

(b) A certificate of approval may be withdrawn or revoked effective as of the date of the occurrence of the condition, violation, event or omission forming the basis for such withdrawal or revocation, or at any subsequent date which in the judgment of the Director or his or her authorized representative, shall be necessary for the protection of the benefit rights of the employees covered by the plan. The Division shall give the employer, the insurer or organization paying benefits, and all interested parties notice of revocation or withdrawal of the certificate of approval and an opportunity for a hearing.

Amended by R.1994 d.241, effective May 16, 1994.
See: 26 N.J.R. 1326(a), 26 N.J.R. 2131(a).

12:18-2.15 Termination on petition by employees

Upon receipt by the Division of a petition to terminate a private plan, signed by not less than ten per cent of the employees covered by the private plan, the Division shall order an election, after 30 days' written notice to the employer. No such election shall be required more often than once in any 12 consecutive months. The Division shall, whenever it deems necessary, supervise such election.

12:18-2.16 Eligibility to petition

(a) An employee, to be eligible to sign any petition requesting an election to discontinue a private plan, shall be in the employ of the employer as of the date of the petition, and covered by the plan. The form of the petition requesting an election shall be prescribed by the Director.

(b) An employee, to be eligible to vote in any election to discontinue a private plan, shall be in the employ of the employer as of the date of the election and covered by the plan.

12:18-2.17 Requirements of election

(a) Any election to discontinue a private plan shall be in accordance with this Subchapter. The election shall be by written ballot but the Director may order a secret ballot if the facts so warrant. The ballot shall be so worded as to give each employee voting an opportunity to vote for or against the discontinuance of the private plan. The time and place of the election shall be convenient to employees, and on not less than 30 days' written notice by the employer to the employees. The notice of the election and the results thereof shall be given to the employees affected by one of the following methods:

1. By posting on bulletin boards in the employer's establishment or place of business for a period of not less than 30 days;
2. By mail addressed to each employee;
3. By personal service.

(b) A record of the method used shall be kept by the employer.

12:18-2.18 Retention of election records

The records pertaining to any election to discontinue a private plan shall be retained by the employer and shall be available for inspection by the Division representatives for a one-year period from the date of termination.

12:18-2.19 Certification of election results

A statement shall be submitted forthwith by the employer to the Division showing the total number of employees eligible to vote, and the number of employees who voted for and against termination of the plan.

12:18-2.20 Discontinuance

(a) As provided in the Act, a private plan shall be discontinued when the Division withdraws its approval thereof upon being furnished satisfactory evidence that a majority of the covered employees have made election in writing to discontinue such plan.

(b) An employer may discontinue a private plan upon proper notice to the Division and to the covered employees.

12:18-2.21 Responsibility of employer on withdrawal of certificate of approval

(a) The employer shall be liable for the deduction of workers' contributions and payment of workers' and employer's contributions, as required by N.J.S.A. 43:21-7, with respect to wages paid for employment subsequent to the effective date of withdrawal or revocation of the certificate of approval, unless the Division has approved another private plan to become effective on the day immediately following.

(b) Form DP-22, Notice of Withdrawal of Approval of Private Plan, shall be conspicuously posted for a period of not less than 30 days at or in the employer's factory, establishment or other premises at which the workers, who were covered under the private plan, are employed, as evidence of the termination of that plan.

Amended by R.1998 d.157, effective April 6, 1998.
See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

12:18-2.22 Insurer liability

(a) A policy of insurance providing for the payment of benefits under a private plan shall provide that the insurer shall remain liable for the payment of benefits to any employee covered by the policy and the private plan for any period of disability commencing, during the continuance of the private plan, after the policy became effective and prior to the termination of the policy.

(b) At least 60 days' notice shall be given to the Division by the insurer or the policyholder before termination of the policy becomes effective, except that, if the policy is being terminated by reason of a change of insurer, this requirement may be waived.

(c) If a policy is being terminated for nonpayment of premium, at least 15 days' written notice shall be given to the Division before termination of the policy becomes effective.

