

## Virginia Workers' Compensation Commission

### PROFESSIONAL EMPLOYER ORGANIZATION FREQUENTLY ASKED QUESTIONS

#### PEO Frequently Asked Questions

1. **When does a business need to register as a Professional Employer Organization?**
  - A. Under Virginia law, any business that provides professional employer services must register with the Commission before providing any services.
  
2. **How is "Professional Employer Organization" defined?**
  - A. The Virginia Code defines "Professional Employer Organization," as, any person that enters into a written agreement with a client company to provide professional employer services. "Professional employer services" means services provided to a client company pursuant to a written agreement with a professional employer organization whereby the professional employer organization initially employs all or a majority of a client company's workforce and assumes responsibilities as an employer for all co-employees that are assigned, allocated, or shared by the agreement between the professional employer organization and the client company.
  
3. **Are the PEO regulations applicable to Employee Leasing?**
  - A. The terms "Professional Employer Organization" and "Employee Leasing" are frequently used interchangeably. A business that provides professional employer services or employee leasing should consider the definition provided under the Virginia Code.

#### Registration Questions

4. **How do I register to become a PEO (Professional Employer Organization)?**
  - A. Registration is completed online through the Commission's **WebFile** system. The first step is to obtain **WebFile access**. To obtain WebFile access, complete and submit a [PEO Access Form](#) to [VAPEO@workcomp.virginia.gov](mailto:VAPEO@workcomp.virginia.gov).  
  
After access is granted by the Commission, use the instructions in the [WebFile Guide for PEOs](#), log into **WebFile** and enter all registration information requested. Once registration is completed, you will receive an e-mail that the PEO status is "Registered."
  
5. **How long does it take to complete the registration process?**
  - A. The time needed to complete registration varies depending upon how promptly the required information is entered and the registration requirements fulfilled. Obtaining

insurance coverage usually takes the longest, up to a few weeks, so effort should be made to secure coverage promptly. Having information readily available can speed the process.

**6. How long is allowed to complete registration?**

A. Registration should be completed within 30 days of initial access to **WebFile**.

**7. What type of information is required to register a PEO?**

A. Required information includes providing PEO information, contact information, obtaining proper workers' compensation insurance coverage, estimated payroll and employees, answering other business information and naming a designated representative.

**8. Is a PEO allowed to provide PEO client services during the registration process?**

A. No. PEO registration must be completed and approved by the Commission before a PEO may provide services to a client company.

**9. How many registered "Users" is a Professional Employer Organization allowed to have?**

A. A PEO may register up to two Users for PEO **WebFile** access.

**10. Is there a filing fee to register as a Professional Employer Organization?**

A. No, there is no filing fee or registration fee. There is an annual assessment fee that is based upon payroll. For additional information please review the Annual Report section.

**11. Is a Professional Employer Organization required to have a Designated Representative?**

A. Yes, listing a Designated Representative is required in order to complete registration.

**12. Why does a Professional Employer Organization need a Designated Representative with a Virginia address?**

A. A Designated Representative is a person authorized to receive communications from the Commission. Provision of a Virginia address ensures that we can also serve process.

**13. Am I required to complete all of the questions asked in WebFile? Why is it important?**

A. Yes. All questions posed in **WebFile** require response and completion. Workers' Compensation is under dual regulation by the Virginia Workers' Compensation Commission and the Bureau of Insurance / State Corporation Commission. Both agencies require information. Registration is not complete and cannot be approved until all questions are answered.

**14. How do I complete the Parental Guarantee?**

A. Follow the guide terms on the form. Be sure to complete the form and obtain all necessary signatures.

## Coverage Questions

### **15. What types of insurance coverage does the Commission accept for PEOs in Virginia?**

- A. Virginia accepts one form of insurance coverage for a PEO, which is a Master Policy. Master Policy coverage must be in the name of the PEO and must be in the voluntary market. The master policy must provide coverage for the co-employees of the PEO and its designated client companies including all non-leased employees of the PEO. For an individual client company, Virginia will also accept an individual policy. The individual client company policy cannot cover the PEO.

### **16. Can a Professional Employer Organization obtain workers' compensation coverage in the assigned risk market?**

- A. No. Under Virginia law, § 65.2-803.1, a PEO that obtains a master policy must secure it in the voluntary market.

### **17. Why is a Professional Employer Organization required to carry workers' compensation coverage when all of the PEO's clients have their own policies?**

- A. A Professional Employer Organization is considered under Virginia law to be an employer of its co-employees (its client's employees). A PEO is required to carry workers' compensation coverage if it has three or more employees in Virginia and this includes its own employees plus all coemployees. This requirement for coverage does not change when a client has a policy.

