - Insurance Code Chapter 1467.

3. For each plan that will be sponsored by the applicant, an opinion from an attorney attesting to the fact that the plan is in compliance with all applicable federal and state laws must be provided. The opinion must adequately explain how each plan complies with the Employee Retirement Income Security Act of 1974 (29 United States Code Section 1001 et seq.) and the Patient Protection and Affordable Care Act (42 United States Code Section 18001 et seq.), including how each plan will comply with federal requirements applicable to large group, small group, or individual markets, as applicable.
4. Submit a statement signed and dated by an authorized officer or trustee to the department that includes a statement that is substantially similar to the following: "This document is being submitted in accordance with 28 Texas Administrative Code §7.1917. {MEWA Name} will provide a comprehensive health benefit plan as defined by 28 Texas Administrative Code §7.1902".

Financial statements:

1. The financial statement must be a current audited financial statement, certified by an independent certified public accountant. If the arrangement is already in operation, please submit an annual income statement developed on a generally accepted accounting principle basis for the past five years.

Note: The current financial statement should include a balance sheet. If the organization is already in business, it should also include an income statement, as well as a statement of changes in the financial position. Each arrangement must demonstrate that it will have adequate funding to continually meet the minimum fund balance requirements

2. A projected income statement on a monthly basis, for a minimum of three years and should be developed on a generally accepted accounting principle basis.
3. A projected cash flow analysis on a monthly basis, for a minimum of three years.
4. A projected balance sheet, for a minimum of three years and should be developed on a generally accepted accounting principle basis. It should be accompanied by statements of changes in financial position for the same time period.
5. A statement of the proposed initial cash and cash reserves summary. This should be all inclusive (loan receipts, loan repayments, stock sales, etc.). Also, include a description of the source and terms of the funding.
6. Existing arrangements should submit a copy of their Federal Form 5500

Fidelity Bond:

The applicant must provide a copy of the fidelity bond issued in the name of the arrangement protecting its trustees, directors, officers, employees, administrator or other individuals responsible for servicing the employer welfare benefit plan, against acts of fraud or dishonesty. Such bond should be in an amount equal to the greater of 10% of the premiums and contributions received by the MEWA, or 10% of the benefits paid, during the preceding calendar year, with a minimum of \$10,000 and a maximum of \$500,000.

Business Plan:

The applicant must provide a business plan, which includes five major areas.

1. **Current Operations:** The applicant should identify the number of employers (no less than five) currently participating in the MEWA. The number of participant units and number of dependents covered by the MEWA should be included.
2. **Management:** The applicant should indicate if each trustee is either an owner, partner, officer, or director, and/or employee of a participating employer or is committed to participate in the MEWA. In addition, the applicant should provide the name and address of the employer represented by each trustee and by each officer and provide the association of the trustee or officer with such employer. The applicant must list the individuals responsible for managing or handling funds or assets of the MEWA. A biographical affidavit must be completed and filed for each trustee, or officer or director or administrator of the MEWA.
3. **Administration:** The applicant must give the name of the service company or third-party administrator responsible for servicing the program of the MEWA and should attach a copy of the company's Texas license. In addition, a copy of the agreement between the MEWA and the service company or third-party administrator should be submitted, signed by the administrator and trustees of the MEWA.
4. **Claims Adjusting and Underwriting:** The applicant should indicate that the MEWA has provided a sufficient number of competent persons to service its program in the areas of claims adjusting and underwriting. Applicant should also describe the present or proposed plan to service billings, claims, and underwriting. The criteria for underwriting should be justified.
5. **Marketing and Growth:** The applicant should provide an outline and description of the management's marketing efforts. Applicant should list the names of all persons directly employed by the arrangement, who solicit participants or adjust claims, indicating whether such person has a license issued by the Department and if so, what type of license. For the individuals without licenses, applicant should provide their qualifications.

