

CIRCULAR LETTER 3231—May 21, 2021

TO: Members of the Bureau

FROM: Jaclyn Medicci-Bruneau

RE: Proceedings of the WCRB Governing Board
Revisions to the Basic Manual, Pool Handbook, and Employee Leasing Company Endorsements

Pursuant to ch. 626, Wis. Stat., the Office of the Commissioner of Insurance has approved the following changes adopted by the Governing Board. The changes are effective immediately.

On April 27, 2021 Governor Evers signed into law three changes to the Wisconsin Workers Compensation Statutes. The changes found in Senate Bill 11 are now known as Wisconsin Act 29. These changes include revisions to Chapter 102.315(2m) Wis. Stats., which now include the ability for Employee Leasing Companies (ELC) and their clients to choose who will provide workers compensation coverage for the leased employees.

In order to conform with these changes to the statute, the proposed update revises the language for Wisconsin Basic Manual Rule IX E.1. f. Employee Leasing Companies (ELC) and Employee Leasing Arrangements and the Pool Handbook Section III- Procedures; endorsements WC 48 03 14 A, WC 48 03 15 A, and in conjunction with the creation of Endorsement WC 48 03 22, the addition of the following phrases:

Wisconsin Basic Manual Rule IX E.1. f.:

f. "Divided-workforce" means consent to the issuance of two (2) policies, as provided under Wisconsin Law, to an entity that obtains part of its workforce through a contract with an ELC, one (1) policy covers the client's leased workforce and one (1) policy covers the client's non-leased workforce. An insurer may issue a policy for a divided workforce only when a portion of the client's workforce is leased and the client notified the Department of Workforce Development (DWD).

"Divided workforce" does not include a workforce with respect to a client that has elected to provide insurance coverage for leased employees under section 102.315(2m), stats. Pursuant to this statute, a client may elect to provide workers compensation insurance coverage for the leased employees. The election must be provided in an employee leasing agreement, and the leased employees must be insured in the voluntary market and not under a policy obtained through the Wisconsin Worker's Compensation Insurance Pool. The proper endorsement(s) must be attached to the policy. If a client that makes an election under this statute fails to provide the required coverage, or allows the coverage to lapse, the employee leasing company is liable under section 102.03 stats.as set forth in section 102.315(2), stats.

Pool Handbook Section III:

An employer is eligible for coverage in the Pool if the employer is not indebted to the Pool, has no current voluntary coverage in force, is unable to obtain coverage in the voluntary market, is not involved in an employee leasing agreement and seeking to cover its own or leased employees, has Wisconsin operations and has properly completed, signed and submitted the proper application form (including all required supplementary attachments and information along with the appropriate deposit premium and acceptable payroll verification). Coverage will be bound at 12:01 A.M. on the day following receipt of the application, or on such later day as may be requested. Only the Pool can bind coverage. No producer has binding authority.

WISCONSIN EMPLOYEE LEASING COMPANY ENDORSEMENT – MULTIPLE COORDINATED POLICY (MCP)

This endorsement applies only to the insurance provided by the policy because Wisconsin is shown in Item 3.A. of the Information Page.

This policy applies only with respect to employees provided to the client by the employee leasing company shown below under an employee leasing company or professional employer arrangement.

Certain words and phrases in this endorsement are defined as follows:

Employee Leasing Company for the purpose of the administration of Chapter 102 of the Wisconsin

Statutes means an entity who contracts to provide the nontemporary, ongoing employee workforce of a client under a written contract, regardless of whether the entity uses the term professional employee organization, PEO, staff leasing company, registered staff, leasing company, employee leasing company or any other name.

Client means an entity that obtains all or part of its workforce through a contract with an employee leasing company.

The insurance afforded by this policy is not intended to satisfy the employee leasing company's duty to secure its obligations under the workers compensation law for its direct-hire (non-leased) employees. We will not file evidence of this insurance on behalf of the employee leasing company with any government agency with respect to its direct-hire employees.

Premium will be charged for covered employees provided by the employee leasing company. The employee leasing company must obtain from the client and furnish to us a complete payroll record of the covered employees to satisfy obligations under Part Five (Premium), C.2. Payroll for all of the covered employees employed during the policy period will be assigned to the policy.

If the policy is canceled or nonrenewed by us, we will send at least 30 days written notice of such cancellation or at least 60 days written notice of nonrenewal to both the employee leasing company and client(s).

