



February 25, 2020

CIRCULAR LETTER NO. 2360

To All Members and Subscribers of the WCRIBMA:

PROFESSIONAL EMPLOYER ORGANIZATIONS

The Division of Insurance has approved the WCRIBMA's filing which proposed to establish rules and endorsements for Professional Employer Organizations ("PEOs").

On August 10, 2018, a new statute related to PEOs was signed by Governor Baker, and on April 19, 2019, the Massachusetts Department of Labor Standards promulgated 454 CMR 30.00 to effectuate that statute. This notice is being issued to advise Massachusetts insurers how policies must be issued to PEOs and their clients.

The PEO statute and regulations define a PEO Relationship with its client as a co-employment relationship where all employer rights, duties and obligations such as payroll, health care, benefits, workers' compensation, unemployment assistance, or tax reporting, are allocated between a PEO and a client pursuant to a Professional Employer Agreement ("PEO Agreement"). The statute also states that workers' compensation insurance shall be provided to covered employees at each client company either by the PEO or by the client company of the PEO pursuant to the Workers' Compensation Law, M.G.L. c. 152 and regulations promulgated pursuant to said chapter 152.

For policies effective on or after April 1, 2020, 12:01 A.M., the Massachusetts Division of Insurance has approved the following rules and endorsements:

- Exhibit A: Revisions to: Massachusetts Workers' Compensation and Employers' Liability Insurance Manual ("MA Manual"), Rule IV-D-12, Classification of Employees of Labor Contractors
Revisions to: MA Manual, Rule IX-E, Employee Leasing Arrangements
New Rule: MA Manual, Rule IX-F, Professional Employer Organization Agreements
Revisions to: Experience Rating Plan Manual, Massachusetts Exception to Rule V-A, Employee Leasing / Professional Employer Organization (PEO) Arrangements
- Exhibit B: Revisions to: Massachusetts Professional Employer Organization (PEO) / Employee Leasing Endorsement, WC200304D (f/k/a Massachusetts Employee Leasing Endorsement, WC200304C)
- Exhibit C: New MA-Specific Endorsement: Massachusetts Professional Employer Organization (PEO) Extension Endorsement, WC200308
- Exhibit D: New MA Approval of National Endorsement: Professional Employer Organization (PEO) Client Exclusion Endorsement, WC000322A
- Exhibit E: Revisions to: Massachusetts Exclusion of Coverage for Leased Employees Endorsement (Labor Contractors), WC200305B

Exhibit F: New MA-Specific Notes on: Alternate Employer Endorsement, WC000301

Exhibit G: Revisions to: Client of Labor Contractor Supplemental Application

Exhibit H: Revisions to: Labor Contractor Supplemental Application

These newly approved rules and endorsements provide for the following:

Policy Issuance and Endorsement Use:

- For PEO Agreements that allocate the responsibility of obtaining workers' compensation insurance **to the PEO**, Rule IX-F-1 of the MA Manual states:
 - The PEO must obtain a separate policy for each client to whom it 'leases' employees; and each such policy shall have the **Massachusetts Professional Employer Organization (PEO)/Employee Leasing Endorsement, WC200304D**, attached to restrict the policy's coverage to the employees it leases to the client named on the endorsement.
- For PEO Agreements that allocate the responsibility of obtaining workers' compensation insurance **to the client**, Rule IX-F-2 of the MA Manual states:
 - The client shall obtain a policy in its own name and attach the **Massachusetts Professional Employer Organization (PEO) Extension Endorsement, WC200308**, to restrict the policy's coverage to the employees leased from the PEO.
- If the client of a PEO or employee leasing company ("ELC") has a separate policy in its own name to insure the employees that it pays directly, that policy shall contain the **Professional Employer Organization (PEO) Client Exclusion Endorsement, WC000322A**, to exclude the employees 'leased' from the PEO or ELC.
- Any PEO or ELC that has a policy to insure its Massachusetts employees that it does not lease out to client companies must attach the **Massachusetts Exclusion of Coverage for Leased Employees Endorsement (Labor Contractors), WC200305B**, to said policy.

Cancellations and Non-renewals:

- For any policy issued to a PEO or ELC that has the Massachusetts Professional Employer Organization (PEO) /Employee Leasing Endorsement, WC200304D attached, that is issued a notice of cancellation or nonrenewal, the following shall apply:
 - The PEO or ELC shall notify, by certified mail and within ten days of the receipt of such notice, the client company of the cancellation or nonrenewal.
- For any policy issued to a client of a PEO that has the Massachusetts Professional Employer Organization (PEO) Extension Endorsement, WC200308, attached, that is issued a notice of cancellation or nonrenewal, the following shall apply:
 - The client shall notify, by certified mail and within ten days of the receipt of such notice, the PEO of the cancellation or nonrenewal.

