

Policy Name:	Employer Authorized Representatives
Policy #:	EP-05-01
Code/Rule Reference:	Ohio Administrative Code (OAC) <u>4123-17-67</u> , <u>4123-17-73</u> , and <u>4123-3-09(E)</u> .
Effective Date:	June 27, 2014
Origin:	Employer Policy
Supersedes:	All EM policies and procedures regarding employer representation that predate the effective date of this policy.
History:	New policy effective March 1, 2010; revised June 27, 2014.
Review Date:	June 27, 2019

I. Policy Purpose

The purpose of this policy is to ensure that BWC protects confidential employer information and recognizes the proper authorized representative when risk or claim issues arise.

II. Applicability

This policy applies to BWC Employer Services, BWC Field Operations, and employer authorized representatives.

III. Definitions

- A. **Affiliate sponsoring organization:** An organization in which members are brokered, borrowed, shared, or co-opted for inclusion in the certified sponsoring organization's group.
- B. **Authorized representative:** A person, company, or firm that has been retained by an employer to represent the employer's interests before BWC or the Industrial Commission (IC).
- C. **Claim Management Representative (CLM):** The employer's authorized representative designated as the employer's representative on claims related issues.
- D. **Employer Risk/Claim Representative (ERC):** The employer's authorized representative designated as the employer's representative on claims and risk related issues.
- E. **Group Risk/Claim Representative (GRC):** The authorized representative that is responsible for management of group plans. The GRC is authorized by the sponsoring organization. The GRC is designated as the authorized representative of each employer in the group for claims and risk related issues.
- F. **Risk Management Representative (RISK):** The employer's authorized representative designated as the employer's representative on risk related issues.
- G. **Sponsoring organization:** An entity with governing members, which has been certified by BWC to sponsor and market group programs through BWC. Certification requirements for sponsoring organizations are outlined in OAC 4123-17-61.1.

IV. Policy

A. BWC recognizes several different types of representatives. The type determines the issues that a representative may handle. BWC distinguishes between risk and claim issues.

1. The GRC will:
 - a. Be copied on risk and claim correspondence.
 - b. Have full access to each employer's risk and claim information and authority to access such information on www.bwc.ohio.gov.
 - c. Be considered the authorized representative in handling claim related issues unless a CLM has been designated by the employer.
2. The ERC will:
 - a. Be copied on claim and risk correspondence.
 - b. Have access to the employer's risk and claim information and authority to access information on www.bwc.ohio.gov.
 - c. Be considered the authorized representative in handling risk related issues for an employer if a GRC has not been designated.
 - d. Be considered the authorized representative in handling claims related issues for the employer if no GRC or CLM has been designated.
3. The RISK will:
 - a. Be copied on risk correspondence.
 - b. Have authority to access risk information on www.bwc.ohio.gov.
 - c. Be considered the authorized representative in handling risk related issues for an employer only if a GRC or ERC has not been designated.
4. The CLM will:
 - a. Be copied on claim correspondence.
 - b. Have access to only the information that pertains to workers' compensation claims filed against the employer and will have access to that information on www.bwc.ohio.gov.
 - c. Be considered the authorized representative in handling claims related issues for an employer.
5. Employer Authorized Representatives Summary Chart:

Type	Rep Risk Issues	Rep Claim Issues	Risk Corresp	Claim Corresp	Access to Claim Info	Access to Risk Info	How auth is granted
GRC	Yes	Yes	Yes	Yes	Yes	Yes	AC-24, U-151
ERC	Yes	Yes	Yes	Yes	Yes	Yes	AC-2
RISK	Yes	No	Yes	No	No	Yes	AC-2
CLM	No	Yes	No	Yes	Yes	No	AC-2

6. BWC Employer Programs Unit updates GRC information, based on the designation made by the group's sponsor. Employer Programs Unit updates ERC, RISK, and CLM information based on an individual employer's request.
7. BWC Self-Insured Department updates ERC, RISK, and CLM information for self-insuring employers.
8. The Temporary Representative obtains authorization from the employer by using the Temporary Authorization to Review Information (AC-3). The Temporary Representative may request limited risk and/or claim information. See Temporary Authorization to Review Employer Information section of this policy.
9. An employer may designate an authorized representative on an individual claim. See the Claims Policy Authorized Representatives.

B. Recognized representatives: BWC will recognize authorized representative(s) for risk related

issues and claim related issues.

