

Subchapter C. INDIVIDUAL SELF-INSURED EMPLOYER'S ACCIDENT AND ILLNESS PREVENTION PROGRAMS

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§ 129.401. Purpose.

This subchapter interprets the requirements of the act that an individual self-insured employer shall maintain an adequate accident and illness prevention program as a prerequisite for retention of its self-insured status. The subchapter establishes the criteria that the Bureau will employ in determining the adequacy of the accident and illness prevention program required to be maintained by an individual self-insured employer.

§ 129.402. Program requirements.

(a) An individual self-insured employer shall maintain an adequate accident and illness prevention program and maintain records for this program for the 3 most current, complete fiscal years. The program shall include the following elements:

(1) A safety policy statement.

(2) A designated accident and illness prevention program coordinator.

(3) Assignment of responsibilities for developing, implementing and evaluating the accident and illness prevention program.

(4) Program goals and objectives.

(5) Methods for identifying and evaluating hazards and developing corrective actions for their mitigation.

(6) Industrial hygiene surveys required by the nature of the individual self-insured employer's workplace and worksite environments, for example, air quality testing.

(7) Industrial health services required by the nature of the individual self-insured employer's workplace environment, for example, health screenings, substance abuse awareness and prevention training programs.

(8) Accident and illness prevention orientation and training.

(9) Regularly reviewed and updated emergency action plans.

(10) Employee accident and illness prevention suggestion and communications programs.

(11) Mechanisms for employee involvement, which may include establishment of a workplace safety committee as described in Subchapter F (relating to workplace safety committees).

(12) Established safety rules and methods for their enforcement.

(13) Methods for accident investigation, reporting and recordkeeping.

(14) Prompt availability of first aid, CPR and other emergency treatments.

(15) Methods for determining and evaluating program effectiveness. These may include:

(i) Comparison of the individual self-insured employer's incidence rate as derived using the OSHA/BLS formula to the current OSHA/BLS industry-wide rate published annually in the BLS Survey of Occupational Injuries and Illnesses.

(ii) Comparison of individual employer injury and illness rates determined by means of a formula prescribed by the Bureau to current, Statewide rates by industry published annually by the Bureau in the *Pennsylvania Work Injuries and Illnesses Report*.

(iii) Experience modification factor.

(iv) Loss ratio.

(v) Other methods used by individual self-insured employers deemed appropriate by the Bureau.

(16) Protocols or standard operating procedures, when applicable to the workplace and worksite environments for:

(i) Electrical and machine safeguarding.

(ii) Personal protective equipment.

(iii) Hearing and sight conservation.

(iv) Lockout/tagout procedures.

(v) Hazardous materials handling, storage and disposal procedures.

(vi) Confined space entry procedures.

(vii) Fire prevention and control practices.

(viii) Substance abuse awareness and prevention policies and programs.

(ix) Control of exposure to bloodborne pathogens.

(x) Preoperational process reviews.

(xi) Other protocols as may be appropriate for the individual self-insured employer's operations.

(b) Individual self-insured employers shall maintain records describing the comparison methods chosen from subsection (a)(15) for the most current complete fiscal year and 2 preceding consecutive fiscal years. Those records shall contain at a minimum:

(1) The annual calculated rates for the methods chosen.

(2) A copy of the calculations used to determine the annual rates.

(3) A copy of the sources containing the complete data used in calculating the annual rates.

§ 129.403. Individual self-insured employer's accident and illness prevention services providers requirements.

(a) Accident and illness prevention services providers employed by an individual self-insured employer or serving through a contract to perform accident and illness prevention services shall meet the requirements in Subchapter E (relating to accident and illness prevention services providers requirement).

(b) The Bureau may require that the individual self-insured employer provide documentation or evidence to support that the requirements for accident and illness prevention services providers have been met by each individual providing accident and illness prevention services, whether employed or under contract, based on the criteria in Subchapter E.

§ 129.404. Reporting requirements for applicants for individual self-insurance status.

(a) As part of its application for individual self-insurance status submitted to the Bureau, an applicant for individual self-insurance status shall provide the Bureau with detailed information on its accident and illness prevention program as required under § 129.402 (relating to program requirements) using form LIBC-221E, *Initial Report of Accident and Illness Prevention Program*.

(b) As part of the process of granting individual self-insurance status, the Bureau will use this information to determine whether to grant individual self-insurance status.

§ 129.405. Reporting requirements for individual self-insured employers.

(a) At the time of reapplication for renewal of self-insurance status, an individual self-insured employer shall, as required under section 815 of the act (77 P. S. § 1036.15), provide the Bureau with detailed information on its accident and illness prevention program using the AIPPS report, for the last complete fiscal year preceding the date of the renewal application.

(b) In addition, documentation required by other governmental regulatory agencies can be used as supporting evidence of accident and illness prevention programs.

(c) Report information shall be subject to Bureau verification.

§ 129.406. Report findings.