12:18-2.23 Mandatory provision

Each contract of insurance providing for the payment of benefits under a private plan shall contain a clause or clauses guaranteeing that the benefits meet the requirements of N.J.A.C. 12:18-2.9, Minimum plan requirements.

Amended by R.1998 d.157, effective April 6, 1998.
See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

12:18-2.24 Security required

(a) The security required by the Division from an employer whose private plan does not provide for the assumption of the liability to pay benefits by an insurer, duly authorized and admitted to do business in this State, shall be in the form of a cash deposit, a bond of an admitted surety insurer conditioned on the payment of obligations under the plan, or bearer bonds issued or guaranteed by the United States of America or issued by this State, the amount to be determined by the Division upon the basis of the size of the payroll, the class or classes of risks contemplated, the financial standing of the employer and any additional factors which the Division may deem proper.

(b) The amount shall not be less than one-half of the contributions which would have been paid by the employees to be covered by the private plan during the previous year, or one-half of the estimated contributions of such employees for the ensuing year, whichever is greater.

Amended by R.1998 d.157, effective April 6, 1998.
See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

12:18-2.25 Security exemption

(a) Exemption from the requirement of N.J.A.C. 12:18-2.24, Security required, shall be granted to any employer who:

1. Is exempt from insuring the employer's workers' compensation liability, as provided by law; or
2. Satisfies the Division as to the employer's financial responsibility to pay the benefits provided by the employer's plan by furnishing a complete, current financial statement and such other proof as may be acceptable to the Division. An annual review of the financial responsibility will be made.

Amended by R.1994 d.241, effective May 16, 1994.
See: 26 N.J.R. 1326(a), 26 N.J.R. 2131(a).

12:18-2.26 Disposition of security upon termination

(a) The security provided for in this subchapter should be applied by the Division to the payment of any unpaid obligations under the private plan. Upon termination of a private plan, which does not provide for the assumption by an admitted insurer of the liability to pay benefits, or upon withdrawal of approval of such private plan, the Division shall retain the security deposited, for the purpose of securing the payment of the obligations of the private plan. Upon the expiration of all benefit claims outstanding after the lapse of five complete calendar quarters following the effective date of termination or withdrawal of approval, the Division shall make a final assessment of the charges against the employer as provided in the Act and these regulations.

(b) If the amount of such assessment is not paid within 30 days after the date of notice thereof, the Division may collect the amount of the assessment out of the security on deposit, or may call upon the surety insurer for payment. Any security thereafter remaining shall be returned to the employer or the employer's legal representative or assignee, or the surety insurer paying the amount of such assessment shall be discharged of its obligation under the bond.

(c) The Division may make a partial return of the security at an earlier date if it finds that such security is in excess of that required.

Amended by R.1994 d.241, effective May 16, 1994.
See: 26 N.J.R. 1326(a), 26 N.J.R. 2131(a).

12:18-2.27 Exchange of information

(a) If an employee's weekly benefit amount, determined under the benefit provisions of an employer's private plan, with respect to any period of disability, is less than the maximum weekly benefit amount payable under the State plan, and such weekly benefit amount has been computed on a basis different from that provided for covered individuals under the State plan, the weekly benefit amount shall be recomputed in accordance with the provisions of the New Jersey Temporary Disability Benefit Law (N.J.S.A. 43:21-40) as amended.

(b) If such recomputed weekly benefit amount is less than the maximum weekly benefit amount payable under the State plan and the computation of the "average weekly wage" for such recomputation yields a result which is less than the individual's average weekly earnings in employment, with all covered employers, during the base weeks in such eight calendar weeks, then the insurer which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the weekly wages of the employee earned from all covered employers during the eight base weeks immediately preceding the calendar week in which the employee's disability commenced.

