

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5002

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending sections 161, 205, 210, 212, 213, 274, 301, 315, 319,
331, 353, 354, 358, 360, 361, 381, 401, 625, 801, 835, 836, 837,
847, 853, and 862 (MCL 418.161, 418.205, 418.210, 418.212, 418.213,
418.274, 418.301, 418.315, 418.319, 418.331, 418.353, 418.354,
418.358, 418.360, 418.361, 418.381, 418.401, 418.625, 418.801,
418.835, 418.836, 418.837, 418.847, 418.853, and 418.862), section
161 as amended by 2002 PA 427, sections 205, 319, 361, and 381 as
amended and section 212 as added by 1985 PA 103, sections 210, 213,
274, 331, 801, 836, 837, 847, 853, and 862 as amended by 1994 PA
271, sections 301, 354, and 401 as amended by 1987 PA 28, section
315 as amended by 2009 PA 226, section 358 as added by 1980 PA 357,

section 625 as amended by 2002 PA 626, and section 835 as amended by 1996 PA 357, and by adding sections 302, 613, and 659; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 161. (1) As used in this act, "employee" means:

2 (a) A person in the service of the state, a county, city,
3 township, village, or school district, under any appointment, or
4 contract of hire, express or implied, oral or written. A person
5 employed by a contractor who has contracted with a county, city,
6 township, village, school district, or the state, through its
7 representatives, shall not be considered an employee of the state,
8 county, city, township, village, or school district ~~which~~**THAT** made
9 the contract, ~~when~~**IF** the contractor is subject to this act.

10 (b) Nationals of foreign countries employed pursuant to
11 section 102(a)(1) of the mutual educational and cultural exchange
12 act of 1961, Public Law 87-256, 22 ~~U.S.C.~~**USC** 2452, shall not be
13 considered employees under this act.

14 (c) Police officers, fire fighters, or employees of the police
15 or fire departments, or their dependents, in municipalities or
16 villages of this state providing like benefits, may waive the
17 provisions of this act and accept like benefits that are provided
18 by the municipality or village but ~~shall not be~~**ARE NOT** entitled to
19 like benefits from both the municipality or village and this act;
20 however, this waiver ~~shall~~**DOES** not prohibit ~~such~~**THOSE** employees
21 or their dependents from being reimbursed under section 315 for the
22 medical expenses or portion of medical expenses that are not
23 otherwise provided for by the municipality or village. This act

1 shall not be construed as limiting, changing, or repealing any of
2 the provisions of a charter of a municipality or village of this
3 state relating to benefits, compensation, pensions, or retirement
4 independent of this act, provided for employees.

5 (d) On-call members of a fire department of a county, city,
6 village, or township shall be considered to be employees of the
7 county, city, village, or township, and entitled to all the
8 benefits of this act ~~when~~ **IF** personally injured in the performance
9 of duties as on-call members of the fire department whether the on-
10 call member of the fire department is paid or unpaid. On-call
11 members of a fire department of a county, city, village, or
12 township shall be considered to be receiving the state average
13 weekly wage at the time of injury, as last determined under section
14 355, from the county, village, city, or township for the purpose of
15 calculating the weekly rate of compensation provided under this act
16 except that if the member's average weekly wage was greater than
17 the state average weekly wage at the time of the injury, the
18 member's weekly rate of compensation shall be determined based on
19 the member's average weekly wage.

20 (e) On-call members of a fire department or an on-call member
21 of a volunteer underwater diving team that contracts with or
22 receives reimbursement from 1 or more counties, cities, villages,
23 or townships ~~shall be~~ **IS** entitled to all the benefits of this act
24 ~~when~~ **IF** personally injured in the performance of their duties as
25 on-call members of a fire department or as an on-call member of a
26 volunteer underwater diving team whether the on-call member of the
27 fire department or the on-call member of the volunteer underwater

1 diving team is paid or unpaid. On-call members of a fire department
2 shall be considered to be receiving the state average weekly wage
3 at the time of injury, as last determined under section 355, from
4 the fire department for the purpose of calculating the weekly rate
5 of compensation provided under this act except that if the member's
6 average weekly wage was greater than the state average weekly wage
7 at the time of the injury, the member's weekly rate of compensation
8 shall be determined based on the member's average weekly wage. On-
9 call members of a volunteer underwater diving team shall be
10 considered to be receiving the state average weekly wage at the
11 time of injury, as last determined under section 355, from the fire
12 department for the purpose of calculating the weekly rate of
13 compensation provided under this act except that if the member's
14 average weekly wage was greater than the state average weekly wage
15 at the time of the injury, the member's weekly rate of compensation
16 shall be determined based on the member's average weekly wage.

