

MICHIGAN EMPLOYMENT SECURITY ACT (EXCERPT)
Act 1 of 1936 (Ex. Sess.)

421.13m Professional employer organization; determination of status as liable employer; reporting of wages and payment of unemployment contributions; requirements; act or omission occurring before January 1, 2011; "professional employer organization" defined.

Sec. 13m. (1) A professional employer organization that has not previously filed shall file a report with the agency in accordance with R 421.121 and R 421.190 of the Michigan administrative code for a determination of its status as a liable employing unit and employer under this act. A PEO determined to be a liable employer shall complete an electronic employer registration in the manner approved by the agency to register its employer liability.

(2) Except as provided in subdivision (b), a PEO that is a liable employer shall use the following method for reporting wages and paying unemployment contributions under this act:

(a) The PEO shall comply with all requirements of this act that apply to a contributing employer. The PEO shall file a single quarterly wage report and unemployment contribution report and pay contributions of its client employers based on the account information of each client employer. The unemployment agency shall convert a reimbursing employer to a contributing employer beginning with the calendar quarter in which the employer becomes a client employer of a PEO. The PEO shall file reports required under R 421.121 of the Michigan administrative code and make contribution payments by electronic reporting and payment methods approved by the agency. The PEO shall notify the agency within 30 days after any employer becomes its client employer and within 30 days after any client employer discontinues its association with the PEO. All of the following apply to a rate calculation for client employers of the PEO:

(i) For a client employer that is a contributing employer and was a client employer of the PEO on the date that the PEO changed to the reporting method provided in this subdivision, the following rates apply:

(A) Except as provided in sub-subparagraphs (B) and (C), if the client employer reported no employees or no payroll to the agency for 8 or more calendar quarters or, beginning January 1, 2014, for 12 or more calendar quarters, the client employer's unemployment tax rate will be the new employer tax rate.

(B) If the client employer was a client employer of the PEO for less than 8 calendar quarters or, beginning January 1, 2014, for less than 12 calendar quarters, the client employer's unemployment tax rate will be based on the client employer's prior account and experience.

(C) If the client employer's account has been terminated for more than 1 year or if the client employer never previously registered with the agency, the client shall be separately registered using a method approved by the agency within 30 days after the employer becomes a client employer of the PEO. The client employer shall be assigned the new employer unemployment tax rate.

(ii) A business entity that is a contributing employer and becomes a client employer of the PEO on or after January 1, 2014 shall retain its existing unemployment tax rate or establish a new rate as provided in section 19.

(b) A PEO that is a liable employer and that was operating in this state before January 1, 2011 may elect and use the reporting method in subdivision (a) before January 1, 2014, but shall report using the method in subdivision (a) on and after January 1, 2014.

(3) A PEO that is a liable employer is the employer for purposes of claims management and hearings under this act on behalf of the client employer.

(4) A PEO that reports under subsection (2)(a) shall confirm the mailing address of the client employer, which may be stated as that of the PEO or of the client employer. The PEO shall disclose the business address of the client employer, which shall be the physical address of the client employer, to the agency.

(5) Either the PEO that reports under subsection (2)(a) or the PEO's client employers, but not both, shall file a quarterly wage detail report electronically, and shall file a quarterly contribution payment in a manner approved by the agency. If a client entity of a PEO leases some of its employees from the PEO but retains the remainder of its employees, the leased employees shall be reported by the PEO under the client entity's unemployment insurance agency account number and the retained employees shall be reported by the client entity under an agency-assigned subaccount number of the client entity's account number.

(6) The agency shall issue a FUTA certification in accordance with the internal revenue code of 1986, 26 USC 1 to 9834, and regulations, rulings, instructions, and directives of the internal revenue service.

(7) The requirements of this section do not preclude the agency from enforcing any provision of this act based on any act or omission by a PEO that occurred before January 1, 2011.

(8) As used in this section, "professional employer organization" or "PEO" means that term as defined in R 421.190(1)(d) of the Michigan administrative code.

History: Add. 2010, Act 383, Eff. Jan. 1, 2011;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2012, Act 219, Imd. Eff. June 28, 2012.