Department of Labor
Employee Benefits Security Administration

Instructions for Form M-1

Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)

About the Form M-1

The Form M-1 is used to report information concerning a multiple employer welfare arrangement (MEWA) and any entity claiming exception (ECE). Reporting is required pursuant to ERISA section 101(g), 104(a), 505 and 734 of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, and 29 CFR 2520.101-2 and 103-1.

You must file the Form M-1 electronically. You cannot file a paper Form M-1 by mail or other delivery service. Your Form M-1 will be initially screened electronically so it is in the filer's best interest that the responses accurately reflect the circumstances they were designed to report. For more information, see the instructions for Electronic Filing Requirement and the Form M-1 filing system at **www.askebsa.dol.gov/mewa.**

The Department of Labor, EBSA, is committed to working together with administrators to help them comply with this filing requirement. If you have any questions (such as whether you are required to file this report) or if you need any assistance in completing this report, please call the EBSA Form M-1 help desk at **202-693-8360**.

Changes to Note

- The Form M-1 is substantively different from previous years and now requires filers to include custodial and financial information relating to the MEWA or ECE. Also, the new rules impose stricter, 30-day filing deadlines for MEWA registration and ECE origination events. Depending on the type of event experienced, the MEWA or ECE must file the Form M-1 either 30 days prior to or within 30 days of the event.

- All MEWAs that are employee welfare benefit plans are now subject to the Form 5500 annual report. For more information on the Form 5500 you can access **www.efast.dol.gov** or call toll-free at **1-866-463-3278**

- **Electronic Filing Only.** The Form M-1 must be filed electronically. Printed copies of the Form M-1 will no longer be made available. Detailed information on electronic filing is available at **www.askebsa.dol.gov/mewa**. For telephone assistance, call the Form M-1 Help Desk at 202-693-8360.

- **MEWA registration.** The Patient Protection and Affordable Care Act ("Affordable Care Act") amended section 101(g) of ERISA requiring MEWAs to register with the Secretary prior to operating in a state. In addition to the Form M-1 annual report requirement placed on MEWAs, now MEWAs will have to file a copy of the Form M-1 30 days prior to their operating in any state or expanding their operations into an additional state; and within 30 days of a merger, material change or a participant increase of 50% or more.

- **ECE origination filings.** In addition to the annual reports ECEs must file for the first three years after an origination, ECEs now must file an origination filing 30 days prior to their operating in any state or expanding their operations into an additional state; and within 30 days of a material change or a participant increase of 50% or more.

Table of Contents

SECTION 1: Who Must File

General Rules
The administrator of a MEWA must file this report regardless of whether the entity is a group health plan. The administrator of an ECE must file this report during the first three years after the ECE is originated.

A MEWA is an employee welfare benefit plan or other arrangement that is established or maintained for the purpose of offering or providing medical benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that the term does not include any such plan or other arrangement that is established or maintained under or pursuant to one or more agreements that the Secretary finds to be collective bargaining agreements, by a rural electric cooperative, or by a rural telephone cooperative association. See ERISA section 3(40) of the Department's regulations. (Note: Many States regulate entities as MEWAs using their own State definition of the term. Whether or not an entity meets a State's definition of a MEWA for purposes of regulation under State law is a matter of State law.)

An entity claiming exception or "ECE" is an entity that claims it is not a MEWA on the basis that the entity is established or maintained pursuant to one or more agreements that the Secretary finds to be collective bargaining agreements within the meaning of section 3(40)(A)(i) of ERISA and 29 CFR 2510.3–40.

For more information on MEWAs, visit EBSA's Web site at **www.dol.gov/ebsa** or call the **EBSA toll-free hotline** at **1-866-444-3272** and ask for the booklet entitled *MEWAs: Multiple Employer Welfare Arrangements under the Employee Retirement Income Security Act (ERISA): A Guide to Federal and State Regulation.* For information on State MEWA regulation, contact your State Insurance Department.

Exceptions to the Filing Requirements
In no event is reporting required by the administrator of a MEWA or ECE if the MEWA or ECE meets any of the following conditions:

(1) It is licensed or authorized to operate as a health insurance issuer in every State in which it offers or provides coverage for medical care to employees. The term "health insurance issuer" or "issuer" is defined, in pertinent part, in §2590.701-2 of the Department's regulations as "an insurance company, insurance service, or insurance organization (including an HMO) that is required to be licensed to engage in the business of insurance in a State and that is subject to State law which regulates insurance . . . . Such term does not include a group health plan."

(2) It provides coverage that consists solely of excepted benefits, which are not subject to Part 7 of ERISA. (However, if the MEWA provides coverage that consists both of excepted benefits and other benefits for medical care that are not excepted benefits, the administrator of the MEWA is required to file the Form M-1.)

(3) It is a group health plan that is not subject to ERISA, including a governmental plan, church plan, or plan maintained only for the purpose of complying with workers' compensation laws within the meaning of sections 4(b)(1), 4(b)(2), or 4(b)(3) of ERISA, respectively. In general, a group health plan means an employee welfare benefit plan to the extent that the plan provides benefits for medical care to employees (including both current and former employees) or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise. See ERISA section 733(a) and 29 CFR 2590.701-2.