Premium Audits:

- Insurers shall audit all PEO and ELC policies with the Massachusetts Professional Employer Organization (PEO)/Employee Leasing Endorsement, WC200304D or the Massachusetts Exclusion of Coverage for Leased Employees Endorsement (Labor Contractors), WC200305B attached within 90 days of the policy effective date and may conduct interim audits thereafter. The purpose of such audits will be to determine whether all classifications, experience modification factors, and estimated payrolls utilized with respect to the development of the premium charged to the PEO or ELC are appropriate.
- Insurers shall audit all client policies with the Massachusetts Professional Employer Organization (PEO) Extension Endorsement, WC200308, attached within 90 days of the policy effective date and may conduct interim audits thereafter. The purpose of such audits will be to determine whether all classifications, experience modification factors, and estimated payrolls utilized with respect to the development of the premium charged to the client are appropriate.

Experience Ratings:

- The payroll and loss experience from policies of ELCs and PEOs with the Massachusetts Professional Employer Organization (PEO)/Employee Leasing Endorsement, WC200304D attached shall be combined with the experience of the client company for purposes of calculating an experience modification. The experience modification so calculated shall be applied to the client company's policy and all policies maintained for it by an ELC or PEO.
- The payroll and loss experience from policies of clients of PEOs with the Massachusetts Professional Employer Organization (PEO) Extension Endorsement, WC200308 attached shall be combined with the experience of the client company for purposes of calculating an experience modification. The experience modification so calculated shall be applied to the client company's own policy, and on policies obtained to insure leased employees.

As a follow-up to WCRIBMA's Circular Letter 2338, dated September 28, 2018, the WCRIBMA will be issuing a separate circular letter providing detailed instructions on the issuance and the reporting of policies issued to employee leasing companies, professional employer organizations, staffing firms and temporary employment agencies.

Revised endorsements and Massachusetts manual pages will be available on our website at www.wcribma.org.

Please contact Dan Crowley at 617.646.7594 or dcrowley@wcribma.org or Christine Cronin at 617-646-7544 or ccronin@wcribma.org with any questions.

DANIEL M. CROWLEY, CPCU
Vice President – Customer Services

MASSACHUSETTS WORKERS' COMPENSATION & EMPLOYERS LIABILITY INSURANCE MANUAL

RULE IV. CLASSIFICATIONS, D. ASSIGNMENT OF CLASSIFICATIONS, 12. CLASSIFICATION OF EMPLOYEES OF LABOR CONTRACTORS

The payroll of risks operating as labor contractors who provide employees to client companies, such as employee leasing companies, professional employer organizations, staffing firms, and temporary employment agencies, shall be assigned to the classifications that would have applied if the employees were employed directly by the client companies.

RULE IX. SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

E. EMPLOYEE LEASING ARRANGEMENTS

Workers' Compensation Insurance Requirements Applicable to Employee Leasing Companies and Their Client Companies.

1. Purpose and Scope

The purpose of 211 CMR 111.00 is to ensure that any entity which is defined as an employee leasing company, as provided in 211 CMR 111.02 (Rule IX-E-2), properly obtains workers' compensation insurance coverage for itself and all of its employees leased to another entity, and that premium paid for the coverage for such leased employees is commensurate with the exposure and anticipated claim experience.

2. Definitions

As used below in this Rule, the following words will have the meanings indicated in 211 CMR 111.00:

Client Company. A person, association, partnership, corporation or other entity located or having operations in Massachusetts that utilizes workers provided by a lessor through an employee leasing arrangement.

Commissioner. The Commissioner of Insurance appointed pursuant to M.G.L. c. 6 §26, or his or her designee.

Employee Leasing Arrangement. An arrangement whereby one business entity provides workers to another business entity under a contract, whether or not in writing, that retains for the lessor a substantial portion of personnel management functions, such as payroll, direction and control of workers, and the right to hire and fire those workers provided by such lessor; provided, however, that the leasing arrangement is long term and not an arrangement to provide the lessee temporary help services during seasonal or unusual conditions, such as temporary skill shortages or temporary special assignments and projects. Any such arrangement to provide workers on a long-term basis shall be construed to be pursuant to a contract and subject to the provisions of 211 CMR 111.00

Employee Leasing Company or Leasing Company. A sole proprietorship, partnership, corporation or other form of business entity whose business consists largely of providing workers to one or more client companies by means of employee leasing arrangements.

3. Responsibility for Purchase and Maintenance of Separate Policies

It shall be the responsibility of the employee leasing company to purchase and maintain a separate policy providing standard workers' compensation and employers' liability insurance for each client company. The experience of all of the workers leased to a client company shall be combined with the experience of the client company for purposes of calculating an experience modification. The experience modification so calculated shall be applied to the client company's policy and all policies maintained for it by a leasing company or leasing companies. Each policy written to cover leased employees shall be issued to the employee leasing company as the named insured. The client company shall be identified thereon by the attachment of an appropriate endorsement indicating that the policy provides coverage for leased employees in accordance with Massachusetts law. The endorsement shall, at a minimum, provide for the following:

- (1) Coverage under the policy shall be limited to the named insured's employees leased to the client company;
- (2) The experience of the employees leased to the particular client company shall be separately maintained;
- (3) Cancellation of the policy shall not affect the rights and obligations of the named insured as an employee leasing company with respect to any other workers' compensation and employers' liability policy issued to the named insured.