17 (f) The benefits of this act ~~shall be~~ **ARE** available to a
18 safety patrol officer who is engaged in traffic regulation and
19 management for and by authority of a county, city, village, or
20 township, whether the officer is paid or unpaid, in the same manner
21 as benefits are available to on-call members of a fire department
22 under subdivision (d), upon the adoption by the legislative body of
23 the county, city, village, or township of a resolution to that
24 effect. A safety patrol officer or safety patrol force when used in
25 this act includes all persons who volunteer and are registered with
26 a school and assigned to patrol a public thoroughfare used by
27 students of a school.

1 (g) A volunteer civil defense worker who is a member of the
2 civil defense forces as provided by law and is registered on the
3 permanent roster of the civil defense organization of the state or
4 a political subdivision of the state shall be considered to be an
5 employee of the state or the political subdivision on whose
6 permanent roster the employee is enrolled ~~when~~**IF** engaged in the
7 performance of duty and shall be considered to be receiving the
8 state average weekly wage at the time of injury, as last determined
9 under section 355, from the state or political subdivision for
10 purposes of calculating the weekly rate of compensation provided
11 under this act.

12 (h) A volunteer licensed under section 20950 or 20952 of the
13 public health code, 1978 PA 368, MCL 333.20950 and 333.20952, who
14 is an on-call member of a life support agency as defined under
15 section 20906 of the public health code, 1978 PA 368, MCL
16 333.20906, shall be considered to be an employee of the county,
17 city, village, or township and entitled to the benefits of this act
18 ~~when~~**IF** personally injured in the performance of duties as an on-
19 call member of a life support agency whether the on-call member of
20 the life support agency is paid or unpaid. An on-call member of a
21 life support agency shall be considered to be receiving the state
22 average weekly wage at the time of injury, as last determined under
23 section 355, from the county, city, village, or township for
24 purposes of calculating the weekly rate of compensation provided
25 under this act except that if the member's average weekly wage was
26 greater than the state average weekly wage at the time of the
27 injury, the member's weekly rate of compensation shall be

1 determined based on the member's average weekly wage.

2 (i) A volunteer licensed under section 20950 or 20952 of the
3 public health code, 1978 PA 368, MCL 333.20950 and 333.20952, who
4 is an on-call member of a life support agency as defined under
5 section 20906 of the public health code, 1978 PA 368, MCL
6 333.20906, that contracts with or receives reimbursement from 1 or
7 more counties, cities, villages, or townships ~~shall be~~ **IS** entitled
8 to all the benefits of this act ~~when~~ **IF** personally injured in the
9 performance of his or her duties as an on-call member of a life
10 support agency whether the on-call member of the life support
11 agency is paid or unpaid. An on-call member of a life support
12 agency shall be considered to be receiving the state average weekly
13 wage at the time of injury, as last determined under section 355,
14 from the life support agency for the purpose of calculating the
15 weekly rate of compensation provided under this act except that if
16 the member's average weekly wage was greater than the state average
17 weekly wage at the time of the injury, the member's weekly rate of
18 compensation shall be determined based on the member's average
19 weekly wage.

20 (j) If a member of an organization recognized by 1 or more
21 counties, cities, villages, or townships within this state as an
22 emergency rescue team is employed by a state, county, city,
23 village, or township within this state as a police officer, fire
24 fighter, emergency medical technician, or ambulance driver and is
25 injured in the normal scope of duties including training, but
26 excluding activation, as a member of the emergency rescue team, he
27 or she shall be considered to be engaged in the performance of his

1 or her normal duties for the state, county, city, village, or
2 township. If the member of the emergency rescue team is not
3 employed by a state, county, city, village, or township within this
4 state as a police officer, fire fighter, emergency medical
5 technician, or ambulance driver, and is injured in the normal scope
6 of duties, including training, as a member of the emergency rescue
7 team, he or she shall be considered to be an employee of the team.
8 For the purpose of securing the payment of compensation under this
9 act, on activation, each member of the team shall be considered to
10 be covered by a policy obtained by the team unless the employer of
11 a member of the team agrees in writing to provide coverage for that
12 member under its policy. Members of an emergency rescue team shall
13 be considered to be receiving the state average weekly wage at the
14 time of injury, as last determined under section 355, from the team
15 for the purpose of calculating the weekly rate of compensation
16 provided under this act except that if the member's average weekly
17 wage was greater than the state average weekly wage at the time of
18 the injury, the member's weekly rate of compensation shall be
19 determined based on the member's average weekly wage. As used in
20 this subdivision, "activation" means a request by the emergency
21 management coordinator appointed pursuant to section 8 or 9 of the
22 emergency management act, 1976 PA 390, MCL 30.408 and 30.409, made
23 of and accepted by an emergency rescue team.

24 (k) A political subdivision of this state ~~shall not be~~ **IS NOT**
25 required to provide compensation insurance for a peace officer of
26 the political subdivision with respect to the protection and
27 compensation provided by 1937 PA 329, MCL 419.101 to 419.104.