(c) When requesting such information, such payer shall furnish the Division with the following information:

1. Name, address and Social Security number of the employee;
2. Date on which the disability commenced;
3. The names and addresses of such other employers, from whom the employee alleges to have earned wages immediately preceding his or her disability, as may be necessary to determine all wages earned in the required eight base weeks;
4. The weekly earnings of the employee from the employer during each of the calendar weeks in the 52 calendar weeks immediately preceding the disability, if any.

(d) If the private plan of an employer provides as a condition of eligibility for benefits with respect to a period of disability, that an otherwise eligible employee shall have established at least 20 or a lesser number of base weeks within the 52 calendar weeks preceding the week in which his or her period of disability commenced and the employee has not established such base weeks from his or her employment with the employer, then the insurer which has undertaken to pay the benefits provided by the plan shall request the Division to provide such payer with a statement of the number of base weeks in the employee's base year. When requesting such information, such payer shall furnish the Division with the following information:

1. Name, address and Social Security number of the employee;
2. Date on which the disability commenced;
3. The names and addresses of such other employers, from whom the employee alleges to have earned weekly wages of not less than 20 percent of the Statewide average weekly wage immediately preceding his or her disability, as may be necessary to determine the required number of base weeks;
4. The number of calendar weeks in the 52 calendar weeks immediately preceding the calendar week in which the period of disability commenced, during which the employee earned not less than 20 percent of the Statewide average weekly wage from the employer.

(e) If the private plan of an employer provides, with respect to periods of disability commencing on or after January 1, 1968, that the maximum total benefits payable to any eligible employee may be computed as an amount equal to 26 times the weekly benefit rate or $\frac{1}{2}$ of his or her total wages in his or her base year, whichever is lesser, and it appears that such provision will be applicable with respect to any period of disability because wages earned with prior employers in the base year are lacking, then the insurer shall request the Division to provide a statement of the total wages in the employee's base year. When requesting such information, such insurer shall furnish the Division with the following information:

1. Name, address and Social Security number of the employee;
2. Date on which the disability commenced;
3. Names and addresses of other employers in the 52 weeks prior to the week in which the disability occurred;
4. Total amount of wages earned by claimant with the most recent employer.

Amended by R.1994 d.241, effective May 16, 1994.

See: 26 N.J.R. 1326(a), 26 N.J.R. 2131(a).

Amended by R.1998 d.157, effective April 6, 1998.

See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

In (a), deleted "Section 16 of" following "provisions of"; in (d), deleted "commencing on or after January 1, 1953" following "disabili-

ty" in the first sentence; deleted a former (e); and recodified former (f) as (e).

12:18-2.28 Notice from employers

Within 10 days after the mailing of a request for information with respect to a period of disability, each employer having a private plan shall furnish the Division with any information requested or known to the employer which may bear upon the eligibility of the claimant.

Amended by R.1994 d.241, effective May 16, 1994.

See: 26 N.J.R. 1326(a), 26 N.J.R. 2131(a).

Amended by R.1998 d.157, effective April 6, 1998.

See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

Substituted "10 days" for "seven days" following "Within", and deleted "commencing on or after January 1, 1953" following "disability".

12:18-2.29 Reports by self-insurers

(a) For the six month periods ending June 30 and December 31 of each calendar year during which a self-insured private plan is in effect, each employer shall, on a form prescribed by the Division, file a statement, on or before the 30th day following the end of the respective six month period, showing:

1. The number of claims received during the six month period;
2. The number of claims accepted during the six month period;
3. The amount of benefits paid during the six month period;
4. Such other information as the Division may require with respect to the financial ability of the self-insurer to meet the self-insured's obligations under the plan.

(b) On or before the 30th day following the close of each calendar year during which a self-insured private plan is in effect, the employer shall, on a form prescribed by the Division, file a report showing:

1. The amount of funds available at the beginning of that year for payment of disability benefits;
2. The amount contributed by workers during that year;
3. The amount contributed by the employer during that year;
4. The amount of disability benefits paid during that year;
5. Direct cost of administration of plan during that year; and
6. The number of employees covered by the plan as of December 31.