(4) It provides coverage only through group health plans that are not covered by ERISA, including governmental plans, church plans, and plans maintained only for the purpose of complying with workers' compensation laws within the meaning of sections 4(b)(1), 4(b)(2), or 4(b)(3) of ERISA, respectively (or other arrangements not subject to ERISA, such as health insurance coverage offered to individuals other than in connection with a group health plan, known as individual market coverage).

In addition, in no event is reporting required by the administrator of an entity that meets the definition of a MEWA because one or more of the following is true:

(1) It provides coverage to the employees of two or more trades or businesses that share a common control interest of at least 25 percent at any time during the plan year, applying principles similar to the principles applied under section 414(c) of the Internal Revenue Code.

(2) It provides coverage to the employees of two or more employers due to a change in control of businesses (such as a merger or acquisition) that occurs for a purpose other than avoiding Form M-1 filing and is temporary in nature (*i.e.*, it does not extend beyond the end of the plan year following the plan year in which the change in control occurs).

(3) It provides coverage to persons (excluding spouses and dependents) who are not employees or former employees of the plan sponsor, such as nonemployee members of the board of directors or independent contractors, and the number of such persons who are not employees or former employees does not exceed one percent of the total number of employees or former employees

covered under the arrangement, determined as of the last day of the year to be reported.

SECTION 2: When to File

Annual Report

For purposes of these instructions, an "annual report" refers to the annual Form M-1 filing required of all MEWAs and certain ECEs. The annual report must be filed no later than March 1 following any calendar year for which a filing is required (unless March 1 is a Saturday, Sunday, or Federal holiday, in which case the form must be filed no later than the next business day.) Filing the annual report, does not satisfy the requirement under 29 CFR 2520.103-1 to file an Annual Report Form 5500.

The administrator of an ECE must file an annual report if the ECE was last originated at any time within 3 years before the annual filing due date or if the ECE has an origination event at any time.

No annual report is required if, between October 1 and December 31, the MEWA or ECE experiences an origination or registration event and makes the subsequent, timely filing.

The administrator of a MEWA or ECE that is required to file must use the previous calendar year's information. (For example, for a filing due by March 1, 2012, calendar year 2011 information should be used.) However, the administrator of a MEWA or ECE may report using fiscal year information if the administrator of the MEWA or ECE has at least 6 continuous months of fiscal year information to report. (Thus, for example, for a filing that is due by March 1, 2012, fiscal year 2011 information may be used if the administrator has at least 6 continuous months of fiscal year 2011 information to report.)

Registration or Origination Filing

Additional filings are necessary when a MEWA or ECE experiences certain events.

A MEWA must file a Registration Form M-1 pursuant to §2520.101-2 of the Department's regulations when any of the following events occur:

(1) The MEWA first begins operating with regard to the employees of two or more employers (including one or more self-employed individuals);
(2) The MEWA begins operating in any additional state;
(3) The MEWA begins operating following a merger with another MEWA;
(4) The number of employees receiving coverage for medical care under the MEWA is at least 50 percent greater than the number of such employees on the last day of the previous calendar year; or
(5) The MEWA experiences a material change as defined by these instructions.

Events 1 and 2 require a Registration filing 30 days prior to the event, while events 3-5 require a filing within 30 days of the event occurring. A MEWA may be required to register more than once.

An ECE must file an Origination Form M-1 pursuant to §2520.101-2 of the Department's regulations when any of the following events occur:

(1) The ECE first begins operating with regard to the employees of two or more employers (including one or more self-employed individuals);
(2) The ECE begins operating in any additional state;
(3) The ECE begins operating following a merger with another ECE (unless all of the ECEs that participate in the merger previously were last originated at least three years prior to the merger);
(4) The number of employees receiving coverage for medical care under the ECE is at least 50 percent greater than the number of such employees on the last day of the previous calendar year (unless the increase is due to a merger with another ECE under which all ECEs that participate in the merger were last originated at least three years prior to the merger); or
(5) The ECE experiences a material change as defined by these instructions.

Events 1 and 2 require an Origination filing 30 days prior to the event, while events 3-5 require a filing within 30 days of the event occurring. An ECE may originate more than once.

Material Change

Any information reported on this Form M-1 in response to custodial and financial information located in Part II that is different from information reported by the MEWA or ECE in its most recently filed Form M-1 is considered a material change and requires the MEWA or ECE to submit a new Registration or Origination filing. Note, ECEs must only file when a material change occurs during the three-year filing period and that change will not restart the calculation of that period.

Extensions of Time

A one-time extension of time to file will automatically be granted if the administrator of the MEWA or ECE requests an extension. To request an extension, the administrator must: (1) check Box A(4) in Part I, and complete the rest of Part I as it applies to the MEWA or ECE; (2) complete Boxes 1a-d, 2a-d, and 3a-c in Part II; (3) electronically sign, date, and provide the administrator's name at the end of the form; and (4) electronically file this request for extension no later than the normal due date for the Form M-1. In such a case, the administrator will have an additional 60 days to file a completed Form M-1. A copy of this request for

extension must be attached to the completed Form M-1 when filed.