Use Massachusetts Professional Employer Organization (PEO) / Employee Leasing Endorsement WC 20 03 04 when the named insured is an employee leasing company. This endorsement applies only with respect to those employees of the employee leasing company named in Item 1 of the Information Page of the policy provided to the client company shown in the Schedule of the endorsement, under an employee leasing arrangement.

Use Massachusetts Exclusion of Coverage for Leased Employees Endorsement (Labor Contractor) WC 20 03 05 to provide coverage to the employee leasing company for any of its Massachusetts employees that it does not lease out to client companies, including employees provided to client companies on a temporary basis. Such non-leased employees are protected under a separate policy.

4. Obligations of Employee Leasing Company to Insurer

- (1) The insurer or any rating organization licensed under M.G.L. C. 152, § 52C may take all reasonable steps to ascertain exposure under each policy issued to the employee leasing company and collect the appropriate premium by requiring:
 - (a) A complete description of employee leasing company operations;
 - (b) Periodic reporting of client company payroll, classifications, experience rating modification factors, and jurisdictions with exposure. This reporting may be supplemented by a requirement to submit Internal Revenue Service Form 941 or its equivalent on a quarterly basis, and such other payroll reporting forms as may be required by federal and state regulatory authority;
 - (c) Physical inspection of client company premises pursuant to M.G.L. c. 152, § 64;
 - (d) Audit of employee leasing company operations.
- (2) The employee leasing company shall maintain and furnish to the insurer sufficient information to permit the calculation of an experience modification factor by the rating organization licensed under M.G.L. c. 152, § 52C for each client company. Such information shall include:
 - (a) The client company's corporate or trade name and address;
 - (b) The client company's taxpayer or employer identification number;
 - (c) A listing of the names, addresses and Social Security numbers of all leased employees associated with each client company, the applicable classification code and payroll; and
 - (d) Claim information.

5. Obligations of Client Company

- (1) Nothing in 211 CMR 111.00 shall have any effect on the statutory obligation of a client company to secure workers' compensation coverage for employees not provided, supplied or maintained by an employee leasing company pursuant to an employee leasing arrangement.
- (2) A client company shall not be eligible for coverage pursuant to a workers' compensation policy issued to the employee leasing company if the client company owes its current or prior insurer any premium for workers' compensation insurance.

6. Policy Cancellation or Nonrenewal

- (1) Any violation of 211 CMR 111.03 or 111.04 (Rules IX-E-3 & 4) shall be considered fraud or material misrepresentation pursuant to M.G.L. c. 152, § 55A, M.G.L. c. 398, § 84, and grounds for cancellation or nonrenewal, provided that the employee leasing company has been provided 30 days to cure the violation.
- (2) With respect to any workers' compensation insurance policy issued or renewed pursuant to 211 CMR 111.03 (Rule IX-E-3), for which notice has been received that such policy will be cancelled or nonrenewed, the leasing company shall notify the client, by certified mail and within ten days, of the receipt of such notice.

7. Insurer Audit

Insurers shall audit policies issued or renewed pursuant to 211 CMR 111.03 (Rule IX-E-3) within 90 days of the policy effective date and may conduct interim audits thereafter. The purpose of the audit will be to determine whether all classifications, experience modification factors and estimated payrolls utilized with respect to the development of the premium charged to the employee leasing company are appropriate.

F. PROFESSIONAL EMPLOYER ORGANIZATION AGREEMENTS

The Massachusetts Department of Labor Standards has promulgated Regulation 454 CMR 30.00, Professional Employer Organization Regulations. Those Regulations allow the Professional Employer Organization (“PEO”) to have a co-employment relationship with its Client, and to allocate by mutual agreement in the Professional Employment Agreement, the responsibility of obtaining workers’ compensation insurance to either the PEO or the client.

1. When Workers’ Compensation Responsibilities Have Been Allocated to the PEO

When the responsibility of obtaining workers’ compensation insurance has been allocated to the PEO, as set forth in M.G.L. c. 149 § 199 and in 454 CMR 30.00, the requirements set forth in 211 CMR 111.00 shall be applicable to the PEO, to the client of the PEO, and to the insurer of the PEO as follows. In the following sections, the terms ‘leased employees’ and ‘leased workers’ are used to describe the employees provided by the PEO to the client company.

a. Responsibility for Purchase and Maintenance of Separate Policies

It shall be the responsibility of the PEO to purchase and maintain a separate policy providing standard workers’ compensation and employers’ liability insurance for each client company. The experience of all of the workers leased to a client company shall be combined with the experience of the client company for purposes of calculating an experience modification. The experience modification so calculated shall be applied to the client company’s policy and all policies maintained for it by any PEO or leasing company. Each policy written to cover leased workers shall be issued to the PEO as the named insured. The client company shall be identified thereon by endorsement.

Use Massachusetts Professional Employer Organization (PEO) / Employee Leasing Endorsement WC 20 03 04 when the responsibility of obtaining workers’ compensation insurance is allocated to the PEO. This endorsement restricts the policy’s coverage so it only insures the employees leased from the PEO to the client company named on the endorsement.

