

STATE OF MINNESOTA  
DEPARTMENT OF COMMERCE

In the Matter of the Rules  
Regarding Joint Health and  
Disability Self-Insurance  
Plans

STATEMENT OF NEED  
AND REASONABLENESS

Minnesota Statutes, section 62H.01 was amended by Chapter 337, of the 1987 Session Laws. Because of this amendment part 2565.0900 subpart 1 was required a amendment. The statutory amendments specifically allow non resident employers to participate in the self-insurance plan if the portion of the plan covering Minnesota resident employees was treated as a separate plan and the plan complied with the laws of the state of the non Minnesota employees resident. This was not permitted by the rule and accordingly the rule required amendments to conform to the statute.

Minnesota Rules, part 2765.1300 previously had required a 90 day notice of termination by the plan. Minnesota Statutes 62H.02 was amended to require a 180 day notice of termination or nonrenewal of the stop loss insurance. In addition the requirement that stop loss insurance must be noncancellable for a minimum period of two years was removed from the statute. As a result of the statutory changes Rule 2765.1300 was a required amendment to incorporate these changes. Because Subpart 4 was in contradiction with the statutory change it was required to be repealed.

Minnesota Statutes Section 62H.01 provides rulemaking authority to the commissioner to adopt rules for joint health and disability self-insurance plans. In addition Minnesota Statutes, section 45.03 provides the commissioner with the authority to adopt rules where necessary for the proper discharge of the commissioners duties.

These amendments are necessary to conform the rules to the statute as amended by the 1987 Legislature. The changes made are only for the purposes of conformity. No other changes are being made.

Small Business Consideration

Minnesota Statutes, section 14.115 requires that certain considerations be made in regard to the rulemaking process as to the effect of the rules upon small businesses and any mitigating factors that may be applied to the application of these rules in regard to small business. In the present instance although the department has little choice but to conform to the rules in the exact manner as the statute indicates, the department did consider the impact of the rules on small business as charged by section 14.115.

As is the case with most rules governing the conduct of insurance companies, the intent is to benefit the policyholder. Every insurer, no matter if they qualify as a small business or not, must be subject to the same requirements or the group intended to be protected, the policyholders, would find that they have less rights if they deal with an insurer that qualifies as a small business then if they are dealing with a company that did not. While this may result in a lesser burden upon insurers that qualify as small businesses, it would defeat the purpose of protection of the policyholder. It might also have a negative effect upon insurance companies that qualify as small businesses in that their policyholders would perceive that they have less protection than if they purchase their insurance from a non small business insurance company. The result of reducing the requirements would be loss of business rather than a reduction in regulatory burden for insurers that are small business.

In promulgating these rules all of the considerations required by Minnesota Statute section 14.115 were addressed. In regard to the considerations required by subpart 2, item A, the establishment of less stringent compliance on reporting requirements for small businesses, since the only compliance is with the statutory mandate it would be beyond the department's authority to reduce the requirement that the statute imposes. As there are no reporting requirements there would be no need for reduction in the same.

As to item B of subpart 2, since there are no schedules or deadlines for compliance or reporting this particular provision would not be applicable to this set of rules.

As to item C, consolidation or simplification of compliance requirements would not be feasible given the nature of the particular rule and the change in statutory requirements. As there are no reporting requirements that provision would not be applicable.

Item D would not be applicable given the nature of this particular rule.

Item E would not be appropriate for the reasons cited above in that it would take away the protection to policyholders that the statute intended to give them. In addition the department does not believe it has the authority to make such an exemption. The small businesses that are probably most affected by these rules are not insurers but rather the small businesses that will not gain some protection and rights that they did not have before. To give any insurance company an exemption from the rules would be to reduce the rights of the small businesses that are policyholders. The department concluded that the intent of the statute was the protection of policyholders, small business or not and therefore all insurers, be they small or large must meet the same standards to insure equal protection to all of their

policyholders.

Because of the nature of the amendments of the rules, namely to conform to the statutory mandate, no participation by small businesses was involved.