Section 3: Electronic Filing

How to File
The Form M-1 must be filed electronically with the Department of Labor by going to **www.askebsa.dol.gov/mewa**.

Your entries must be in the proper format in order for the electronic system to process your filing. For example, if a question requires you to enter a numerical account number, you cannot enter a word. To reduce the possibility of correspondence and penalties:

Complete all lines on the Form M-1 unless otherwise specified.

Do not enter "N/A" or "Not Applicable" on the Form M-1 unless specifically permitted. "Yes" or "No" questions on the Form M-1 cannot be left blank, unless specifically permitted. Answer either "Yes" or "No," but not both.

Do not enter social security numbers in response to questions asking for an employer identification number (EIN). Because of privacy concerns, the inclusion of a social security number on the Form M-1 or on an attachment that is open to public inspection may result in the rejection of the filing.

Amended Report
To correct errors and/or omissions on a previously filed Form M-1, submit a completed Form M-1 indicating the filing is an amended report in Part I, Item B.

Final Report
If the administrator of a MEWA or ECE does not intend to file a Form M-1 next year, the filing should be the final report. For example, if this is the third filing following an origination for an ECE, or if a MEWA has ceased operations, the administrator should indicate this is the final report in Part I, Item B.

Attaching Additional Pages
If additional pages are necessary to provide the required information, attachments may be uploaded to your electronic filing. Instructions are provided on the filing website.

Penalties
ERISA 502(c) provides for a civil penalty for failure to file a Form M-1, failure to file a completed Form M-1, and late Form M-1 filings. In the event of no filing, an incomplete filing, or a late filing, a penalty may apply of up to $1,100 a day for each day that the administrator of the MEWA fails or refuses to file a complete report (or a higher amount if adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996).

ERISA section 521(a) authorizes the Secretary of Labor to issue an *ex parte* cease and desist order if it appears to the Secretary that the alleged conduct of a MEWA or ECE is fraudulent, or creates an immediate danger to the public safety or welfare, or is causing or can reasonably be expected to cause significant, imminent, and irreparable public injury. ERISA section 521(e) authorizes the Secretary to issue a summary seizure if it appears that a MEWA or ECE is in a financially hazardous condition.

In addition, certain other penalties may apply.

Signature and Date
For purposes of Title I of ERISA, the plan administrator is required to file the Form M-1. If the plan administrator does not electronically sign a filing, the filing status will indicate that there is an error with your filing, and your filing will be subject to further review, correspondence, rejection, and civil penalties. The plan administrator or, if the plan administrator is an entity, a person authorized to sign on behalf of the plan administrator must electronically sign the Form M-1 submitted to the electronic filing system.

The Form M-1 must be filed electronically and signed. To obtain an electronic signature, go to **www.askebsa.dol.gov/mewa** and register as a signer. You will be provided with a UserID and PIN. Both the UserID and PIN are needed to sign the Form M-1.

The system will prevent the submission of any filing that does not include all required information. A completed filing will generate an online receipt. The plan administrator must keep a copy of the receipt as well as any attachments on file as part of the plan's records as required by section 107 of ERISA.

Note: Even after submission, your filing may be subject to further, detailed review by DOL and may be deemed deficient based upon this review. See Penalties section.

Electronic signatures on annual returns/reports filed are governed by the applicable statutory and regulatory requirements. You must file your Form M-1 electronically. Detailed information on electronic filing is available at **www.askebsa.dol.gov/mewa**. If you have questions about using or completing the Form M-1, please contact the Form M-1 Help Desk at 202-693-8360.

SECTION 4: Line-by-Line Instructions

Important: "Yes/No" questions must be marked "Yes" or "No," but not both. "N/A" is not an acceptable response unless expressly permitted in the instructions to that line.

Note: For purposes of the M-1, an "annual report" is the annual filing made by all MEWAs by March 1 and the annual filing made for the first three years by all ECE's.

Part I – Purpose of Filing

Item A: Check the appropriate box indicating whether this filing is an annual report, registration, origination or a request for extension. If it is an annual report, check the appropriate box indicating whether calendar year or fiscal year information is being used to complete the form. If fiscal year information is being used, specify the year corresponding to the information. If it is a registration or an origination, check the appropriate box (or boxes) indicating the reason (or reasons) for filing.

Item B: Check the appropriate box identifying whether the report is a final report or if it is an amended report. If this is neither an amended or final report, skip to Item C.

Item C: Check the appropriate box identifying whether the filing entity is a plan MEWA, a non-plan MEWA or an ECE.

Item D: Enter the date of the most recent MEWA registration or ECE registration or origination filing.

Part II – Custodial & Financial Information

Box 1a and 1b: Enter the name, address, and telephone number of the MEWA or ECE.