Use Massachusetts Exclusion of Coverage for Leased Employees Endorsement (Labor Contractor) WC 20 03 05 to provide coverage to the PEO for any of its Massachusetts employees that it does not lease to client companies, including employees provided to client companies on a temporary basis. Such non-leased employees are protected under a separate policy.

b. Obligations of PEO to Insurer

The insurer or any rating organization licensed under M.G.L. C. 152, § 52C may take all reasonable steps to ascertain exposure under each policy issued to the PEO and collect the appropriate premium by requiring:

- (1) A complete description of the PEO’s operations;
- (2) Periodic reporting of client company payroll, classifications, experience rating modification factors, and jurisdictions with exposure. This reporting may be supplemented by a requirement to submit Internal Revenue Service Form 941 or its equivalent on a quarterly basis, and such other payroll reporting forms as may be required by federal and state regulatory authority;
- (3) Physical inspection of client company premises pursuant to M.G.L. c. 152, § 64;
- (4) Audit of PEO operations.

The PEO shall maintain and furnish to the insurer sufficient information to permit the calculation of an experience modification factor by the rating organization licensed under M.G.L. c. 152, § 52C for each client company. Such information shall include:

- (1) The client company's corporate or trade name and address;
- (2) The client company's taxpayer or employer identification number;
- (3) A listing of the names, addresses and Social Security numbers of all leased employees associated with each client company, the applicable classification code and payroll; and
- (4) Claim information.

c. Obligations of Client Company

Nothing in this Manual or Rule shall have any effect on the statutory obligation of a client company to secure workers' compensation coverage for employees not provided, supplied or maintained by a PEO pursuant to a PEO Agreement that allocates workers' compensation responsibilities to the PEO.

A client company of a PEO shall not be eligible for coverage pursuant to a workers' compensation policy issued to the PEO if the client company owes its current or prior insurer any premium for workers' compensation insurance.

d. Policy Cancellation or Nonrenewal

With respect to any workers' compensation insurance policy issued or renewed to a PEO for employees it provides to a client company, for which the PEO has received notice that such policy will be cancelled or non-renewed, the PEO shall notify the client, by certified mail and within ten days of the receipt of such notice, the receipt of such notice.

e. Insurer Audit

Insurers shall audit all policies issued to PEOs within 90 days of the policy effective date and may conduct interim audits thereafter. The purpose of the audit will be to determine whether all classifications, experience modification factors and estimated payrolls utilized with respect to the development of the premium charged to the PEO are appropriate.

2. When Workers' Compensation Responsibilities Have Been Allocated to the Client Company

When the responsibility of obtaining workers' compensation insurance has been allocated to the client company, as set forth in M.G.L. c. 149 § 193-203 and in 454 CMR 30.00, the requirements shall be as follows. In the following sections, the terms 'leased employees' and 'leased workers' are used to describe the employees provided by the PEO to the client company.

a. Responsibility for Purchase and Maintenance of a Separate Policy

It shall be the responsibility of the client company to purchase and maintain a separate policy providing standard workers' compensation and employers' liability insurance for the employees it leases from the PEO. Each policy written to cover such employees shall be issued to the client company as the named insured. The PEO shall be identified thereon by endorsement.

Use Massachusetts Professional Employer Organization (PEO) Extension Endorsement WC 20 03 08 when the responsibility of obtaining workers' compensation insurance is allocated to the client. This endorsement restricts the policy's coverage so it only insures the employees leased from the PEO, that is named on the endorsement, to the client company, who is the named insured on the policy.

Use Professional Employer Organization (PEO) Client Exclusion Endorsement WC 00 03 22 on a policy issued in the client's name to insure those employees it pays directly, to exclude coverage for employees it leases from the PEO. The employees that the client pays directly are protected under a separate policy.

b. Obligations of Client Company

Premium will be charged for the workers that the client leases from the PEO. The client company must obtain from the PEO and furnish to the insurer a complete payroll record of the leased workers provided by the PEO to satisfy the insured employer's obligations under Part Five (Premium), C-2 (Remuneration).

The insurer or any rating organization licensed under M.G.L. C. 152, § 52C may take all reasonable steps to ascertain exposure under the policy issued to the client for employees leased from the PEO and collect the appropriate premium by requiring:

- (1) A complete description of the client company's operations;
- (2) Physical inspection of client company premises pursuant to M.G.L. c. 152, § 64;
- (3) Audit of the client company's operations.

Nothing in this Manual or Rule shall have any effect on the statutory obligation of a client company to secure workers' compensation coverage for employees not provided, supplied or maintained by a PEO.

A client company of a PEO shall not be eligible for coverage if the client company owes its current or prior insurer any premium for workers' compensation insurance.

c. Obligations of PEO to the Client's Insurer

Part Five (Premium), Sections F (Records) and G (Audit) of the client's policy apply to both the client and the PEO. The PEO is required to provide to the client's insurer upon request a complete payroll record of the workers leased from the PEO to the client company in order for the client to satisfy the insured employer's obligations under Part Five (Premium), C-2 (Remuneration).

d. Policy Cancellation or Nonrenewal

With respect to any workers' compensation insurance policy issued or renewed to a client of a PEO for employees it obtains from a PEO, for which the client has received notice that such policy will be cancelled or non-renewed, the client shall notify the PEO, by certified mail and within ten days, of the receipt of such notice.

e. Insurer Audit

Insurers shall audit all policies issued to clients of PEOs with the Massachusetts Professional Employer Organization (PEO) Extension Endorsement attached within 90 days of the policy effective date and may conduct interim audits thereafter. The purpose of the audit will be to determine whether all classification, experience modification factors and estimated payroll utilized with respect to the development of the premium charged to the client are appropriate.

