



Employers Rights

Each policyholder has a great deal of say in the administration of the workers' compensation program. This section outlines the rights and responsibilities' of a policyholder, including how to make a file a formal complaint should a dispute arise with the insurance carrier.



Employer's Rights

500.2411 Workers' compensation; rates and rating systems; classifications; merit rating plan.

Sec. 2411. (1) Rates and rating systems used by any insurer with regard to worker's compensation insurance within this state shall conform to the applicable requirements of this section.

(2) Classifications used by an insurer shall be based upon 1 or more of the following:

- (a) The industry group to which an employer belongs.
- (b) Similarity of expected losses as reflected by similarities in pure premium and similarities in operations of employers insured.
- (c) Similarity of risk of compensable injury as reflected by the type of work performed by employees.
- (d) Other factors that would encourage innovation and would encourage insurers to minimize the risk of loss from hazards insured against and would be consistent with both the statistical plan approved by the commissioner and the purposes of this chapter.

(3) Each insurer shall establish a merit rating plan for worker's compensation insurance whereby an insured's premium is modified either prospectively or retrospectively. The plans required under this subsection shall provide for premium surcharges or credits based upon loss experience within a specified period or other factors which are reasonably related to risk of loss. The plan shall provide for sufficient premium differentials so as to encourage safety and adequately reward employers without a claim during the merit rating period. The sensitivity of a rating system may vary by size of the risk involved.

(4) The single enterprise rule or similar rule requiring a worker's compensation insured to be classified according to the entire business in which the insured is engaged shall not be used. Upon request of an insured, an insurer shall classify employees in separate operations of a business in different classifications consistent with the insurers' rate system filing if payroll information is supplied to the insurer for each operation requested to be in a separate classification.

Michigan Workers' Compensation And Employers' Liability Manual

D. Assignment of Classifications

1. Object of Classification Procedures

The Object of the classification procedure is to assign the basic classification(s) which best describes the operation(s) of the employer within Michigan.

2. Classification of Separate Legal Entities

Each separate legal entity insured under a policy shall be assigned to the basic classification(s) which describes its operation within Michigan. This procedure applies even if the operation(s) is conducted at more than one location.

3. Business Not Described by a Basic Classification

If there is no classification which describes the operation(s), the classification which most closely describes the operation(s) shall be assigned. Refer to Rule IV-F-2.

4. Assignment of Additional Basic Classifications

Additional basic classifications shall be assigned if separate payroll records are maintained for each separate operation and such operation constitutes a separate and distinct operation of the insured and a classification exists which specifically applies to the separate operation.

Wherein an insured engages in two or more operations which may be subject to different classifications and there is an interchange of labor as respects single employees, the payroll of an individual employee may be divided and allocated to more than one such classification, provided:

- a. The entries on the original records of the insured disclose an allocation of each such individual employee's payroll.
- b. Allocation must be based upon payroll actually incurred in each operation. An estimated or percentage allocation is not permitted.
- c. Wherein an insured engages in two or more enterprises or business undertakings which may be subject to different classifications and there is an interchange of labor as respects single employees, the payroll of an individual employee may be divided and allocated to more than one such classification provided:

- (1) The entries on the original records of the insured disclose an allocation of each such individual employee's payroll.
- (2) Allocation must be based upon payroll actually incurred in each enterprise or business undertaking. An estimated or percentage allocation is not permitted.
- (3) The assignment of separate classifications is not prohibited by wording of that classification or any other classification assigned to the policy.

If the employer fails to maintain complete records as provided by this rule, the entire remuneration of the employee shall be assigned to the highest rated classification representing any part of his work.

5. Special Classifications

Special Classifications are not available for division of payroll with other classifications. Employees with exposure to occupations which are Special Classifications and to operations which are otherwise classified shall have their payroll assigned to the classification of two or more operations. In such event, the payroll may be subject to division in accordance with Rule IV-D-4.

6. Operations(s) Described by a Special Classification

If the principal operation(s) is described by a Special Classification, the operations not included in the definition of the Special Classification shall be assigned to the separate basic classification which most closely describes their operation(s).

Example of 6 above.