Voluntary mid-term cancellation of the policy must be agreed upon by the client(s) and the employee leasing company, and must be confirmed either by the employee leasing company promptly giving written confirmation to the client(s) or by written agreement by the client.

If, during the policy period, an employee leasing company terminates an employee leasing agreement with a client in its entirety and the employee leasing company is shown as the First Named Insured in Item 1 of the Information Page, we may cancel the policy by providing at least 30 days written notice to the employee leasing company and to each client.

If, during the policy period, an employee leasing company terminates an employee leasing agreement with a client in its entirety, or the client elects to provide coverage for the leased employees pursuant to the provisions of Section 102.315(2m), stats., and the client is shown as the First Named Insured in Item 1 of the Information Page, we may cancel the employee leasing company's coverage under the policy by endorsement. The policy shall continue in force as to all employees of the client.

Part Four (Your Duties If Injury Occurs) applies to the client and the employee leasing company. The employee leasing company and the client will recognize our right to defend under Parts One and Two and our right to inspect under Part Six (Conditions).

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

SCHEDULE

Employee Leasing Company	Address	FEIN
Endorsement Effective Date	Effective Policy No.	Endorsement No.
Insured		
Insurance Company		

WC 48 03 15 A

WISCONSIN EMPLOYEE LEASING COMPANY ENDORSEMENT – MASTER POLICY

This endorsement applies only to the insurance provided by the policy because Wisconsin is shown in Item 3.A. of the Information Page.

This policy applies only with respect to employees provided by the employee leasing company to the client shown below under an employee leasing company or professional employer arrangement.

Certain words and phrases in this endorsement are defined as follows:

Employee Leasing Company for the purpose of the administration of Chapter 102 of the Wisconsin Statutes means an entity who contracts to provide the nontemporary, ongoing employee workforce of a client under a written contract, regardless of whether the entity uses the term professional employee organization, PEO, staff leasing company, registered staff, leasing company, employee leasing company or any other name.

Client means an entity that obtains all or part of its workforce through a contract with an employee leasing company.

Part One (Workers Compensation Insurance) and Part Two (Employers Liability Insurance) will apply to your covered employees as though the client is an insured.

Under Part One, we will reimburse the employee leasing company for the benefits required by the workers compensation law for your covered employees if we are not permitted to pay the benefits directly to the persons entitled to them.

Premium will be charged for covered employees provided by the employee leasing company. The employee leasing company must obtain from the client and furnish to us a complete payroll record of the covered employees to satisfy obligations under Part Five (Premium), C.2. Payroll for all of the covered employees employed during the policy period will be assigned to the policy.

You must furnish to us a complete payroll record of all your covered employees to satisfy your obligations under Part Five (Premium), C.2. Payroll.

If the policy is canceled or nonrenewed by us, we will send at least 30 days written notice of such cancellation or at least 60 days written notice of nonrenewal to both the employee leasing company and to each client listed in the schedule below.

Voluntary mid-term cancellation of the policy must be agreed upon by all of the clients listed below and the employee leasing company, and must be confirmed either by the employee leasing company promptly giving written confirmation to the client(s) or by written agreement by the client.

If, during the policy period, an employee leasing company terminates an employee leasing agreement in its entirety with one or more, but not all, clients listed in the schedule below, or a client elects to provide coverage for the leased employees pursuant to the provisions of Section 102.315(2m), stats., we may cancel coverage for such client(s) under the policy by endorsement and by providing at least 30 days written notice to the employee leasing company and the terminated client(s). The policy shall continue in force as to all employees of the remaining non-terminated clients.

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

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

SCHEDULE

Client(s) Name	Client(s) Address	Client(s) FEIN	Estimated Premium
Endorsement Effective Date		Effective Policy No.	Endorsement No.
Insured			
Insurance Company			

**WISCONSIN EMPLOYEE LEASING COMPANY LEASED EMPLOYEE INCLUSION
ENDORSEMENT**

As used in this endorsement, "employee leasing" shall mean an arrangement whereby one entity utilized the services of a third party to provide its workers for a fee or other compensation. The third party providing employee leasing services shall be referred to as a "labor contractor". The entity receiving the services shall be referred to as a "client".

This endorsement applies only with respect to your leased workers engaged in any work provided under an employee leasing arrangement. Pursuant to Section 102.315 (2m), stats., your policy does not provide coverage for workers you lease from labor contractors, unless you list these labor contractors on the schedule below.

Schedule

Labor Contractor	Policy#	FEIN	Address
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This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Insured	Effective Policy No.	Endorsement No. Premium:
Insurance Company		