1. The chart below determines the representative(s) for risk issues and claim issues.
2. The same representative can be recognized for both risk and claim related issues.
3. All representatives have access to information as determined by their representative type (claim, risk, or both).
4. How to use the chart: Place the employer's "policy number" on the row of the chart that describes its situation. Yes means the employer has that representative type. For example: an employer with an ERC and a CLM marked as yes (and no marked for the other types), will have the ERC as the representative for risk issues and the CLM and ERC as representatives for claim issues.

	GRC	ERC	RISK	CLM	Risk Rep (s)	Claim Rep (s)	Notes*
Policy #	Yes	No	No	No	GRC	GRC	N/A for SI, BL, MF, & PES
Policy #	Yes	No	No	Yes	GRC	CLM, GRC	N/A for SI, BL, MF, & PES
Policy #	Yes	No	Yes	No	GRC, RISK	GRC	N/A for SI, BL, MF, & PES
Policy #	Yes	No	Yes	Yes	GRC, RISK	CLM, GRC	N/A for SI, BL, MF, & PES
Policy #	Yes	Yes	No	No	GRC, ERC	GRC, ERC	N/A for SI, BL, MF, & PES
Policy #	Yes	Yes	Yes	No	GRC, ERC, RISK	GRC, ERC	N/A for SI, BL, MF, & PES
Policy #	Yes	Yes	Yes	Yes	GRC, ERC, RISK	CLM, GRC, ERC	N/A for SI, BL, MF, & PES
Policy #	No	No	No	No	None	None	
Policy #	No	No	No	Yes	None	CLM	
Policy #	No	No	Yes	Yes	RISK	CLM	
Policy #	No	No	Yes	No	RISK	None	
Policy #	No	Yes	Yes	Yes	ERC, RISK	CLM, ERC	
Policy #	No	Yes	No	No	ERC	ERC	
Policy #	No	Yes	Yes	No	ERC, RISK	ERC	
Policy #	No	Yes	No	Yes	ERC	CLM, ERC	

* SI: Self-Insured; BL: Black Lung; MF: Marine Fund; PES: Public Employer State

C. Temporary authorization to review employer information. TPAs obtain temporary authorizations from employers in order to provide quotes for group experience and group retrospective rating plans.

1. TPA's are required to use form AC-3 to obtain temporary authorization.
 - a. Completion of the temporary authorization provides a TPA limited authority to view an employer's payroll, National Council on Compensation Insurance (NCCI) classifications, and loss experience.
 - b. Additionally, it will allow the representative to request data from BWC's Policy Information Request System (PIRS). The PIRS system may be used to obtain the following information:
 - i. Claim demographics.
 - ii. Claim reserve and cost information.

- iii. Claim to ICD (International Classification of Diseases) information.
 - iv. Policy to NCCI manual re-class information.
 - v. Policy combinations & partial transfer information.
 - vi. Employer experience exhibit information.
 - vii. Risk and accounts receivable information.
2. If the TPA is obtaining temporary authorization from an agent of the employer, such as a certified public accountant (CPA), the agent must have written approval from the employer client. This written approval must be verifiable by the TPA and/or BWC.
 3. An authorized AC-3 is valid for a nine (9) month period, unless specified for a shorter period on the AC-3 form. BWC requires the TPA to keep an approved AC-3 on file and available for review by BWC for a period of one year.
 4. The employer may withdraw the temporary authorization prior to its expiration date by contacting the TPA or BWC. In cases where BWC is contacted by the employer, BWC will communicate the employer's withdrawal to the TPA.
 5. TPA requirements: The TPA may obtain temporary authorization from an employer by:
 - a. Written authorization.
 - i. When a TPA obtains a signed AC-3 from an authorized employee of an employer, BWC requires the TPA to keep the AC-3 (original or copy) on file and available to BWC upon request for a period of one year.
 - ii. A signed authorization may be sent via USPS mail, fax, or as a PDF attachment to an email, as long as the signature is legible.
 - iii. Written authorization is the preferred method of authorization.
 - b. Electronic authorization.
 - i. BWC permits a TPA to obtain AC-3 approval from an authorized employee or agent of the employer via email or electronic submission through the TPA's web site.
 - ii. The web site submission, or electronic version of the AC-3, must contain all of the employer data and verbiage that is on the paper version of the AC-3. It is permissible for the employer to provide an electronic signature on the AC-3.
 - iii. If the email authorization or web site submission does not contain the same employer data as the AC-3, the TPA must complete an official AC-3 form by entering the employer's information, including printing the authorized employee or agent's name and the date the electronic approval was received.
 - iv. The TPA representative must print the AC-3 form and legibly print his/her name next to the authorized employee or agent's name.
 - v. In all cases, the TPA must mail or distribute a printed copy of the AC-3 with the authorization information to the employer with a letter explaining the electronic approval that was obtained.
 - c. Verbal authorization.
 - i. BWC permits a TPA to obtain AC-3 verbal approval from an authorized employee or agent of an employer.
 - ii. The TPA must clearly explain to the employer that it will use the authorization to request the employer's claim and risk information from BWC.
 - iii. The TPA must print the authorized employee or agent name and date of approval on the AC-3. The TPA representative must legibly print his/her name next to the authorized employee or agent's name.
 - iv. The TPA must print the words "verbal authorization" in the signature box of the AC-3.
 - v. The TPA must mail or distribute a completed copy of the AC-3 to the employer with a letter informing the employer that verbal authorization has been obtained and that risk and claim information will be requested from BWC.
 - vi. The letter must outline that the employer should contact the TPA within fourteen (14) days if it wishes to revoke the temporary authorization.
 - vii. The TPA must wait fourteen (14) days after the letter and AC-3 copy is sent to the employer before requesting confidential information from BWC.
 - viii. The TPA must request the confidential information from BWC's PIRS system.
 6. BWC overview of the temporary authorization process. If the TPA obtains experience data