### **18. When is a business (PEO client) required to carry workers' compensation insurance coverage?**

- A. Virginia law requires that every employer who regularly employs three or more full-time or part-time employees to purchase and maintain workers' compensation insurance. If a business hires subcontractors to perform the same trade, business or occupation, or to fulfill a contract of the business, the subcontractor's employees are included in determining the total number of employees. Also, it is important to be aware that under Virginia law, officers are considered employees, even if the officer does not perform work or earn regular wages. An officer in Virginia must be counted when counting employees.

### **19. How is the "Contract Date" determined?**

- A. Virginia is concerned with Virginia exposure, therefore the "contract date" for a client of a Virginia registered PEO is the date that the client was added in Virginia.

### **20. Can I send in Certificates of Insurance to provide proof of coverage for our clients?**

- A. No. A Professional Employer Organization must enter in **WebFile** all client insurance coverage information. Certificates of insurance will not be accepted as proof of coverage and will not substitute for data entry of information required.

**21. Our PEO insurance coverage information is not yet available from the insurance carrier to enter into WebFile. How can I complete the insurance information section?**

- A. You can request from your insurance agent your insurance binder which provides policy information for entering into **WebFile**, however, insurance coverage information cannot be completed until the policy has been filed by the carrier with NCCI (National Council on Compensation Insurance).

**22. Our PEO Client has no employees, do they need coverage?**

- B. The number of employees is one coverage consideration in Virginia. It is important to be aware of all coverage requirements. Virginia law requires that every employer who regularly employs three or more full-time or part-time employees carry workers' compensation insurance. For a business that hires subcontractors to assist in the work of the business or to fulfill a contract obligation of the business, the subcontractor's employees are included in determining the total number of employees. Also, it is important to be aware that under Virginia law, officers are considered employees, even if the officer does not perform work or earn regular wages. For Virginia, officers must be counted when counting employees.

**23. WebFile will not accept the PEO insurance coverage information I try to enter. Can you help?**

- A. There are several possible reasons for difficulty entering PEO coverage information.
- You must enter current, valid, Virginia coverage. A PEO that is based out of state with an out of state policy will require that Virginia is listed in Item 3A of the insurance policy.
  - Allow sufficient time for the policy to be filed with NCCI and registered in the Commission's system. The entire process can take up to a few weeks.
  - Be certain to enter current insurance information. You may have policy information for a few weeks in the future but current policy information must be entered in **WebFile**.
  - Insurance policy information must be certified with NCCI. All policy data you enter in **WebFile** such as policy #, FEIN (Federal Employer Identification Number) and carrier code must match what is listed in NCCI.

**24. WebFile will not accept the Client insurance coverage information that I try to enter. Can you help me?**

- B. There are several possible reasons for difficulty entering client coverage information.
- Make certain that in **WebFile** you have gone to the Client coverage tab and not to the PEO coverage tab.
  - If you try to enter the Master Policy for the client but you have not first entered it for the PEO, it will not be an option for the client. You must first add the Master Policy coverage to the PEO to make it an option for the client.
  - Insurance policy information must be certified with NCCI. Ensure that all policy data you enter in **WebFile** is accurate and that it matches what is listed in NCCI.

**25. I mistakenly added a client into *WebFile* instead of updating coverage. What do I do now?**

- A. If a client is mistakenly added in *WebFile* it is imperative that you correct all information.
- To correct an improperly added client you must first terminate the newly added client by following the instructions in [WebFile Guide for PEOs](#).
  - Next, go to the existing client's coverage tab and enter the new coverage information.
  - If you mistakenly enter a new client a second time, the existing client information listed under the contact tab appears to display, however, it is no longer in the Commission's system and you must re-enter it in the last three lines of the contact section.

**Annual Reporting and Assessment**

**26. When is the Annual Report tab available?**

- A. The Commission makes the Annual Report Tab available shortly after December 15<sup>th</sup> each year to allow PEO User's time to file the Annual Report between January 1 and January 31 each year.

**27. How do I file the Annual Report information?**

- A. Click on "Edit" under the Annual Report tab. Data from the prior (or estimated) will display. Overwrite the data in each field with current data.

**28. Is Annual Reporting required for a year when a company has no employees and no payroll?**

- A. Yes. An Annual Report is required by every registered PEO every year, regardless of payroll. If the payroll is zero then the annual report is filed with a zero payroll.

**29. How is the Assessment calculated?**

- A. The Commission applies the following formula to calculate a PEO's assessment:  
 $(a/b) \times c$  where,  
A = payroll of the PEO for which assessment is being calculated;  
B = aggregate annual payroll; and  
C = sums necessary for registration and supervision of all PEO's

**30. What do I do if I realize that the Annual Report that we filed in WebFile contains an error?**

- A. Please contact [pocsupport@workcomp.virginia.gov](mailto:pocsupport@workcomp.virginia.gov) and advise us of the need to make a correction. You will be granted access to correct the error.

**31. When is the Assessment fee due?**

- A. The Assessment is due no later than 60 days from the date of invoice pursuant to 16 VAC 30-100-70 (C).