Upon receipt of a report required under § 129.404 (relating to reporting requirements for individual self-insurance status employers), the Bureau will review the report data and make a final determination of adequacy or an initial determination of inadequacy of programs. An inadequate determination may result in an audit of services before a final determination is made. The Bureau will provide notification to the employer of its final determination.

§ 129.407. Recordkeeping requirements.

Individual self-insured employers shall maintain records of accident and illness prevention program services for the most complete fiscal year and 2 preceding consecutive fiscal years which include:

- (1) Number and dates of surveys conducted.
- (2) Proposed corrective actions and their disposition.
- (3) Training programs conducted.
- (4) Consultations held.
- (5) Analyses of accident causes.
- (6) Industrial hygiene services provided.
- (7) Industrial health services provided.
- (8) Qualified service providers utilized to provide program services whether contracted or employed.

§ 129.408. Periodic audits of individual self-insured employer's accident and illness prevention program.

(a) The Bureau may audit an individual self-insured employer's accident and illness prevention program at least once every 2 years.

(b) A combined audit may be conducted for affiliated companies of an individual self-insured employer if the same facilities, accident and illness prevention program, and accident and illness prevention services providers are used by each of the companies.

(c) The Bureau may audit an individual self-insured employer's accident and illness prevention program if the individual self-insured employer fails to file an AIPPS by specified time frames or fails to meet the requirements of this subchapter.

(d) The notice of the audit will include the reasons for audit.

(e) At least 60 calendar days prior to an audit, the Bureau will notify the individual self-insured employer in writing of the date on which the audit will occur.

§ 129.409. Preaudit exchange of information.

(a) At least 45-calendar days prior to the audit, the individual self-insured employer shall provide the Bureau with:

(1) If not already submitted, a completed annual AIPPS report for the most recently completed fiscal year and, if requested, the AIPPS reports for the 2 preceding consecutive fiscal years including those of its affiliated companies, if applicable.

(2) The name, address and telephone number of the contact person.

(3) A description of the types of accident and illness prevention program services provided during the last completed fiscal year.

(4) The name, address, business telephone number, credentials, experience and status (whether employed or contracted) of each person acting as an accident and illness prevention services provider for the individual self-insured employer.

(b) At least 15-calendar days prior to the date of the audit, the individual self-insured employer shall provide the Bureau with information on forms prescribed by the Bureau that describe the employer's accident and illness prevention program.

(c) If the information necessary for the audit is not furnished, the Bureau may cancel the audit, and a final determination of inadequate will be forwarded to the Director. The Director will provide notification of its final determination to the employer and initiate appropriate action regarding continuance of self-insurance status. A final determination of inadequate may be challenged by the individual self-insured employer in accordance with Subchapter G (relating to hearings).

§ 129.410. Site of audit.

(a) The audit of the individual self-insured employer's accident and illness prevention program will take place at the employer's main office in this Commonwealth unless otherwise agreed by the Bureau and the employer. If the individual self-insured employer has no office in this Commonwealth, the audit will take place at the Bureau's headquarters.

(b) At the site where the audit will occur, the individual self-insured employer shall provide the documentation required by § 129.406 (relating to report findings) and any other documentation chosen by the employer supporting the existence and adequacy of required program elements.

§ 129.411. Written report of audit.

(a) After the conclusion of the audit, the Bureau will issue a written report containing its findings. The report will indicate whether the Bureau has issued a final determination of adequate or an initial determination of inadequate with regard to an individual self-insured employer's accident and illness prevention program.

(b) The Bureau will notify the individual self-insured employer of a final determination of adequate.

(c) The Bureau will provide written notification to the individual self-insured employer of specific deficiencies and recommendations for corrective action if it assigns an initial determination of inadequate.

Within 60 calendar days from the date of the audit report, the individual self-insured employer shall provide written documentation that it has complied with the Bureau's recommendations. If the individual self-insured employer believes that it will take more than 60 days to implement the recommendations, it shall file a plan of correction in accordance with § 129.412 (relating to plan of correction/reports of progress on correcting deficiencies). At the end of the 60 calendar day correction period, a final determination of adequate or inadequate will be assigned. The individual self-insured employer will receive notification of this final determination.

§ 129.412. Plan of correction/reports of progress on correcting deficiencies.

An individual self-insured employer shall file a plan of correction to implement audit report recommendations referenced in § 129.411(c) (relating to written report of audit) for any deficiency requiring more than 60 days to correct. The plan shall include a timetable for correction acceptable to the Bureau. Progress reports shall be filed by the individual self-insured employer detailing corrective actions at the end of each 30-day period of the correction plan period. The Bureau may audit an individual self-insured employer's accident and illness prevention program if an individual self-insured employer fails to file progress reports, implement recommendations or provide acceptable documentation of corrective actions. At the end of the correction plan period, a final determination of adequate or inadequate will be made, and the individual self-insured employer will be notified of the determination.

§ 129.413. Contesting final determinations.

An individual self-insured employer may contest a final determination of inadequate under Subchapter G (relating to hearings).