Box 1c: Enter any EIN used by the MEWA or ECE in reporting to the Department of Labor or the Internal Revenue Service. An EIN is a nine-digit employer identification number (for example, 00-1234567) that has been assigned by the IRS. Entities that do not have an EIN should apply for one on Form SS-4, Application for Employer Identification Number as soon as possible. You can obtain Form SS-4 by calling **1-800-829-4933** or at the IRS Web site at **www.irs.gov**. EBSA does NOT issue EINs. If the MEWA or ECE does not have any EINs associated with it, leave box 1c blank.

Box 1d: Enter any plan number used by the MEWA or ECE. A plan number or "PN" is a three-digit number assigned to a plan or other entity by an employer or plan administrator. For plans or other entities providing welfare benefits, the first plan number should be number 501 and additional plans should be numbered consecutively. For MEWAs or ECEs that file a Form 5500 Annual Return/Report of Employee Benefit Plan (Form 5500), the same PN should be used for the Form M-1. (For more information on the Form 5500 you can access **www.efast.dol.gov** or call toll-free at **1-866-463-3278**.) If the MEWA or ECE does not have any PNs associated with it, leave box 1d blank.

For boxes 1c and 1d, list only EINs and PNs used by the MEWA or ECE itself and not those used by group health plans or employers that purchase coverage through the MEWA or ECE.

Box 2a and 2b: Enter the name, address, and telephone number of the administrator of the MEWA or ECE. The term "administrator" is defined in §2520.101-2 of the Department's regulations as

(1) The person specifically so designated by the terms of the instrument under which the MEWA or ECE is operated;
(2) If the MEWA or ECE is a group health plan and the administrator is not so designated, the plan sponsor (as defined in section 3(16)(B) of ERISA); or
(3) In the case of a MEWA or ECE for which an administrator is not designated and a plan sponsor cannot be identified, jointly and severally, the person or persons actually responsible (whether or not so designated under the terms of the instrument under which the MEWA or ECE is operated) for the control, disposition, or management of the cash or property received by or contributed to the MEWA or ECE, irrespective of whether such control, disposition, or management is exercised directly by such person or persons or indirectly through an agent, custodian, or trustee designated by such person or persons.

Box 2c: Enter any EIN used by the administrator in reporting to the Department of Labor or the Internal Revenue Service. For this purpose, use only an EIN associated with the administrator as a separate entity. Do not use any EIN associated with the MEWA or ECE itself.

Box 2d: Enter the e-mail address of the administrator of the MEWA or ECE.

Boxes 3a through 3c: Enter the name, address, and telephone number of the entity or entities sponsoring the MEWA or ECE, and any EIN used by the sponsor in reporting to the Department of Labor or the Internal Revenue Service. For purposes of the Form M-1, the sponsor is either:

(1) the plan sponsor as defined in ERISA section 3(16)(B) if the MEWA or ECE is a group health plan; or

(2) the entity that establishes or maintains the MEWA if the MEWA or ECE is not a group health plan.

For this purpose, use only an EIN associated with the sponsor. Do not use any EIN associated with the MEWA or ECE itself. If the filing entity does not have a sponsor, leave boxes 3a through 3c blank and skip to box 4a.

Boxes 4a through 4c: Enter the name, address, telephone number, and e-mail address of the agent for service of process or registered agent on behalf of the MEWA or ECE. An agent for service of process or

registered agent is a person appointed by the MEWA or ECE to receive legal notices on behalf of the MEWA or ECE.

Boxes 5a through 5c: Enter the name, address, telephone number, and email address of each member of the Board of Directors, as well as each officer, trustee, or custodian of the MEWA or ECE. You may attach additional pages if necessary to provide all required information on each board member. If the filing entity does not have a Board of Directors, leave boxes 5a through 5c blank and skip to box 6a.

Boxes 6a through 6d: Enter the name, address, telephone number, and email address of each promoter or agent responsible for marketing the MEWA or ECE, and any EIN used by such in reporting to the Department of Labor or the Internal Revenue Service. For this purpose, use only an EIN associated with the promoter or agent. Do not use any EIN associated with the MEWA or ECE itself. If there is no such promoter or agent, leave boxes 6a through 6d blank and skip to box 7a.

Boxes 7a through 7b: Enter the name, address, and telephone number of each person, financial institution(s), or other entity holding assets for the MEWA or ECE.

Boxes 8a through 8c: Enter the name, address, telephone number, and e-mail address of each actuary or actuaries providing services to the MEWA or ECE. An actuary is a professional who examines risk and is in charge of evaluating the likelihood of future events. An actuary should be an associate or fellow of the Society of Actuaries and the American Academy of Actuaries and be able to judge the actuarial soundness of the arrangement.

Box 8d: Enter any EIN used by the actuary in reporting to the Department of Labor or the Internal Revenue Service. For this purpose, use only an EIN associated with the actuary. Do not use any EIN associated with the MEWA or ECE itself. If there is no actuary, leave boxes 8a through 8d blank and skip to box 9a.

Boxes 9a through 9d: Enter the name, address, telephone number, and e-mail address of each third party administrator (TPA) providing services to the MEWA or ECE, and any EIN used by such in reporting to the Department of Labor or the Internal Revenue Service. For this purpose, use only an EIN associated with the TPA. Do not use any EIN associated with the MEWA or ECE itself. If there is no such TPA, leave boxes 9a through 9d blank and skip to box 10a.