The insured is a bank:

Employees	Classifications
Clerical Office	Code 8810 – Clerical Office Employees
Maintenance	Code 9015 – Buildings, NOC- operation by Owner or lessee
Security	
Elevator Operators	

Cafeteria or Restaurant Code 9070 – Restaurant NOC

(From the Michigan Insurance Code: Michigan Compiled Laws §500.2458)

Section 2458. Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of the insured, all pertinent information as to the rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his or her authorized representative, on his or her written request to review the manner in which the rating system has been applied in connection with the insurance afforded to him or her. If the rating organization or insurer fails to grant or reject the request within 30 days after it is made, the applicant may proceed in the same manner as if his or her application had been rejected. Any party affected by the action of the rating organization or insurer on request may, within 30 days after written notice of the action, appeal to the commissioner, who, after a hearing held upon not less than 10 days' written notice to the appellant and to the rating organization or insurer, may affirm or reverse the action. A person who requests a hearing before the commissioner pursuant to this section may be represented at the hearing by an attorney. A person, other than an individual, that requests a hearing before the commissioner pursuant to this section may also be represented by an officer or employee of that person. An individual who requests a hearing before the commissioner pursuant to this section may also be represented by a relative of the individual.

Rights of Employers for Challenging Excessive Premium Charges, Unreasonable Reserves or Unreasonable Redemption of Claims, Insurer's Responsibility to Provide Reserve Information and Notice of Proposed Redemptions.

(From the Michigan Insurance Code: Michigan Compiled Laws §500.2419)

Section 500.2419 (1) An insured who has reason to believe that the insured's premium charges for worker's compensation insurance are excessive as a result of unreasonable reserves or the unreasonable redemption of a claim shall be entitled to a personal meeting with a management representative of the insurer.

(2) Upon receipt of a written request by the insured, the insurer shall provide within 30 days of the receipt of the request reserve and redemption information with regard to worker's compensation insurance which is pertinent to the premiums charged for that insurance.

If a meeting between the insured and the management representative of the insurer under subsection (1) fails to resolve the dispute, the insured shall be entitled to a determination of the dispute by the commissioner. The commissioner shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan

Compiled Laws, establishing procedures for a determination under this subsection. The procedures shall provide for determinations to be made on a timely and informal basis.

(4) Upon written request of an insured, an insurer shall not redeem a worker's compensation claim without giving 10 business days' prior notice to the insured by first class mail, return receipt requested.

Employer Rights Regarding Proposed Redemptions. Process and Criteria for Approving Redemptions.

WORKERS' DISABILITY COMPENSATION ACT 418.835

418.835 Redemption of liability from personal injury, payment of lump sum; proposed redemption agreement as lump sum waiver; use of fees; applicability to proposed redemption agreements of subsections (2) to (5).

Section 835. (1) After 6 months' time has elapsed from the date of a personal injury, any liability resulting from the personal injury may be redeemed by the payment of a lump sum by agreement of the parties, subject to the approval of a worker's compensation magistrate. If special circumstances are found which in the judgment of the worker's compensation magistrate require the payment of a lump sum, the worker's compensation magistrate may direct at any time in any case that the deferred payments due under this act be commuted on the present worth at 10% per annum to 1 or more lump sum payments and that the lump sum payments shall be made by the employer or carrier. When a proposed redemption agreement is filed, it may be treated as a lump sum application, within the discretion of a worker's compensation magistrate. The filing of a proposed redemption agreement or lump sum application shall not be considered an admission of liability and if the worker's compensation magistrate treats a proposed redemption agreement as a lump sum application under this section, the employer shall be entitled to a hearing on the question of liability.

(2) The carrier shall notify the employer in writing of the proposed redemption agreement not less than 10 business days before a hearing on the proposed redemption agreement is held. The notice shall include all of the following:

(a) The amount and conditions of the proposed redemption agreement.

(b) The procedure available for requesting a private informal managerial level conference.

(c) The name and business phone number of a representative of the carrier familiar with the case.

(d) The time and place of the hearing on the proposed redemption agreement and the right of the employer to object to it.

(3) The worker's compensation magistrate may waive the requirements of subsection (2) if the carrier provides evidence that a good faith effort has been made to provide the required notice or if the employer has consented in writing to the proposed redemption.

(4) Except as otherwise provided in this subsection, for all proposed redemption agreements filed after December 31, 1983, each party to the agreement shall be liable for a fee of \$100.00 to be used to defray costs incurred by the bureau, the worker's compensation board of magistrates, and the worker's compensation appellate commission administering this act, except that in the case of multiple defendants the fee for the party defendant shall be \$100.00 to be paid by the carrier covering the most recent date of injury. The bureau shall develop a system to provide for the collection of the fee provided for by this subsection. The fee provided by this subsection does not apply to proposed redemption agreements in which the uninsured employer's security fund is a party under section 532.