EXPERIENCE RATING PLAN MANUAL

Massachusetts Exception to:

Rule V – Special Rating Conditions, A – Employee Leasing / Professional Employer Organizations.

Rule 5A does not apply in Massachusetts. Refer to Rule IX-E, Employee Leasing Arrangements, and Rule IX-F, Professional Employer Organization (“PEO”) Agreements, in the MA Manual.

The payroll and loss experience from policies of employee leasing companies and PEOs that have the Massachusetts Professional Employer Organization (PEO) / Employee Leasing Endorsement WC 20 03 04 attached shall be combined with the experience of the client company named on the endorsement for purposes of calculating an experience modification. The experience modification so calculated shall be applied to the client company’s policy and all policies maintained for it by a leasing company or PEO.

The payroll and loss experience from policies of clients of PEOs that have the Massachusetts Professional Employer Organization Extension Endorsement WC 20 03 08 attached shall be combined with the experience of the client company for purposes of calculating an experience modification. The experience modification so calculated shall be applied to the client company’s own policy, and on policies obtained to insure leased employees.

Effective April 1, 2020

Standard

MASSACHUSETTS PROFESSIONAL EMPLOYER ORGANIZATION (PEO) / EMPLOYEE LEASING ENDORSEMENT

As used in this endorsement, "employee leasing" shall mean an arrangement, whereby an entity utilizes the services of another entity to provide it with some or all of its workforce for a fee or other compensation under an employee leasing arrangement. The entity providing employee leasing services shall be referred to as the "employee leasing company" or "ELC." The entity receiving the services shall be referred to as the "client" or "client company."

As used in this endorsement, "professional employer agreement" shall mean a written contract by and between a client and a professional employer organization that establishes the PEO co-employment relationship, identifies covered employees, and allocates employer rights, responsibilities and obligations between the client and the PEO with respect to the covered employees. The entity providing professional employer services shall be referred to as the "professional employer organization" or "PEO." The entity receiving the services shall be referred to as the "client" or "client company."

Employees provided by either an ELC or a PEO to a client shall herein be referred to as "leased employees" or "leased workers."

This endorsement applies only with respect to those of your workers provided to the client company named in the Schedule below under either an employee leasing arrangement or a professional employer agreement that allocates to the PEO the responsibility of obtaining workers' compensation insurance. These are arrangements that are long term and not used to provide the client company temporary help services during seasonal or unusual conditions, such as temporary skill shortages or temporary special assignments and projects.

Part One (Workers' Compensation Insurance) and Part Two (Employers' Liability Insurance) will apply as though the client is the employer and is insured under this policy.

The insurance afforded by this endorsement is not intended to satisfy the client company's duty to secure its obligations under the workers' compensation law. We will not file evidence of this insurance on behalf of the client with any government agency.

We will not ask any other insurer of the client to share with us a loss covered by this endorsement. Premium will be charged for your workers leased to the client company shown below.

The policy may be cancelled pursuant to applicable law without need for us to send notice to the client company. It shall be your responsibility to notify the client of the cancellation, by certified mail and within ten days of your receipt of the cancellation notice. The cancellation of this policy shall not affect your rights and obligations as an ELC or PEO with respect to any other workers' compensation and employers' liability policy issued to you.

Part Four (Your Duty If Injury Occurs) applies to you and the client company shown below. The client company will recognize our right to defend under Part One and Part Two and our right to inspect under Massachusetts law and Part Six (Conditions).

The experience of the employees leased to the client company shall be separately maintained.

Schedule

Name of Client	Address	FEIN
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Note: Use this endorsement with a policy showing Massachusetts in Item 3.A. of the Information Page when the insured (ELC or PEO) named in Item 1 of the Information Page fulfills its obligation to provide insurance for workers' compensation and employers' liability claims made by employees leased to an entity (the client) named in the endorsement Schedule, under a contractual agreement.

Effective April 1, 2020

Standard

MASSACHUSETTS PROFESSIONAL EMPLOYER ORGANIZATION (PEO) EXTENSION ENDORSEMENT

As defined in MGL c 149 §192 and 454 CMR 30.00 and as used in this endorsement, "Professional Employer Agreement" shall mean a written contract by and between a client and a Professional Employer Organization that establishes a PEO co-employment relationship, identifies covered employees, and allocates employer rights, responsibilities and obligations between the client and the PEO with respect to the covered employees. The entity providing professional employer services shall be referred to as the "Professional Employer Organization" or "PEO." The entity receiving the services shall be referred to as the "Client." The employees provided by the PEO to the client that are subject to the professional employer agreement shall be referred to as "leased workers" or "leased employees."