Amended by R.1994 d.241, effective May 16, 1994.

See: 26 N.J.R. 1326(a), 26 N.J.R. 2131(a).

Amended by R.1998 d.157, effective April 6, 1998.

See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

In (a), rewrote the introductory paragraph, and substituted references to the six month period for references to the quarter in 1 through 3; and in (b), added 6.

12:18-2.30 Reports by unions and other benefit payers

(a) For the six month periods ending June 30 and December 31 of each calendar year, each union, association of employees, nominee, trustee or organization which has assumed the liability to pay the disability benefits required under one or more private plans (which benefits are not guaranteed by a contract of insurance of an insurer duly authorized and admitted to do business in this State) shall, on a form prescribed by the Division, file a statement, on or before the 30th day following the end of the respective six month period, showing:

1. The number of claims received during the six month period;
2. The number of claims accepted during the six month period;
3. The amount of benefits paid during the six month period;
4. Such other information as the Division may require with respect to the financial ability of the union, association or employees, nominee, trustee or organization to meet their obligations under the plan.

(b) On or before the 30th day following the close of each calendar year, each union, association of employees, nominee, trustee or organization which has assumed the liability to pay the disability benefits required under one or more private plans (which benefits are not guaranteed by a contract of insurance of an insurer duly authorized and admitted to do business in this State) shall, on a form prescribed by the Division, file a report showing:

1. The amount of funds available at the beginning of that year for payment of disability benefits;
2. The amount of contributions for such disability benefits made during that year by the employer or employers whose private plan or plans provide for the payment of such disability benefits out of such funds;
3. The amount, if any, of contributions made, during that year, for such disability benefits, by workers covered under such private plan or plans;
4. The amount of such disability benefits paid, during that year, to workers covered under such private plan or plans;
5. Direct costs of administration, during that year, of such private plan or plans, expended from such funds; and
6. The number of employees covered by the plan as of December 31.

Amended by R.1998 d.157, effective April 6, 1998.

See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

In (a), substituted "For the six month periods ending June 30 and December 31 of each calendar year," for "On or before the 30th day following the close of each calendar quarter" at the beginning and inserted ", on or before the 30th day following the end of the respective six month period," following "statement" in the introductory paragraph, and substituted references to the six month period for references to the quarter in 1 through 3; and in (b), added 6.

12:18-2.31 Reports by insurance companies

(a) For the six month periods ending June 30 and December 31 of each calendar year, each insurance company which has assumed the liability to pay the disability benefits required under one or more private plans shall, on a form prescribed by the Division, file a report, on or before the 30th day following the end of the respective six month period, showing:

1. The number of claims received during the six month period;
2. The number of claims accepted during the six month period;
3. The amount of disability benefits paid during the six month period;

(b) On or before the 30th day of June following the close of each calendar year, each insurance company which has assumed the liability to pay the disability benefits required under one or more private plans shall, on a form prescribed by the Division, file a report showing:

1. Premiums earned during that year with respect to such private plans;
2. Dividends to holders of policies providing the benefits of such private plans;
3. Benefit losses incurred under such private plans;
4. Expenses incurred with respect to such private plans; and
5. The number of employees covered by each plan as of December 31.

Amended by R.1998 d.157, effective April 6, 1998.

See: 30 N.J.R. 12(a), 30 N.J.R. 1288(a).

In (a), substituted "For the six month periods ending June 30 and December 31 of each calendar year," for "On or before the 30th day following the close of each calendar quarter" at the beginning and inserted ", on or before the 30th day following the end of the respective six month period," following "report" in the introductory paragraph, and substituted references to the six month period for references to the quarter in 1 through 3; and in (b), added 5.

12:18-2.32 Reports by employers having two or more plans

On or before the 30th day following the close of each calendar half-year, each employer having two or more approved private plans in effect during such calendar half-year or any portion thereof shall, on a form prescribed by the Division, file a report showing the amount of taxable wages paid during such calendar half-year to employees while covered under each such private plan.