

Texas laws on association health plans

	Health group cooperative (HGC)	Multiple employer welfare arrangement (MEWA)
Insured status	Fully-insured	Self-insured
Applicable Texas laws	TIC Chapter 1501, Subchapter B TAC Chapter 26, Subchapter D	TIC Chapter 846 TAC Chapter 7, Subchapter S
Must be formed as a non-profit	Yes TIC 1501.056(a)	Yes TIC 846.053(e)
Who can form the AHP?	<ul style="list-style-type: none"> • Individual, corporation, other legal entity TIC 1501.022(11) and 1501.056(a) • A health benefit issuer cannot form or be a member of a HGC TIC 1501.056(d) 	<p>An association of employers or group of five or more employers that are in the same trade or industry TIC 846.053(b)</p> <p>If formed by an association, it must be engaged in other substantial activity for its members and must have been in existence for at least two years. TIC 846.053(c)</p>
Eligible members	<p>Any combination of:</p> <ul style="list-style-type: none"> • Single employee businesses (cannot have been formed solely to obtain health insurance) • Small employers • Large employers <p>TIC 1501.0581, TIC 1501.067</p>	<p>Any combination of:</p> <ul style="list-style-type: none"> • Single employee businesses • Small employers • Large employers <p>TIC 846.053(b)</p>

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Size restrictions	HGC must include at least 10 participating employers. TIC 1501.058(d)	<ul style="list-style-type: none"> • Must have applications from not fewer than 5 employers. • Must provide similar benefits to not less than 200 employees. • Must have annual gross premiums or contributions of: <ul style="list-style-type: none"> ○ \$20,000 if only providing vision benefits. ○ \$75,000 if only providing dental benefits. ○ \$200,000 for all other plans. TIC 846.053(g)
Is stop-loss insurance required?	NA	Yes, but may be waived by the commissioner. If required, stop loss coverage requires: <ul style="list-style-type: none"> • A minimum of 30 days' notice to the commissioner of cancelation or nonrenewal of coverage. • Specific and aggregate attachment points of 125 percent of expected claims. TIC 846.156, TIC 846.053(h)
Are industry restrictions allowed?	Permitted TIC 1501.0581(a-1)	Required to be in the same trade or industry. TIC 846.053(b)
Are there purchase obligations on employer members?	Employers must commit to purchasing coverage through the HGC for at least two years, unless they can show financial hardship. TIC 1501.0581(f)	No
Are there funding requirements?	No; however, a HGC can only contract with an issuer that, among other things, is in good standing with TDI. TIC 151.061	Yes. Cash reserves must not be less than the greater of: <ul style="list-style-type: none"> • 20 percent of total contributions for the preceding plan year. • 20 percent of the total estimated contributions for the current plan year. TIC 846.154

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Are there rating restrictions?	Yes. Restrictions vary depending on the members of the HGC. See chart below specific to HGCs.	No rating restrictions; however, any adjustment for health status related factors must be applied uniformly to all participating employees or dependents of the employer. TIC 846.007
What are the filing requirements?	<ul style="list-style-type: none"> • Written notice of the receipt of certificate of incorporation or authority, along with the cooperative’s organizational documents TIC 1501.056(b) • Election whether the HGC will restrict membership to only small employers and a maximum total employees of all employers will not exceed 50. If the HGC makes this election, it cannot include a single-employee businesses in the HGC. TIC 1501.0581 (o)-(p) • If the HGC will include single-employee businesses (SEB) TIC 1501.0581(q)-(u) <ul style="list-style-type: none"> ○ Must file an election 90 days before the date that coverage for the SEB becomes effective ○ Issuer must agree in writing that it will provide coverage after this election is made. ○ Can rescind the election only if the election has been in place for at least 2 years. ○ Must file notice of rescission with commissioner at least 180 days before the 	<ul style="list-style-type: none"> • Form number 1, name application TIC 846.159, 28 TAC 7.1903 • Form number 2--MEWA, application to do business as a multiple employer welfare arrangement TIC 849.059, 28 TAC 7.1908 • Officers, directors, or trustees page • Biographical affidavit • Appointment of commissioner of insurance as its resident agent for purposes of service of process TIC 849.059, 28 TAC 7.1908 <ul style="list-style-type: none"> ○ Form MEWA--service of process ○ Filing fee - \$50 <p>Initial certificate of authority TIC 846.052, 846.054, 846.055, 846.059, 28 TAC 7.1904, 7.1905, 7.1908</p> <ul style="list-style-type: none"> • Form A-120M--MEWA, application for initial certificate of authority - must be approved prior to going into business • Good for one year • Commissioner has 60 days to approve or disapprove • Filing fee - \$5,000 <p>Final certificate of authority TIC 846.056, 846.057, 846.059, 28 TAC 7.1906, 7.1908</p>

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	<p>effective date of the rescission</p> <ul style="list-style-type: none"> • Election to treat each participating employer as a separate employer for rating purposes TIC 1501.066 <ul style="list-style-type: none"> ○ Must file 90 days before coverage effective date. ○ Note that if a HGC includes single-employee businesses, it must make this election. TIC 1501.051(3-a), 1501.066 	<ul style="list-style-type: none"> • Form A-120--MEWA, application for permanent certificate of authority • Must be filed not later than one year after initial COA issued • Filing fee - \$1,500 <p>Annual filings TIC 846.153, 28 TAC 7.1908, 7.1912</p> <ul style="list-style-type: none"> • Audited financial statement • Actuarial opinion • Both filed within 90 days of the end of the fiscal year • Filing fee - \$500
More information?	www.tdi.texas.gov/health/indexlhcoop.html	www.tdi.texas.gov/forms/form3mewa.html

Texas laws relating to employer status and rating health group cooperatives

HGC employer members	Is it considered a single employer?	How is the HGC rated?
Single-employee businesses Small employers	No TIC 1501.063(c)	Each group rated separately as small employers TIC 1501.051(3-a) (A)-(C), 1501.066(a)
Single-employee businesses Small employers Large employers	No, except for the purposes of benefit elections TIC 1501.063(c)	Each group rated separately TIC 1501.063(c) <ul style="list-style-type: none"> • SEB and small employers rated as a small employer • Large employers rated as large employer
Small employers only and elected to remain under 50 total employees	Yes TIC 1501.063(b-1)	Can elect whether to rate all groups as one small employer group or rate each small employer separately as a small employer group. TIC 1501.066(a)
Small employers only and has NOT elected to remain under 50 total employees	Yes TIC 1501.063(b-2)	Can elect whether to rate all groups “in the manner as a large employer” group or can rate each small employer separately as a small employer group. TIC 1501.063, TIC 1501.063(b-2)
Small employers not making the election to stay under 50 total employees or both large and small employers	Yes TIC 1501.063	Can elect whether to rate all groups “in the manner as a large employer” group or can rate each small employer separately as a small employer group and each large employer group separately as a large employer. TIC 1501.063