This endorsement applies only with respect to bodily injury to your leased workers in Massachusetts when provided by a PEO named in the Schedule below, subsequent to the execution of a Professional Employer Agreement that allocates to you, the Client, the responsibility of obtaining workers' compensation insurance. This endorsement excludes coverage for employees that you pay directly and workers provided to you on a temporary basis.

Part One (Workers' Compensation Insurance) and Part Two (Employers' Liability Insurance) of your policy will apply as though both the PEO and the Client are the employer and insured under this policy.

The insurance afforded by this endorsement is not intended to satisfy the PEO's duty to secure its obligations under the workers' compensation law. We will not file evidence of this insurance on behalf of the PEO with any governmental or regulatory agency.

We will not ask any insurer of the PEO to share with us a loss covered by this endorsement.

Premium will be charged for your leased workers while provided by the PEO. Part Five (Premium), Sections F (Records) and G (Audit) of your policy apply to both you and the PEO. You must obtain from the PEO and furnish to us, and the PEO is obligated to provide, a complete payroll record of your leased workers provided by the PEO to satisfy your obligations under Part Five (Premium), C-2 (Remuneration).

The policy may be cancelled pursuant to applicable law without need for us to send notice to the PEO. It shall be your responsibility to notify the PEO of the cancellation, by certified mail and within ten days of your receipt of the cancellation notice. The cancellation of this policy shall not affect your rights and obligations with respect to any other workers' compensation and employers' liability policy issued to you.

Part Four (Your Duties If Injury Occurs) applies to you and the PEO. The PEO will recognize our right to defend under Parts One and Two and our right to inspect under Massachusetts law and Part Six (Conditions).

We shall audit this policy within 90 days of the policy effective date and may conduct interim audits thereafter. The purpose of the audit will be to determine whether all classifications, experience modification factors and estimated payroll utilized with respect to the development of the premium charged are appropriate.

Schedule

Name of PEO	Address	FEIN
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This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

Note: Use this endorsement with a policy showing Massachusetts in Item 3A of the Information Page when the insured (a Client of a PEO) named in Item 1 of the Information Page fulfills its obligation to provide insurance for workers' compensation and employers' liability claims made by employees provided to the insured by a PEO under a contractual agreement that allocates to the Client the responsibility of providing workers' compensation.

PROFESSIONAL EMPLOYER ORGANIZATION (PEO) CLIENT EXCLUSION ENDORSEMENT

As used in this endorsement, a PEO arrangement is any arrangement under contract or agreement, written or otherwise, whereby one entity obtains or leases any or all of its workers from another entity for a fee or other compensation. The third party providing PEO services will be referred to as a "PEO." The entity receiving the services will be referred to as a "client."

This endorsement is used to exclude leased workers from your policy, which only covers your direct (non-leased) workers. Your policy, to which this endorsement is attached, does not provide coverage for workers you lease from any PEO(s) listed below or others added subsequent to policy issuance even if not endorsed on the policy. Any changes to such information must be reported to the carrier immediately.

Schedule

PEO	Address
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Effective April 1, 2020

Standard

MASSACHUSETTS EXCLUSION OF COVERAGE FOR LEASED EMPLOYEES ENDORSEMENT (LABOR CONTRACTORS)

This endorsement excludes coverage for those of your workers who are leased to a client company under an "employee leasing arrangement" as defined in Massachusetts Regulation 211 CMR 111.00 or under a "professional employer agreement" as defined in Massachusetts Regulation 454 CMR 30.00.

This endorsement provides coverage for those of your workers who are not leased to a client company under an employee leasing arrangement or a professional employer agreement.

This endorsement provides coverage for the insured labor contractor's own staff and any workers provided on a temporary basis during seasonal or unusual conditions, including by way of example and without limitation:

- To cover employee absences or leaves from which the permanent employee will return to work, such as maternity leave, vacation, or jury duty.
- To fill temporary skill shortages for a specified period of time.
- To temporarily staff for seasonal workload for a specified period of time.
- To staff a special assignment or project for a specified period of time where the employee(s) will be terminated or reassigned upon completion.
- To cover temp-to-hire or probationary hiring situations.

If, at any time, you enter into an employee leasing arrangement or a professional employer organization agreement in which you have been allocated the responsibility of providing workers' compensation insurance for the leased workers, then it is your responsibility to purchase and maintain a separate policy providing standard workers' compensation and employers' liability insurance for those leased employees, as required by Massachusetts Workers' Compensation and Employers Liability Insurance Manual Rules IX-E and IX-F.

Note:

1. This endorsement must be attached to every policy showing Massachusetts in Item 3A of the Information Page where the named insured is an employee leasing company or PEO when coverage is being provided for the leasing company's or PEO's own employees that it does not lease out.
2. This endorsement must be attached to every residual market policy showing Massachusetts in Item 3A of the Information Page where the named insured is a labor contractor to restrict coverage to the labor contractor's non-leased employees.
3. This endorsement may be attached to a voluntary policy showing Massachusetts in Item 3A of the Information Page where the named insured is a labor contractor to restrict coverage to the labor contractor's non-leased employees.