- without a valid AC-3, BWC will require the TPA to provide a written explanation. BWC will evaluate the written response and determine if the TPA violated the guidelines of this policy. If BWC determines a violation of this policy:
- a. BWC may make recommendations to the TPA to change its AC-3 procedures.
 - b. BWC may require the TPA to use only written authorizations for a period of one year.
 - c. BWC may take other action as deemed appropriate, including, but not limited to, requiring the TPA to provide a copy of the AC-3 with each request for employer data.
7. BWC recommends that TPAs communicate annually the AC-3 and temporary authorization requirements to all TPA staff who will be marketing group programs.
 8. TPA revision of AC-3 form. To assist in limiting confusion over who is requesting the AC-3 form from the employer, TPAs are required to revise the AC-3 form that will be sent in mass mailings to employers.
 - a. The TPA must remove the BWC logo and return address from the AC-3 and replace it with the sponsoring organization/TPA logo and return address.
 - b. No other changes to the form are permitted, including the removal of page 2 (the back side of the form).
 - c. This only applies to AC-3 forms that will be mailed en mass to prospective employers.
- D. Group program employer representation. For group experience rating, the Application for Group-Experience-Rating Program (AC-24) establishes the GRC. For group retrospective rating, the Application for Group Retrospective Rating Program (U-151) establishes the GRC.
- E. Employer risk and claim representation. An individual employer may designate an authorized representative to handle risk and/or claim matters on its behalf by using the Permanent Authorization (AC-2).
1. Group rated employers:
 - a. If the individual employer is a group participant, the GRC will represent the employer on all risk-related and claim-related matters.
 - b. The individual employer may designate a CLM. If the employer has a CLM, the CLM will represent the employer on all claim-related matters.
 - c. The individual employer may designate an ERC for risk and claim related matters.
 - d. The individual employer may designate a RISK for all risk-related matters.
 - e. If the employer is not accepted into group rating the next policy year and does not have an ERC designated, the GRC will automatically become the ERC for the employer.
 2. Non group rated employers:
 - a. The employer may designate an ERC for risk and claim related matters.
 - b. The employer may designate a CLM for claim-related matters.
 - c. The employer may designate a RISK for risk-related matters.
 3. Employer representatives may fill out AC-2 forms online via www.bwc.ohio.gov. This on-line process allows the employer representative to be added as an authorized representative on the employer's policy. To use this online process, the employer representative must have a properly signed and dated AC-2 form from the employer. The representative must maintain the copy of the AC-2 as long as the employer is represented.
- F. Updating, changing, and dismissing employer representatives.
1. Only the sponsoring organization can change the GRC for the group and the individual employers in the group.
 2. The following steps must be followed for a GRC change by a sponsoring organization that submitted group applications for the current policy year.
 - a. Letter from the sponsoring organization that outlines the specific request. The letter must include:
 - i. Name of the current TPA.
 - ii. Name of new TPA.
 - iii. Listing of all group rating plans (group number and name).
 - b. Completed AC-2 from the sponsoring organization authorizing the new TPA.