Boxes 10a through 10d: Enter the name, address, telephone number, and email address of each person or entity that has authority or control of the MEWA's or ECE's assets, or of assets paid to the entity by plans or employers to the MEWA or ECE, and any EIN used by such in reporting to the Department of Labor or the Internal Revenue Service. For this purpose, use only an EIN associated with the person or entity. Do not use any EIN associated with the MEWA or ECE itself.

Boxes 11a through 11d: Enter the name, address, telephone number, and email address of each person or entity that has discretionary authority, control or responsibility with respect to the administration of the MEWA or ECE, and any EIN used by such in reporting to the Department of Labor or the Internal Revenue Service. For this purpose, use only an EIN associated with the person or entity. Do not use any EIN associated with the MEWA or ECE itself. If there is no such person or entity, leave boxes 11a through 11d blank and skip to box 12a.

Boxes 12a through 12d: Enter the names, address, and telephone number of the MEWAs or ECEs who were involved in a merger with the filing entity, any EIN used by such entity (or entities) in reporting to the Department of Labor or Internal Revenue Service, and any PN assigned to the plans or entities involved. If no merger has occurred, skip to box 13.

Boxes 13 through 16c: Answer yes or no to the questions in this section. If your response requires additional explanation, identify the necessary information and attach pages as needed.

Box 13: With respect to box 13, check "yes" or "no" as applicable. For this purpose, only check "yes" if the opinion is in writing and current within the last year.

Boxes 14a and 14b: With respect to boxes 14a and 14b, check "yes" or "no" as applicable. If "yes," provide the name of the issuer in the space provided.

Box 15: With respect to box 15, check "yes" or "no" as applicable. If you answer "no," attach an explanation.

Boxes 16a through 16c: With respect to boxes 16a through 16c, check "yes" or "no" as applicable. If you check "yes" to box 16a, you must identify each proceeding and attach pages as needed to include (1) the case number, (2) the case date, (3) the nature of the proceedings, (4) the court, (5) all parties (for example, plaintiffs and defendants or petitioners and respondents), and (6) the disposition.

If you check "yes" to boxes 16b or 16c, provide additional explanation as appropriate.

Boxes 17a through 17j: Complete the chart with the information that is current as of the date of filing, except for an annual report, which may reflect the information that is current as of the last day of the year to be reported. When completing the chart, complete box 17a first. Then for each row, complete boxes 17b through 17j as it applies to the State listed in box 17a.

Box 17a. Enter all States in which the MEWA or ECE provides benefits for medical coverage. For this purpose, list the State(s) where the employers (of the employees receiving coverage) are domiciled. State means state within the meaning of 29 CFR 2590.701–2. Enter one State per row.
Box 17b. For each State listed in box 17a, specify whether or not coverage is provided in that state.
Box 17c. For each State listed in box 17a, specify the state registration number for the MEWA or ECE.
Box 17d. For each State listed in box 17a, state the name of the agent or entity for service of process in that state.
Box 17e. For each State listed in box 17a, respond yes or no to whether the entity is licensed or otherwise authorized to operate as a health insurance issuer in each State listed in that row. For more information on whether an entity that is a licensed or registered MEWA or ECE in a State meets the definition of a health insurance issuer in that State, contact the State Insurance Department.
Box 17f. For each "yes" answer in box 17e, enter the National Association of Insurance Commissioners (NAIC) number.
Box 17g. For each "no" answer in box 17e, specify whether the MEWA or ECE is fully insured through one or more health insurance issuers in each State.
Box 17h. For each "yes" answer in box 17g, enter the name of the insurer and its NAIC number (if available). If there is more than one insurer, enter all insurers and their NAIC numbers (if available).
Box 17i. In each State listed in box 17a, specify whether the MEWA or ECE has purchased any stop-loss coverage. For this purpose, stop-loss coverage includes any coverage defined by the State as stop-loss coverage. Stop-loss coverage also includes any financial reimbursement instrument that is related to liability for the payment of health claims by the MEWA or ECE, including reinsurance and excess loss insurance.
Box 17j. For each "yes" answer in box 17i, enter the name of the stop-loss insurer and its NAIC number (if available). If there is more than one stop-loss insurer, enter all stop-loss insurers and their NAIC numbers (if available).

Box 18: Of the States identified in box 17a, identify all States in which the MEWA or ECE conducted 20 percent or more of its business (based on the number of participants receiving coverage for medical care under the MEWA or ECE).

For example, consider a MEWA that offers or provides coverage to the employees of six employers. Two employers are located in State X and 70 participants in the MEWA receive coverage through these two employers. Three employers are located in State Y and 30 participants in the MEWA receive coverage through these three employers. Finally, one employer is located in State Z and 200 participants in the MEWA receive coverage through this employer. In this example, the administrator of the MEWA should specify State X and State Z under Item 17 because the MEWA conducts 23 1/3 percent of its business in State X (70/300 = 23 1/3 percent) and 66 2/3 percent of its business in State Z (200/300 = 66 2/3 percent). However, the administrator should not specify State Y because the MEWA conducts only 10 percent of its business in State Y (30/300 = 10 percent). Complete this item with information that is current as of the date of filing, except for an annual report, which may reflect the information that is current as of the last day of the year to be reported.