Initial Actuarial Opinion:

An actuarial opinion must be prepared by an actuary who is not an employee of the MEWA, an employee of the MEWA's employer-members, an affiliate of the MEWA, an affiliate of the MEWA's employer-members, or an employee of an affiliate of the MEWA; and who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries or an enrolled actuary under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.). The actuarial opinion shall include:

1. A description of the actuarial soundness of the MEWA, including any recommended actions that the MEWA should take to improve its actuarial soundness.
2. The recommended amount of cash reserves the MEWA should maintain which shall not be less than the greater of 20% of the total contributions for the current plan year; cash reserves shall be calculated with proper actuarial regard for known claims, paid and outstanding; a history of incurred but not reported claims, claims handling expenses, unearned premium, an estimate for bad debts, a trend factor, and a margin for error; cash reserves required by this article shall be maintained in cash or federally guaranteed obligations of less than five-year maturity that have a fixed or recoverable principal amount of such other investments as the commissioner of board may authorize by rule;
3. The recommended level of specific and aggregate stop-loss insurance the MEWA should maintain; and
4. For a MEWA that provides a comprehensive health benefit plan under Insurance Code §846.0035, the MEWA must also comply with Insurance Code Chapter 421, concerning Reserves in General.

On finding of good cause, the commissioner may order an actuarial review of a MEWA in addition to the actuarial opinion required by Sec. 846.153(a). The cost of any such additional actuarial review shall be paid by the MEWA.

Attestation:

An attestation from an attorney opining the MEWA is in compliance with all federal laws and state laws.

This certification must be made by the President and Secretary or the Trustee of the association.

Biographical Affidavit forms ([UCAA Form 11](#)):

A biographical affidavit must be completed on each officer, director and/or trustee of the MEWA.

Part II. Review for Initial Certificate of Authority

Once the above items have been submitted to the Department, the Commissioner shall issue a Temporary Certificate of Authority, providing that the following conditions have been met:

1. Employers in the MEWA are members of an association or group of five or more businesses that are in the same trade or industry, including closely related businesses which provide support, services, or supplies primarily to that trade or industry. For a MEWA that is formed under Insurance Code §846.053(b)(2), each has a principal place of business in the same region that does not exceed the boundaries of this state, or the boundaries of a metropolitan statistical area designated by the United States Office of Management and Budget.
2. If an association, the association must engaged in substantial activity for its members other than sponsorship of an employee welfare benefit plan;
3. If an association, the association must have been in existence for at least two years before engaging in any activities relating to providing employee health benefits to its members;
4. The employee welfare plan of the association or group in the MEWA must be controlled and sponsored directly by participating employers, participating employees or both;
5. The association or group of employers in the MEWA is a not-for-profit organization;
6. The MEWA has within its own organization adequate facilities and competent personnel to service the employer benefit plan or has contracted with a third-party administrator licensed to engage in business in this state;
7. The MEWA has applications from not less than five employers and will provide similar benefits for not less than 200 separate participating employees. The annual gross premiums of or contributions to the plan will be not less than the following:
 - \$20,000 for a plan providing only vision benefits;
 - \$75,000 for a plan providing only dental benefits; and
 - \$200,000 for all other plans;
8. The MEWA has a written commitment, binder or policy for stop-loss insurance issued by a licensed insurer in this state, providing not less than 30 notice to the commissioner of any cancellation or non-renewal of coverage and which provides both specific and aggregate coverage with an aggregate retention of no more than 125% of the amount of expected claims for the next plan year and specific retention amount annually determined by the actuarial opinion required by Section 846.153(a)(2);

9. Both the specific and aggregate coverage will require all claims to be submitted within 90 days after the claim is incurred and provide a 12 month claims incurred period and 15 month paid claims period for each policy year;
10. The contributions shall be set to fund at least 100% of the aggregate retention plus all other costs of the MEWA;
11. Pursuant to Section 846.155, if the reserves exceed the greater of 40% of the total contributions for the preceding plan year or 40% of the total contributions expected for the current plan year, the contributions may be reduced to fund less than 100% of the aggregate retention plus all other costs of the MEWA but in no event less than the level of contributions necessary to fund the minimum reserves required under Section 846.154(a) and Chapter 421 for comprehensive health benefit plans;
12. The minimum reserves required in Sec. 846.154(a) and Chapter 421 for a comprehensive health benefit plan have been established or will be established before the final certificate of authority is issued;
13. The MEWA has established an appropriate procedure for handling claims for benefits in the event of dissolution of the MEWA;
14. The MEWA has obtained the required bond; and
15. The MEWA has submitted its compliant plan document or any instrument describing the rights and obligations of the employers, employees, and beneficiaries with respect to the MEWA.