ALTERNATE EMPLOYER ENDORSEMENT

This endorsement applies only with respect to bodily injury to your employees while in the course of special or temporary employment by the alternate employer in the state named in Item 2 of the Schedule. Part One (Workers Compensation Insurance) and Part Two (Employers Liability Insurance) will apply as though the alternate employer is insured. If an entry is shown in Item 3 of the Schedule the insurance afforded by this endorsement applies only to work you perform under the contract or at the project named in the Schedule.

Under Part One (Workers Compensation Insurance) we will reimburse the alternate employer for the benefits required by the workers compensation law if we are not permitted to pay the benefits directly to the persons entitled to them.

The insurance afforded by this endorsement is not intended to satisfy the alternate employer's duty to secure its obligations under the workers compensation law. We will not file evidence of this insurance on behalf of the alternate employer with any government agency.

We will not ask any other insurer of the alternate employer to share with us a loss covered by this endorsement.

Premium will be charged for your employees while in the course of special or temporary employment by the alternate employer.

The policy may be canceled according to its terms without sending notice to the alternate employer.

Part Four (Your Duties If Injury Occurs) applies to you and the alternate employer. The alternate employer will recognize our right to defend under Parts One and Two and our right to inspect under Part Six.

Schedule

- | | |
|---|---------|
| 1. Alternate Employer | Address |
| 2. State of Special or Temporary Employment | |
| 3. Contract or Project | |

- Note:**
1. This endorsement may be used when the insured named in Item 1 of the Information Page has agreed to provide insurance against workers compensation and employers liability claims made by employees of the insured against a special or temporary employer named in the endorsement Schedule.
 2. This endorsement may be used only if the state of temporary or special employment is a state shown in Item 3.A. of the Information Page.
 3. If the insured is in the business of providing temporary workers for others, the insurer may show the alternate employers in the Schedule by the words "all" or "any."
 4. Three uses of this endorsement are illustrated here:
 - a. Use this endorsement if the policy is issued to a contractor (the insured) who is required by an oil company (as alternate or special employer) to provide workers compensation and employers liability insurance to protect the oil company from claims brought by the contractor's employees.
 - b. Use this endorsement if the policy is issued to a business that operates and manages property for others (the insured) who is required by the property owner (the alternate employer) to provide this insurance to protect the owner from claims brought by employees of the operator/manager.
 - c. Use this endorsement if the policy is issued to a supplier of temporary office help (the insured) who is required by its customer (the user of the temporary office help—the alternate employer) to provide this insurance to protect the customer from claims brought by the insured's employees against the alternate employer.
 5. Show an appropriate entry to Item 3 to limit the endorsement to apply only to specific jobs or contracts of the insured. This endorsement may not be used to limit coverage to specific jobs or contracts in Wisconsin.
 6. If this endorsement is used because of temporary or special employment in Illinois, the carrier must send a written notice of cancelation to all Illinois Alternate Employers shown in the Schedule.
 7. If a PEO has contracted to provide or lease employees to a Massachusetts client and workers compensation responsibilities have been allocated to the PEO, then the Massachusetts Professional Employer Organization (PEO) / Employee Leasing Endorsement, WC200304D, must be used.
 8. If a PEO has contracted to provide or lease employees to a Massachusetts client and workers compensation responsibilities have been allocated to the client, then the Massachusetts Professional Employer Organization (PEO) Extension Endorsement, WC200308, must be used.

**MASSACHUSETTS WORKERS' COMPENSATION ASSIGNED RISK POOL
 CLIENT OF LABOR CONTRACTOR SUPPLEMENTAL APPLICATION**

If you are making application for Assigned Risk Pool coverage, refer to the *Pool Procedures for New Applications* on www.WCRIBMA.org.
 If you regularly have employees provided to you by another business, whether from an employee leasing company, PEO, staffing agency, or temporary employment agency, complete a separate Client of Labor Contractor Supplemental Application for each company from whom you obtain employees.

EMPLOYER INFORMATION

From Part I of the Client Company's Application for Assigned Risk Pool Coverage.

1. Client Name: _____
2. a. FEIN: _____ b. Website: _____

LABOR CONTRACTOR INFORMATION

3. Labor Contractor Company Name: _____
4. a. FEIN: _____ b. Website: _____
5. Do you have a written contract with the labor contractor named above? **IF YES, ATTACH A COPY.** YES NO
6. The labor contractor is required to provide workers' compensation insurance for the employees they provide to you.
ATTACH EVIDENCE OF SUCH INSURANCE. (Not applicable if a PEO has allocated workers' compensation responsibilities to the client.)

EMPLOYEES PROVIDED

7. Employees Obtained: Supply information about all employees provided to you for the past 12 months by the labor contractor named above.

Duties	# of Employees	Estimated Payroll / Cost of Service

8. What type of services does the above labor contractor provide to your organization?
- | | |
|--|--|
| <input type="checkbox"/> Employee Leasing | <input type="checkbox"/> Special Assignment or Project Work |
| <input type="checkbox"/> Long Term Staffing (more than 6 months) | <input type="checkbox"/> Provide Supplemental Help for Seasonal Business Increases |
| <input type="checkbox"/> Temporary to Permanent Hire by the Client | <input type="checkbox"/> Provide Temporary Replacements for Absent Employees |
| <input type="checkbox"/> Placement Services (client pays employees) | <input type="checkbox"/> Provide Skilled Professionals during Skill Shortages |
| <input type="checkbox"/> PEO with Workers' Compensation Allocated to PEO | <input type="checkbox"/> PEO with Workers' Compensation Allocated to Client |

Other (describe in detail): _____

9. Explain how frequently you obtain employees from the labor contractor named above and how long you expect the arrangement to last.

