

INSURANCE ADVOCATE®

Insurance Brokers, PEOs and Clients: A Win-Win-Win Partnership

Over a decade ago, insurance brokers and Professional Employment Organizations (PEOs) were nothing more than competitors. PEOs brought workers' compensation and health insurance options to clients, and these offerings threatened to displace that which insurance brokers had in place. Times have changed. In today's legislative landscape, especially with the enactment of the Affordable Care Act (ACA), partnerships between insurance brokers and the right PEO make sense for all concerned: the insurance broker, the client and the PEO.

PEOs come in many different forms. Full-service PEOs provide solutions in four core areas:

- 1) payroll, technology and tax administration;
- 2) employee benefits and benefits administration;
- 3) workers' compensation, safety and risk management; and
- 4) human resources and compliance.

The PEO becomes a "co-employer" (expressly recognized by the laws of most states) or administrative employer of the employees and, by doing so, can bring best practices, efficiencies and savings through aggregation. PEOs provide guidance that keeps clients in compliance with the labyrinth of employment laws and regulations.

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American workers are currently covered by a PEO relationship. This number is growing annually by over 15%. The value provided by these organizations is real and being embraced by more and more companies. In fact, on December 16, 2014, Congress passed the Small Business Efficiency Act, which for the first time provided federal statutory recognition of PEOs and the value they bring to small businesses.

The challenges small and mid-sized businesses face as a result of the ACA have contributed to the PEO industry's growth. Companies are consistently confused by the ever-changing provisions of this law. To operate within the law's mandates, companies must be able to comply with ACA's pay-or-play provisions, notice requirements, reporting requirements, minimum plan requirements, and minimum company contribution requirements, just to name a few. As the plan sponsor and plan

administrator, the company bears all of the risk of the potentially onerous penalties associated with failing to comply.

At the same time, ACA also has created challenges for life and health agents. Clients are seeking guidance, requiring brokers to build internal expertise and oftentimes have ACA experts on staff. Commissions and operating profits are being compressed. Client attrition at many life and health insurance agencies has spiked and net revenues are down as a result.

Meanwhile, some PEOs are able to offer a distinct advantage to businesses. Not only does the PEO bring ACA expertise and systems for compliance, but some PEOs offer a Master Health Plan, where the PEO becomes the plan sponsor and plan administrator, bearing some if not all of the compliance responsibility and risk.

Some PEOs are leveraging this to improve their competitive positioning against insurance brokers across the country. However, there are a number of PEOs that partner with insurance brokers, paying commissions to brokers that are equal to if not greater than the commissions available in the open medical insurance market. A few PEOs even go so far as to be completely dedicated to partnering with insurance brokers, protecting the broker with non-trespassing and broker-friendly "BOR" policies.

The right partnership between an insurance broker and the right PEO creates a win-win-win solution:

- **For the insurance broker:** The partnership enables the broker to bring a solution that helps its clients. At the same time, the partnership with the

right PEO enables a strong defense for the broker against other PEOs (and even other insurance brokers) that target the broker's clients. Once in a PEO relationship, the broker's client retention increases. Moreover, commissions are at least maintained and, in some cases, increase.

- **For the client:** The client receives the benefits PEOs bring. In a post-ACA environment, there are a plethora of burdens faced by employers who provide and administer employee benefits. Clients that engage with a PEO are provided affordable solutions to many compliance challenges today's businesses face, from regulatory duties to time consuming employment and tax-related reporting. Furthermore, business owners have access to additional resources to help with legal challenges, risk management, compliance and more.
- **For the PEO:** While the PEO gives up revenue in the form of commissions paid to both the insurance agency and the PEO's sales force, what used to be a competition between insurance agent and PEO can be a collaboration, with resulting increased growth potential for both.

Not all PEOs are equal, even those that partner with brokers. Insurance brokers should beware of the PEO that, on one hand, seeks to partner with the insurance agency, while on the other, has a direct sales force whose job it is to directly sell against that very same broker. In addition, the Employers Service Assurance Corporation (ESAC) serves as an industry watchdog, similar to the FDIC for the banking industry. PEOs that are ESAC-accredited are audited on a quarterly basis. Accredited PEOs are each backed by assurance bonds in excess of \$15 million protecting the PEO's clients. When an insurance agent is deciding on a PEO with which to partner, the PEO's entire distribution model and ESAC accreditation are important considerations.

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