Box 19: Identify the total number of participants covered under the MEWA or ECE. For more information on determining the number of participants, see the Department of Labor's regulations at 29 CFR 2510.3-3(d).

The description of ''participant'' in the instructions below is only for purposes of this box.
An individual becomes a participant covered under an employee welfare benefit plan on the earliest of:

- the date designated by the plan as the date on which the individual begins participation in the plan;
- the date on which the individual becomes eligible under the plan for a benefit subject only to occurrence of the contingency for which the benefit is provided; or
- the date on which the individual makes a contribution to the plan, whether voluntary or mandatory.

See 29 CFR 2510.3-3(d)(1). This includes former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA and who are covered by the employee welfare benefit plan. Covered dependents are not counted as participants. A child who is an "alternate recipient" entitled to health benefits under a qualified medical child support order (QMCSO) should not be counted as a participant for lines 5 and 6. An individual is not a participant covered under an employee welfare plan on the earliest date on which the individual (a) is ineligible to receive any benefit under the plan even if the contingency for which such benefit is provided should occur, and (b) is not designated by the plan as a participant. See 29 CFR 2510.3-3(d)(2).

Part III– Information for Compliance with Part 7 of ERISA

Background Information on Part 7 of ERISA:
The Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191) (HIPAA) amended ERISA to provide for, among other things, improved portability and continuity of health insurance coverage. The Mental Health Parity Act of 1996 (Pub. L. 104– 204, as amended by Pub. L. 107–116 and Pub. L. 107–147) (MHPA) amended ERISA to provide parity in the

application of annual and lifetime dollar limits for certain mental health benefits with such dollar limits on medical and surgical benefits. The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Pub. L. 110-343) (MHPAEA) amended ERISA by expanding the MHPA rules to provide benefits for substance use disorders, as well as added new rules for parity in financial requirements and treatment limitations. The Newborns' and Mothers' Health Protection Act of 1996 (Pub. L. 104–204) (Newborns' Act) amended ERISA to provide new protections for mothers and their newborn children with regard to the length of hospital stays in connection with childbirth. The Women's Health and Cancer Rights Act of 1998 (Pub. L. 105–277) (WHCRA) amended ERISA to provide individuals new rights for reconstructive surgery in connection with a mastectomy. The Genetic Information Nondiscrimination Act of 2008 (Pub. L. 110-233) (GINA) amended ERISA to prohibit the use of genetic information to adjust group premiums or contributions, prohibit the collection of genetic information, and prohibit requesting individuals to undergo genetic testing. Michelle's Law (Pub. L. 110-381) amended ERISA to prohibit group health plans and issuers from terminating coverage for a dependent child, whose enrollment in the plan requires student status at a postsecondary educational institution, if the student status is lost as a result of a medically necessary leave of absence. The Patient Protection and Affordable Care Act (Pub. L. 111-148) (the Affordable Care Act) amended ERISA to provide a wide range of protections for participants of group health plans. All of the foregoing provisions are set forth in part 7 of subtitle B of title I of ERISA (Part 7).

The Departments of Labor, the Treasury, and Health and Human Services published in the Federal Register final HIPAA portability regulations (as well as additional proposed regulations) on December 30, 2004, at 69 FR 78720. Final HIPAA nondiscrimination regulations were published in the Federal Register on December 13, 2006, at 71 FR 75014. Interim final regulations implementing the MHPA provisions were published in the Federal Register on December 22, 1997, at 62 FR 66931. Final regulations implementing the hospital-length-of-stay provisions of the Newborns' Act were published in the Federal Register on October 20, 2008, at 73 FR 62410, and regulations describing the notice requirements for group health plans that provide maternity or newborn infant coverage are included in the Department of Labor's summary plan description content regulations at 29 CFR 2520.102-3(u). Interim final regulations implementing the GINA provisions were published in the Federal Register on October 7, 2009, at 74 FR 51664. The Department of Labor published informal guidance on WHCRA in its publication, *Health Benefits Coverage Under Federal Law*. This publication also provides assistance in understanding the HIPAA portability, HIPAA nondiscrimination, MHPA, and Newborns' Act requirements. The Department of Labor has also published informal guidance on the CHIPRA special enrollment and notice requirements in the form of a fact sheet.

The Patient Protection and Affordable Care Act was enacted on March 23, 2010; the Health Care and Education Reconciliation Act (Reconciliation Act) was enacted on March 30, 2010. The Affordable Care Act and the Reconciliation Act reorganize, amend, and add to the provisions of part A of title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. Some of these PHS Act provisions are incorporated by reference into section 715(a)(1) of ERISA and section 9815(a)(1) of the Internal Revenue Code (the Code), making them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. The PHS Act sections incorporated by this reference are section 2701 through 2728. PHS Act section 2701 through 2719A are substantially new, though they incorporate some provisions of prior law.

