

EMPLOYMENT LAW SUMMARY

Michigan: Workers' Compensation - Employee Eligibility



Because You're Different

Workers' compensation is a system of no-fault insurance that provides monetary compensation and medical benefits to employees (or their survivors) for work-related injuries, diseases and deaths. Workers' compensation is governed by state law. Michigan's Worker's Disability Compensation Act (WDCA) prescribes eligibility requirements for employees. The Michigan Workers' Compensation Agency, part of the Michigan Department of Licensing and Regulatory Affairs (LARA), enforces these requirements throughout the state.

COVERED EMPLOYEES

Most workers are covered under the WDCA. The law requires all employers in the state to obtain workers' compensation coverage for all employees other than those who are excluded by law. Specifically, the WDCA applies to:

- Employers with three or more current employees;
- Employers with fewer than three employees if at least one of the employees has worked for the employer for a minimum of 35 hours per week for 13 weeks or longer during the preceding 52 weeks;
- Public employers; and
- Agricultural employers with:
 - At least three employees working 35 hours per week or more for a minimum of 13 weeks during the preceding 52 weeks; and
 - Fewer than three employees, if at least one employee works 35 or more hours per week for a minimum of five weeks (these employers are required to provide medical and hospital coverage).

The WDCA's definition of a covered employee includes "every person in the service of another, under any contract of hire, express or implied." The WDCA also specifically includes the following (and others) as covered employees:

- Aliens;
- An employer's spouse, if he or she is regularly employed on a full-time basis with specified hours of employment at a specified rate of pay;
- Working members of a partnership; and
- Minors.

EXCLUSIONS

Workers' compensation coverage does not extend to certain individuals. While some exceptions are possible, individuals not covered by the WDCA include:

- Agricultural employees who are directly related to their employers (spouse, child or other member of the employer's family) and reside in the employer's home or premises;
- Domestic servants who are directly related to their employers (spouse, child or other member of the employer's family);
- Domestic servants working fewer than 35 hours per week for at least 13 weeks during the preceding 52 weeks;

- Workers who are covered under federal workers' compensation programs;
- Foreign nationals employed under the Mutual Educational and Cultural Exchange Act;
- Independent contractors;
- Self-employed individuals; and
- Licensed real estate salespersons or associate brokers if:
 - At least 75 percent of their wages are paid in direct proportion to the volume of their sales and not regarding the number of hours worked; and
 - They have individualized employer agreements stating that they are not considered employees for tax purposes.

COMPENSABLE CONDITIONS

Compensable conditions include both injuries and diseases. In general, either type of condition is compensable if it arises out of and in the course of employment. An employee is presumed to be within the course of employment while:

- Performing work for the employer; and
- Going to or from work on the employer's premises within a reasonable time before or after his or her working hours.

An injury may be compensable even if it merely contributes to or aggravates an employee's pre-existing condition, as long as the work-related damage is medically distinguishable from any pathology that existed prior to the workplace event or exposure. Aging processes (such as heart conditions, cardiovascular disorders and degenerative arthritis) and mental disabilities may be compensable if the worker's employment contributed to, aggravated or accelerated these conditions in a significant manner. For a disease to be compensable, it must be due to causes and conditions that are characteristic of and peculiar to the business of the employer.

EXCLUSIONS

An injury or disease is not compensable if it:

- Occurs while the employee was participating in a voluntary social or recreational event;
- Is caused by the employee's intentional and willful misconduct; or
- Is an ordinary disease of life to which the public is generally exposed outside of the employment.

DISQUALIFICATION FROM BENEFITS

Even when an individual meets the above eligibility requirements for workers' compensation benefits, other factors may prevent him or her from receiving them. These factors include:

- Failures to disclose pre-existing conditions to the employer;
- Failures to seek or accept the employer's reasonable offer of suitable employment; and
- Failures to submit to the employer's reasonable requests for medical examinations.

In addition, an employee's right to receive workers' compensation benefits may be suspended while the employee is unable to secure or obtain work because of imprisonment.

ADDITIONAL EMPLOYEE EXPECTATIONS

The WDCA also sets additional expectations and responsibilities for employees. Failing to meet these expectations may cause an individual to lose (in whole or in part) any benefits he or she would otherwise be entitled to receive. Along with other duties, employees are expected to:

- Inform a supervisor or manager of injuries within 90 days of when they happen (or sooner, if they are serious); and
- File a formal claim for benefits within two years of an injury or manifestation of disease.

MORE INFORMATION

Contact Heffernan Insurance Brokers or visit the Workers' Compensation Agency website for more information on workers' compensation laws in Michigan.

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