

304.17A-812 Initial and continuing financial solvency requirements.

- (1) This section applies to a group applying for and holding a certificate of filing as a self-insured employer-organized association group.
- (2) To obtain and to maintain its certificate of filing, a self-insured employer-organized association group shall have sufficient financial strength to pay all public or professional liabilities covered by the group, including known claims and expenses and incurred but unreported claims and expenses.
- (3) The commissioner shall require the following of a self-insured employer-organized association group:
 - (a) An actuarial certification by a member of the American Academy of Actuaries of the adequacy of the proposed rates funding arrangements of the group;
 - (b) Specific reinsurance ensuring the solvency of the funding arrangement;
 - (c) A demonstration of capital and surplus as follows:
 1. Initial financial requirements. Every self-insured employer-organized association shall demonstrate initial capital and surplus equal to the greater of:
 - a. Five hundred thousand dollars (\$500,000);
 - b. Two percent (2%) of projected annual contribution revenues on the first one hundred fifty million dollars (\$150,000,000) of contributions and one percent (1%) of projected annual contributions on the contributions in excess of one hundred fifty million dollars (\$150,000,000); or
 - c. An amount equal to the sum of eight percent (8%) of projected annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent (4%) of projected annual hospital expenditures paid on a managed hospital payment basis, except the initial capital and surplus shall not be required to exceed the deductibility limits provided under 26 U.S.C. secs. 419 and 419A, as amended.
 2. Continuing financial requirements. Every self-insured employer-organized association shall demonstrate ongoing capital and surplus equal to the greater of:
 - a. Five hundred thousand dollars (\$500,000);
 - b. Two percent (2%) of annual contribution revenues, as reported on the most recent annual financial statement filed with the commissioner, on the first one hundred fifty million dollars (\$150,000,000) of contributions and one percent (1%) of annual premiums on the contributions in excess of one hundred fifty million dollars (\$150,000,000); or
 - c. An amount equal to the sum of eight percent (8%) of projected annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent (4%) of

annual hospital expenditures paid on a managed hospital payment basis, as reported on the most recent financial statement filed with the commissioner, except the continuing capital and surplus shall not be required to exceed the deductibility limits provided under 26 U.S.C. secs. 419 and 419A, as amended; and

- (d) A fidelity bond for the administrator and a fidelity bond for the service company in forms and amounts prescribed by the commissioner.
- (4) The commissioner, if not satisfied with the financial strength of a self-insured employer-organized association group, may require any or all of the following of a self-insured employer-organized association group:
 - (a) Security in the form and amount prescribed by the commissioner as follows:
 - 1. A surety bond issued by a corporate surety authorized to transact business in the Commonwealth of Kentucky; or
 - 2. Any financial security endorsement issued as part of an acceptable excess insurance contract issued by an authorized insurer, which may be used to meet all or part of the security requirement.

The bond or financial security endorsement shall be solely for the benefit of the insured creditors to pay claims and associated expenses and shall be payable upon the failure of the group to pay professional or public liability claims the group is legally obligated to pay. The commissioner may establish and adjust the requirements for the amount of security based on differences among groups in their size, types of business, years in existence, or other relevant factors.

- (b) Specific and aggregate excess insurance in a form and amount issued by an insurer acceptable to the commissioner.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 165, sec. 4, effective June 27, 2019. -- Amended 2010 Ky. Acts ch. 24, sec. 1261, effective July 15, 2010. -- Created 2003 Ky. Acts ch. 78, sec. 7, effective June 24, 2003.