10. Do you obtain your entire workforce from the labor contractor named above? YES NO
11. If you no longer obtain employees from the labor contractor named above, provide the termination date. _____
12. Do you regularly use the services of any other labor contractors? YES NO
 If YES, complete a separate Client of Labor Contractor Supplemental Application for each, **AND ATTACH.**

EMPLOYER & PRODUCER STATEMENTS: I understand that this Client of Labor Contractor Supplemental Application is being submitted as an attachment to the employer's Massachusetts Assigned Risk Pool Application for Workers' Compensation Insurance and is part of that application.
 By signing this application, I am stating that I am the employer or have been authorized by the employer to complete this application, and I have read, understand and confirm that the Applicant's Agreements, the Fraud Notice, and the Producer's Statement agreed to on the Pool Application are applicable to this form as well.

EMPLOYER'S SIGNATURE (Sole Proprietor, Partner, Officer, Member or Trustee)	DATE	PRODUCER'S SIGNATURE	DATE

**MASSACHUSETTS WORKERS' COMPENSATION ASSIGNED RISK POOL
 LABOR CONTRACTOR SUPPLEMENTAL APPLICATION**

If you provide employees to other businesses but do not consider them to be employee leasing arrangements as defined by 211 CMR 111.03, then complete a Labor Contractor Supplemental Application. Where space restricts a complete answer, attach responses on a separate sheet of paper. Massachusetts Regulation 211 CMR 111.03 defines an employee leasing arrangement as an "arrangement whereby one business entity provides workers to another business entity under a contract that retains for the lessor a substantial portion of personnel management functions, such as payroll, direction and control of workers, and the right to hire and fire those workers provided by such lessor; provided, however, that the leasing arrangement is long term and not an arrangement to provide the lessee temporary help services during seasonal or unusual conditions such as temporary skill shortages or temporary special assignments and projects."

Note: Any arrangements to provide labor that are not "temporary help services during seasonal or unusual conditions such as temporary skill shortages or temporary special assignments and projects" shall be considered employee leasing arrangements, and each such arrangement will need to be insured on a separate policy in accordance with 211 CMR 111.04.

1. Employer Name: _____

2. a. FEIN: _____ b. Website: _____

3. # of W-2's issued last year: _____ # of 1099's issued last year: _____

4. Do you hire day laborers? YES NO

If YES, how are they paid? _____

5. Do you provide group transportation for your employees? YES NO

6. Do you provide any services or materials other than *people* to your clients? YES NO

If YES, describe the services or materials provided. _____

7. Indicate ALL services you provide:

- | | |
|---|--|
| <input type="checkbox"/> Employee Leasing | <input type="checkbox"/> Special Assignment or Project Work (with no defined end date) |
| <input type="checkbox"/> Professional Employment Organization (PEO) * | <input type="checkbox"/> Special Assignment or Project Work (with a defined end date) |
| <input type="checkbox"/> Long Term Staffing (more than 6 months) | <input type="checkbox"/> Provide Supplemental Help for Seasonal Business Increases |
| <input type="checkbox"/> Temporary to Permanent Hire by the Client | <input type="checkbox"/> Provide Temporary Replacements for Absent Employees |
| <input type="checkbox"/> Placement Service (client pays employees) | <input type="checkbox"/> Provide Skilled Professionals during Skill Shortages |
| <input type="checkbox"/> Other (describe in detail): _____ | |

8. **ATTACH** any contracts, brochures, and promotional materials utilized by your organization.

9. **ATTACH** a complete list of your clients for the past 6 months, and for each client, provide:

- The client's name and address;
- The nature of the client's business and the job descriptions of the employees provided;
- The number of employees provided and how often/frequently they were provided;
- The start and end dates of the arrangement; and
- A description of the circumstances under which employees were provided. **

* In Massachusetts, PEOs who have been allocated responsibility for workers' compensation are required to obtain employee leasing policies for their employees.

** Examples of circumstances under which employees may have been provided: Temporary to permanent hire by the client; covering for employee absences or leave; filling temporary skill shortages; staffing for a seasonal increase in business; staffing for a special temporary assignment or project; or meeting daily staffing needs.

EMPLOYER & PRODUCER STATEMENTS: I understand that this Labor Contractor Supplemental Application is being submitted as an attachment to the employer's Massachusetts Assigned Risk Pool Application for Workers' Compensation Insurance and is part of that application. By signing this application, I am stating that I am the employer or have been authorized by the employer to complete this application, and I have read, understand and confirm that the Applicant's Agreements, the Fraud Notice, and the Producer's Statement agreed to on the Pool application are applicable to this form as well.

EMPLOYER'S SIGNATURE (Sole Proprietor, Partner, Officer, Member or Trustee)	DATE	PRODUCER'S SIGNATURE	DATE