

# EMPLOYMENT LAW SUMMARY

## Michigan: Workers' Compensation - Employer Responsibilities



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Workers' compensation is a system of no-fault insurance that provides medical benefits and monetary compensation to employees (or their survivors) for work-related injuries, diseases and deaths. Workers' compensation is governed by state law. In Michigan, the Worker's Disability Compensation Act (WDCA) defines employer responsibilities under the state's workers' compensation program. The Michigan Workers' Compensation Agency (WCA), part of the Michigan Department of Licensing and Regulatory Affairs (LARA), monitors compliance with WDCA requirements.

### **COVERAGE REQUIREMENTS**

Most employers in Michigan are required to maintain workers' compensation coverage for their employees. Specifically, the WDCA's coverage requirement 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; or
  - 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).

To meet coverage requirements, employers can either:

- Purchase a policy from a private insurance company licensed to provide workers' compensation coverage in the state; or
- Obtain approval from the WCA to self-insure.

The WDCA prohibits employers from encouraging or requiring their employees to pay for any part of their coverage.

### **COVERAGE NOTICE REQUIREMENT**

If an employer obtains workers' compensation coverage through an insurance policy, it must file a notice of the policy and its effective date with the WCA within 30 days. This notice and other coverage maintenance forms, such as notification of insurance termination and employer name changes, can be filed electronically using the instructions provided in the WCA website.

### **SELF-INSURANCE**

A self-insured employer uses its own assets, rather than an insurance policy, to insure against its obligations under the WDCA. The WCA will allow an employer to self-insure only if the employer has been in business for at least five years and can prove that it has sufficient financial stability to pay all the benefits its employees may be entitled to receive under the WDCA. The WCA may also require a self-insured employer to:

- Post a bond or letter of credit with a minimum amount of \$100,000;
- Maintain specific and aggregate excess insurance policies; and
- Contract with an approved claim servicing company or prove that it has competent staff to handle claim administrative and reporting duties in-house.

Self-insurance eligibility is reviewed annually. Self-insured employers must submit a renewal application 30 days before the renewal date. The WCA may terminate an employer's authorization to self-insure if the employer fails to comply with any of the eligibility requirements. After receiving notice of a possible revocation of self-insurance authority, an employer can correct any non-complying issue and contest the revocation in an administrative hearing.

### **GROUP SELF-INSURANCE**

Multiple employers may create self-insurance groups by combining their assets to insure against their individual liabilities. The WCA allows employers to self-insure as a group if the group, and each individual member of the group, has sufficient financial stability to meet its obligations under the WDCA. After a group is authorized to self-insure, additional members can join only after receiving the approval of the group and the WCA. Private employers that participate in group self-insurance are collectively and individually responsible for the payment of any contributions the WCA may require of any member of the group. Public employers are only collectively liable for required contributions. To receive WCA authority to participate in or create a self-insurance group, employers must submit Form WC-402G to the WCA and:

- Have combined assets of at least \$1 million;
- Be in the same industry as other group members (as defined by the WDCA or approved by the WCA);
- Provide an indemnity agreement;
- Provide a draft of the self-insured group's by-laws (a sample document is available with the self-insured group application form);
- Obtain a blanket fidelity bond of at least \$1 million (to insure the staff that will be handling the monies for the group); and
- Obtain a surety bond or financial security endorsement (the WCA will determine the amount of this instrument after reviewing the group's financial condition).

Group self-insurance must be renewed annually, using the application form (Form WC-402G).

### **CLAIM RECORDING AND REPORTING REQUIREMENTS**

Employers are required to keep a record of all employee injuries that result in death or disability. Employers must immediately file a report of any claimed injury to the WCA if the injury causes:

- Disability extending seven days beyond the date of injury;
- Death; or
- Specific loss.

### **MORE INFORMATION**

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

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