Implementing regulations are generally contained in 29 CFR Part 2590. Interim final regulations implementing PHS Act section 2714 (requiring dependent coverage of children to age 26), were published in the Federal Register on May 13, 2010, at 75 FR 27122. Interim final regulations implementing section 1251 of the Affordable Care Act (relating to status as a grandfathered health plan), were published in the Federal Register on June 17, 2010, at 75 FR 34538; an amendment to this interim final rule was published in the Federal register on November 17, 2010, at 75 FR 70114. Interim final regulations implementing PHS Act sections 2701 (prohibiting preexisting condition exclusions), 2711 (regarding lifetime and annual dollar limits on benefits), 2712 (regarding restrictions on rescissions), and 2719A (regarding patient protections), were published in the Federal Register on June 28, 2010 at 75 FR 37188. Interim final regulations implementing PHS Act section 2713 (regarding preventive health services), were published in the Federal Register on July 19, 2010 at 75 FR 41726. Interim final relations implementing PHS Act section 2719 (relating to internal claims and appeals and external processes), were published in the Federal Register on July 23, 2010 at 75 FR43330; Technical Release 2011-01 regarding implementation of PHS Act section 2719 was issued on March 18, 2011. In addition, Technical Release 2010-01 regarding these interim procedures was issued on August 23, 2010. With respect to most of these requirements, corresponding provisions are contained in chapter 100 of the Internal Revenue Code (Code) and title XXVII of the Public Health Service Act (PHS Act). Additionally, on September 20, 2010; October 8, 2010; October 12, 2010; October 29, 2010; and December 22, 2010; the Departments issued subregulatory guidance on a number of issues pertaining to the implementation of the Affordable Care Act and these regulations. This information is available on EBSA's website at

www.dol.gov/ebsa/healthreform. Additionally, the website will be updated when any new information or guidance relevant to Part 7 of ERISA is made available. A Self-Compliance Tool, which may be used to help assess an entity's compliance with Part 7 of ERISA, is included later in these instructions. This tool provides information guidance with respect to all the provisions listed above.

General Information Regarding the Applicability of Part 7: In general, the foregoing provisions apply to group health plans and health insurance issuers in connection with a group health plan.

Many MEWAs and ECEs are group health plans or health insurance issuers. However, even if a MEWA or ECE is neither a group health plan nor a health insurance issuer, if the MEWA or ECE offers or provides benefits for medical care through one or more group health plans, the coverage is required to comply with Part 7 of ERISA and the MEWA or ECE is required to complete Items 20 through 21f.

Part 7 of Subtitle B of Title I (Part 7) of ERISA does not apply to any group health plan or group health insurance issuer in relation to its provision of excepted benefits. Certain benefits that are generally not health coverage are excepted in all circumstances. These benefits are: coverage only for accident (including accidental death and dismemberment), disability income insurance, liability insurance (including general liability insurance and automobile liability insurance), coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, credit-only insurance (for example, mortgage insurance), and coverage for on-site medical clinics.

Other benefits that generally are health coverage are excepted if certain conditions are met. Specifically, limited scope dental benefits, limited scope vision benefits, and long-term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of the group health plan. Benefits provided under a health flexible spending arrangement may also qualify as excepted benefits if certain requirements are met. For more information on limited excepted benefits, see the Department of Labor's regulations at 29 CFR 2590.732(c)(3).

In addition, noncoordinated benefits may be excepted benefits. The term "noncoordinated benefits" refers to coverage for a specified disease or illness (such as cancer-only coverage) or hospital indemnity or other fixed dollar indemnity insurance (such as insurance that pays $100/day for a hospital stay as its only insurance benefit), if three conditions are met. First, the benefits must be provided under a separate policy, certificate, or contract of insurance. Second, there can be no coordination between the provision of these benefits and an exclusion of benefits under a group health plan maintained by the same plan sponsor. Third, benefits must be paid without regard to whether benefits are provided with respect to the same event under a group health plan maintained by the same plan sponsor. For more information on these noncoordinated excepted benefits, see the Department of Labor's regulations at 29 CFR 2590.732(c)(4).

Finally, supplemental benefits may be excepted if certain conditions are met. Specifically, the benefits are excepted only if they are provided under a separate policy, certificate or contract of insurance, and the benefits are Medicare supplemental (commonly known as "Medigap" or "MedSupp") policies, TRICARE supplements, or supplements to certain employer group health plans. Such supplemental coverage cannot duplicate primary coverage and must be specifically designed to fill gaps in primary coverage, coinsurance, or deductibles. For more information on supplemental excepted benefits, see the Department of Labor's Field Assistance Bulletin 2007-04.

Note that retiree coverage under a group health plan that coordinates with Medicare may serve a supplemental function similar to that of a Medigap policy. However, such employer-provided retiree "wrap around" benefits are not excepted benefits (because they are expressly excluded from the definition of a Medicare supplemental policy in section 1882(g)(1) of the Social Security Act). For more information on supplemental excepted benefits, see the Department of Labor's regulations at 29 CFR 2590.732(c)(5).

Relation to Other Laws: States may, under certain circumstances, impose stricter laws with respect to health insurance issuers. Generally, questions concerning State laws should be directed to that State's Insurance Department.