(5) The fees collected pursuant to subsection (4) shall be placed in the worker's compensation administrative revolving fund under section 835a. Money in the worker's compensation administrative revolving fund shall only be used to pay for costs in regard to the following specific purposes of the bureau, the worker's compensation board of magistrates, and the worker's compensation appellate commission as applicable:

(a) Education and training.

(b) Case management.

(c) Hearings and claims for review.

(6) Subsections (2) to (5) only apply to proposed redemption agreements filed after December 31, 1983.

418.836 Approval of redemption agreement; findings, factors considered in making determination; employer as party.

Section 836. (1) A redemption agreement shall only be approved by a worker's compensation magistrate if the worker's compensation magistrate finds all of the following:

(a) That the redemption agreement serves the purpose of this act, is just and proper under the circumstances, and is in the best interests of the injured employee.

(b) That the redemption agreement is voluntarily agreed to by all parties. If an employer does not object in writing or in person to the proposed redemption agreement, the employer shall be considered to have agreed to the proposed agreement.

- (c) That if an application has been filed pursuant to section 847 it alleges a compensable cause of action under this act.
- (d) That the injured employee is fully aware of his or her rights under this act and the consequences of a redemption agreement.

(2) In making a determination under subsection (1), factors to be considered by the worker's compensation magistrate shall include, but not be limited to, all of the following:

- (a) Any other benefits the injured employee is receiving or is entitled to receive and the effect a redemption agreement might have on those benefits.
- (b) The nature and extent of the injuries and disabilities of the employee.
- (c) The age and life expectancy of the injured employee.
- (d) Whether the injured employee has any health, disability, or related insurance.
- (e) The number of dependents of the injured employee.
- (f) The marital status of the injured employee.
- (g) Whether any other person may have any claim on the redemption proceeds.
- (h) The amount of the injured employee's average monthly expenses.
- (i) The intended use of the redemption proceeds by the injured employee.

(3) The factors considered by the worker's compensation magistrate in making a determination under this section and the responses of the injured employee thereto shall be placed on the record.

(4) An employer shall be considered a party for purposes under this section.

418.837 Approval or rejection of redemption agreements and lump sum applications, review; order; appeal, finality.

Section 837. (1) All redemption agreements and lump sum applications filed under the provisions of section 835 shall be approved or rejected by a worker's compensation magistrate.

(2) The director may, or upon the request of any of the parties to the action shall, review the order of the worker's compensation magistrate entered under subsection (1). In the event of review by the director and in accordance with such rules as the director may prescribe and after hearing, the director shall enter an order as the director considers just and proper. Any order of the director under this subsection may be appealed to the appellate commission within 15 days after the order is mailed to the parties.

(3) Unless review is ordered or requested within 15 days after the date the order of the worker's compensation magistrate is mailed to the parties, the order shall be final.

Michigan Notice to Policy Holders

This notice is required by Michigan law.

1. Rates and Premium

The policy contains rates and classifications that apply to your type of business. If you have any questions regarding the rates or classifications, please contact us or your agent.

You may obtain pertinent rating information by submitting a written request to us at our address shown on this notice. We may require you to pay a reasonable charge for furnishing the information.

You may also submit a written request for a review of the method by which your rates and premiums were determined. If you are not satisfied with the results of the review, you may appeal to the Commissioner of Insurance at the address shown in this notice.

You may request reserve and redemption information that relates to the premium for this policy. Your request must be in writing sent to our address shown in this notice. We will provide you with that information within thirty (30) days of receipt of your request.

If you believe the policy premiums are excessive because we set unreasonable reserves or because of the unreasonable redemption of a claim, you may request a meeting with our management representative. Your request must be in writing sent to our address shown in this notice. If you are not satisfied with the results of the meeting, you may appeal to the Insurance Commissioner at the address shown in this notice.

2. Payroll Audits

You may request a payroll audit once each calendar year. Your request must be in writing sent to our address shown in this notice. You must state that you believe your payroll expenditures have changed by 20% or more, and you must state the reasons for that belief. We will complete the audit with 120 days of receipt of your request if you provide us with all information we need to perform the audit.

Addresses

Underwriting Manager
Your Actual Carrier's Address
Will Appear Here

Commissioner of Insurance
Office of Financial & Insurance
Services
Division of Insurance
P.O. Box 30220
Lansing, MI 48909

**REMEMBER TO KEEP COPIES OF
ALL CORRESPONDENCE FOR
YOUR FILES!**

3. Reserves or Redemption