- c. Completed AC-24 from the sponsoring organization indicating the new authorized representative; or,
 - d. Completed U-151 from the sponsoring organization indicating the new authorized representative.
 - e. One AC-24 or U-151 should be completed for a sponsoring organization with all groups listed on the employer roster.
3. The following steps should be followed when an affiliate sponsoring organization requests a change to its TPA. Since the sponsoring organization requesting the TPA change is not the primary sponsoring organization for groups submitted for the current rating year, the GRC cannot be updated. If the following steps are followed, BWC will add the new TPA as the ERC on each policy associated with the affiliate sponsoring organization. As an ERC, the representative may access an employer's information; however, BWC will not recognize the ERC as the one authorized representative for risk or claim related issues. The new TPA must do the following:
- a. Send a letter of explanation to all impacted employers. This letter must be submitted to BWC for review and approval prior to sending to employers. The letter must include:
 - i. BWC approved verbiage.
 - ii. Contact information for the affiliate sponsoring organization's new TPA.
 - iii. A timeframe for the employer to notify the affiliate sponsoring organization's new TPA that it does not want the new TPA to be added as the ERC on its policy. (The holding period is a minimum ten (10) business days from the mail date).
 - b. Provide a copy of this letter to BWC.
 - c. Provide BWC with the name, individual contact information and relevant documentation for any employer who declined to add the new TPA as an ERC upon request.
 - d. Provide BWC with confirmation and agreement document signed by the sponsoring organization and the current group TPA (GRC) that includes the following details:
 - i. Statement indicating **agreement and confirmation** from all parties. Signatures are required.
 - ii. Details regarding the rating year and sponsoring organization.
 - iii. Name of current primary sponsoring organization's TPA (GRC).
 - iv. Name of new affiliate sponsoring organization's TPA (ERC).
 - v. Effective date (must be after the date all employers are notified and the minimum holding period).
 - vi. Final list of all employers that include BWC policy number and policy name (excludes employers that notified the new group TPA they did NOT want the new affiliate sponsoring organization's TPA added as an ERC).
 - e. BWC will not process the request without agreement from all parties (i.e., primary sponsoring organization and current authorized group TPA/GRC). If all parties are not in agreement, each employer must complete an AC-2 to add the new affiliate sponsoring organization TPA as the ERC on its policy.
 - f. BWC will not process the request at the employer level if the group roster submitted at the time of application does not list the employer as a governing member of the affiliate sponsoring organization.
 - g. Completed AC-2 form from the sponsoring organization authorizing the new TPA.
 - h. If BWC identifies a situation where the employer added an ERC, dismissed the same ERC, then requested the same ERC be added via an AC-2; BWC will contact the employer to clarify its final position regarding the authorized representative(s) for the policy.
 - i. BWC will process fully completed requests within seven (7) working days or less.
4. An employer may update/change/cancel an ERC, RISK, or CLM for its policy or claim(s). However, these changes are subject to limitation if the employer is a group program participant. Specifically, the GRC will represent the group rated employer on all risk-related matters and claim-related matters.
5. An employer must use an AC-2 to add an authorized representative to its policy. The AC-2 can be used to add an ERC, RISK, or a CLM. The AC-2 should be submitted to BWC

Employer Programs or BWC Self-Insured Department. The most recently submitted AC-2 form will supersede any prior permanent authorizations on file for the type of representative indicated on the AC-2 form. Previously authorized representatives will be placed in a dismissed status.

6. If the employer wishes to dismiss an authorized representative without adding an authorized representative of the same type, the employer should submit a letter to BWC. The letter should indicate the specific authorized representative being dismissed and be signed by an authorized employee of the employer. The letter should include the employee's signature, name, and title.
7. The authorized representative may submit a signed letter withdrawing as the employer's representative. This letter must include specific employer information and be signed by the authorized representative. The authorized representative may also send an email to BWC with a list of employers, and the effective date(s) that it will no longer be representing these employers.
8. If an employer representative is acquired by another entity, BWC will not recognize the new entity as an employer's representative without proper authorization. An employer impacted by the acquisition must sign an AC-2 if it wishes to authorize a new employer representative.

G. Scenarios:

1. A subsidiary company of an employer's authorized representative requests data on the employer's policy. Can the data be released?

Answer: No, only the authorized representative, as listed on the AC-2 or AC-3, can be given data for an employer.

2. A Handicap Reimbursement application (CHP-4A) has been filed by the employer's claim representative. Can this application be processed?

Answer: Yes. An application for handicap reimbursement has both claim and risk implications. Therefore, it would be appropriate to process an application for handicap reimbursement whether filed by an employer's risk or claim authorized representative. This recognizes the unique nature of handicap reimbursement as an issue that touches both claim and risk issues.

3. How do successorship situations impact the ability of a TPA to request risk data from BWC on a predecessor or successor?

Answer: The successor's TPA may obtain predecessor employer risk data for any employers that were fully combined into the successor's policy. For partial transfers, the successor TPA may obtain risk data that pertains to the partial transfer to the successor employer.

A predecessor TPA may not obtain any data from the successor's policy, regardless of the succession being full or partial.