For More Information: Guidance material and additional compliance assistance information that may be helpful in understanding the requirements listed above is available in publications, fact sheets, and frequently asked questions available on EBSA's website at **www.dol.gov/ebsa.** Interested persons may also call and speak to a benefits advisor about these laws, by calling the EBSA toll-free hotline at **1-866-444-3272**.

Box 20: With respect to Box 20, check "yes" or "no" as applicable if you answered "yes" in box 16a. Check "yes" if such litigation or enforcement proceeding was related to a provision under Part 7 of ERISA.

Box 21: In general, if you are the administrator of a MEWA or ECE that is a group health plan and if you are providing benefits for medical care to employees through one or more group health plans, you must answer "yes" to Box 21 and then proceed to Boxes 21a-21f. For

purposes of determining if a MEWA or ECE is in compliance with these provisions, the administrator should check the relevant implementing regulations. In addition, the Self-Compliance Tool included in the instructions in this form may be helpful. For MEWAs or ECEs who are not yet providing benefits and so are unable to evaluate their compliance with part 7 as of the date the Form M-1 is filed, check "no" and proceed to the signature.

Box 21a: The HIPAA portability requirements added sections 701, 702, and 703 of ERISA. Title I of GINA amended section 702 of ERISA.

General Applicability. In general, you must answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if either of the following paragraphs apply:

(1) The MEWA or ECE is a small health plan (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations)
(2) The MEWA or ECE offers coverage only to small group health plans (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations).

Self-Compliance Tool. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Part I of the Self-Compliance Tool and the Wellness Program Checklist may be helpful.

Box 21b: MHPA added section 712 of ERISA. MHPAEA amended section 712 of ERISA.

General Applicability. In general, you must answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if any of the following paragraphs apply:

(1) The MEWA or ECE is a small group health plan (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations).
(2) The MEWA or ECE offers coverage only to small group health plans (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations).
(3) The MEWA or ECE does not provide both medical/surgical benefits and mental health benefits.
(4) The MEWA or ECE offers or provides coverage only to small employers (as described in the small employer exemption contained in section 712(c)(1) of ERISA and §2590.712(e) of the Department's regulations).
(5) The coverage has satisfied the requirements for the increased cost exemption (described in section 712(c) of ERISA and §2590.712(f) of the Department's regulations).

Self-Compliance Tool. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Part II of the Self-Compliance Tool may be helpful.

Box 21c: The Newborns' Act added section 711 of ERISA.

General Applicability. In general, you must answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if either of the following paragraphs apply:

(1) The MEWA or ECE does not provide benefits for hospital lengths of stay in connection with childbirth.
(2) The MEWA or ECE is subject to State law regulating such coverage, instead of the Federal Newborns' Act requirements, in all States identified in Item 17a, in accordance with section 711(f) of ERISA and §2590.711(e) of the Department's regulations.

Self-Compliance Tool. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Part III of the Self-Compliance Tool may be helpful.

Box 21d: WHCRA added section 713 of ERISA.

General Applicability. In general, you must answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if any of the following paragraphs apply:

(1) The MEWA or ECE is a small health plan (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations).
(2) The MEWA or ECE offers coverage only to small group health plans (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations).
(3) The MEWA or ECE does not provide medical/ surgical benefits with respect to a mastectomy.

Self-Compliance Tool. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Part IV of the Self-Compliance Tool may be helpful.

Box 21e: Michelle's Law added section 714 of ERISA.

General Applicability. In general, you must answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if any of the following paragraphs apply:

(1) The MEWA or ECE is a small health plan (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations).
(2) The MEWA or ECE offers coverage only to small group health plans (as described in section 732(a)

of ERISA and §2590.732(b) of the Department's regulations).

(3) The MEWA or ECE does not provide coverage to dependents.

Self-Compliance Tool. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Part V of the Self-Compliance Tool may be helpful.

Box 21f: The Affordable Care Act amends section 715 of ERISA to incorporate, by reference, changes to the PHS Act.

General Applicability. In general, you must answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if any of the following paragraphs apply:

(1) The MEWA or ECE is a small health plan (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations).

(2) The MEWA or ECE offers coverage only to small group health plans (as described in section 732(a) of ERISA and §2590.732(b) of the Department's regulations).

Self-Compliance Tool. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Part VI of the Self-Compliance Tool may be helpful. Note: Some provisions of the Affordable Care Act are not applicable to plans claiming grandfathered status.

Self-Compliance Tool

A Self-Compliance Tool, which may be used to help assess an entity's compliance with Part 7 of ERISA, is included on the following pages of these instructions. This tool may also be helpful in answering Items 21a through 21f of the Form M-1.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the law as specified in ERISA. You are required to give us the information. We need it to determine whether the MEWA is operating according to law. You are not required to respond to this collection of information unless it displays a current, valid OMB control number. The average time needed to complete and file the form is estimated below. These times will vary depending on individual circumstances.

Learning about the law or the form: 2 hrs.
Preparing the form: 1 hr. and 20 min. - 2 hrs. and 35 min.