If the Commissioner determines that the above requirements have been met, a Temporary Certificate of Authority will be issued for a period of twelve months. Once the MEWA receives its initial Certificate of Authority, it shall commence business.

When the MEWA obtains its initial or temporary Certificate of Authority, the MEWA shall appoint the Commissioner of Insurance as its agent for service of process. The filing fee for such appointment is **\$50.00**. This fee must accompany the [Attorney for Service of Process form](#) (FIN377).

Part III. Review for Final Certificate of Authority

Once the MEWA has received its initial C/A, it has twelve months to apply for the final C/A. Such application shall contain the following information:

1. Statement regarding the names and addresses of:
 - a. the association or group of employers sponsoring the MEWA.
 - b. members of the board of trustees or directors, as applicable, of the MEWA;
 - c. If not an association, at least five employers;
2. Copies of all plan documents and agreements with service providers;
3. Proof of fidelity bond in an amount equal to the greater of 10% of the premiums and contributions received by the MEWA, or 10% of the benefits paid, during the preceding calendar year, with a minimum of \$10,000 and a maximum of \$500,000.
4. A funding report containing:
 - a. a statement certified by the board of trustees or directors, and an actuarial opinion that all applicable requirements of Section 846.153 have been met; and
 - b. actuarial opinion which sets forth a description of the extent to which contributions or premium rates:
 1. are not excessive;
 2. are not unfairly discriminatory; and
 3. are adequate to provide for the payment of all obligations and the maintenance of required cash reserves and surplus by the MEWA;
 - c. A statement of the current value of the assets and liabilities accumulated by the MEWA and a projection of the assets, liabilities, income, and expenses of the MEWA for the next 12-month period.
 - d. A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves and other expenses associated with operation of the MEWA;
5. Filing fee of **\$1,500.00**.

THE COMMISSIONER SHALL ISSUE A FINAL CERTIFICATE OF AUTHORITY TO THE MEWA IF THE COMMISSIONER IS SATISFIED THAT THE ABOVE REQUIREMENTS HAVE BEEN MET AS NOTED IN AN EXAMINATION.

THE COMMISSIONER MAY REFUSE A FINAL CERTIFICATE OF AUTHORITY IF THE APPLICANT FAILS TO MEET THE ABOVE REQUIREMENTS. NOTICE OF REFUSAL SHALL BE IN WRITING AND SHALL SET FORTH THE REASON FOR DENIAL AND SHALL CONSTITUTE 30 DAYS ADVANCE NOTICE OF REVOCATION OF THE INITIAL CERTIFICATE OF AUTHORITY.

THE INITIAL CERTIFICATE OF AUTHORITY MAY BE EXTENDED FOR AN ADDITIONAL YEAR AT THE DISCRETION OF THE COMMISSIONER IF IT IS DETERMINED THAT THE MEWA MAY MEET THE REQUIREMENTS WITHIN ONE YEAR. NO MORE THAN ONE EXTENSION SHALL BE GRANTED.

If the applicant submits a written request for hearing within 30 days after the notice of refusal is mailed by the Department, revocation of the initial certificate of authority shall be temporarily stayed and the Commissioner shall promptly conduct a hearing to allow the applicant the opportunity to show compliance with this chapter.

 Email filing to CLRFilings@tdi.texas.gov

▶ Questions?

Email us at CompanyLicense@tdi.texas.gov or call 512-676-6365.