1 (l) Every person in the service of another, under any contract
2 of hire, express or implied, including aliens; a person regularly
3 employed on a full-time basis by his or her spouse having specified
4 hours of employment at a specified rate of pay; working members of
5 partnerships receiving wages from the partnership irrespective of
6 profits; a person insured for whom and to the extent premiums are
7 paid based on wages, earnings, or profits; and minors, who shall be
8 considered the same as and have the same power to contract as adult
9 employees. Any minor under 18 years of age whose employment at the
10 time of injury ~~shall be~~ **IS** shown to be illegal, in the absence of
11 fraudulent use of permits or certificates of age in which case only
12 single compensation shall be paid, shall receive compensation
13 double that provided in this act.

14 (m) Every person engaged in a federally funded training
15 program or work experience program ~~which~~ **THAT** mandates the
16 provision of appropriate worker's compensation for participants and
17 ~~which~~ **THAT** is sponsored by the state, a county, city, township,
18 village, or school district, or an incorporated public board or
19 public commission in the state authorized by law to hold property
20 and to sue or be sued generally, or any consortium thereof, shall
21 be considered, for the purposes of this act, to be an employee of
22 the sponsor and entitled to the benefits of this act. The sponsor
23 ~~shall be~~ **IS** responsible for the provision of worker's compensation
24 and shall secure the payment of compensation by a method permitted
25 under section 611. If a sponsor contracts with a public or private
26 organization to operate a program, the sponsor may require the
27 organization to secure the payment of compensation by a method

1 permitted under section 611.

2 (n) Every person performing service in the course of the
3 trade, business, profession, or occupation of an employer at the
4 time of the injury, if the person in relation to this service does
5 not maintain a separate business, does not hold himself or herself
6 out to and render service to the public, and is not an employer
7 subject to this act. **ON AND AFTER JANUARY 1, 2013, SERVICES ARE**
8 **EMPLOYMENT IF THE SERVICES ARE PERFORMED BY AN INDIVIDUAL WHOM THE**
9 **MICHIGAN ADMINISTRATIVE HEARING SYSTEM DETERMINES TO BE IN AN**
10 **EMPLOYER-EMPLOYEE RELATIONSHIP USING THE 20-FACTOR TEST ANNOUNCED**
11 **BY THE INTERNAL REVENUE SERVICE OF THE UNITED STATES DEPARTMENT OF**
12 **TREASURY IN REVENUE RULING 87-41, 1 C.B. 296. AN INDIVIDUAL FOR**
13 **WHOM AN EMPLOYER IS REQUIRED TO WITHHOLD FEDERAL INCOME TAX IS**
14 **PRIMA FACIE CONSIDERED TO PERFORM SERVICE IN EMPLOYMENT UNDER THIS**
15 **ACT. IF A BUSINESS ENTITY REQUESTS THE MICHIGAN ADMINISTRATIVE**
16 **HEARING SYSTEM TO DETERMINE WHETHER 1 OR MORE INDIVIDUALS**
17 **PERFORMING SERVICE FOR THE ENTITY IN THIS STATE ARE IN COVERED**
18 **EMPLOYMENT, THE MICHIGAN ADMINISTRATIVE HEARING SYSTEM SHALL ISSUE**
19 **A DETERMINATION OF COVERAGE OF SERVICE PERFORMED BY THOSE**
20 **INDIVIDUALS AND ANY OTHER INDIVIDUALS PERFORMING SIMILAR SERVICES**
21 **UNDER SIMILAR CIRCUMSTANCES.**

22 (2) A policy or contract of worker's compensation insurance,
23 by endorsement, may exclude coverage as to any 1 or more named
24 partners or the spouse, child, or parent in the employer's family.
25 A person excluded pursuant to this subsection ~~shall not be~~ **IS NOT**
26 subject to this act and shall not be considered an employee for the
27 purposes of section 115.

1 (3) An employee who is subject to this act, including an
2 employee covered pursuant to section 121, who is an employee of a
3 limited liability company of not more than 10 members and who is
4 also a manager and member, as defined in section 102 of the
5 Michigan limited liability company act, 1993 PA 23, MCL 450.4102,
6 and who owns at least a 10% interest in that limited liability
7 company, with the consent of the limited liability company as
8 approved by a majority vote of the members, or if the limited
9 liability company has more than 1 manager, all of the managers who
10 are also members, except as otherwise provided in an operating
11 agreement, may elect to be individually excluded from this act by
12 giving a notice of the election in writing to the carrier with the
13 consent of the limited liability company endorsed on the notice.
14 The exclusion ~~shall remain~~ **REMAINS** in effect until revoked by the
15 employee by giving notice in writing to the carrier. While the
16 exclusion is in effect, section 141 ~~shall~~ **DOES** not apply to any
17 action brought by the employee against the limited liability
18 company.

19 (4) An employee who is subject to this act, including an
20 employee covered pursuant to section 121, who is an employee of a
21 corporation ~~which~~ **THAT** has not more than 10 stockholders and who is
22 also an officer and stockholder who owns at least 10% of the stock
23 of that corporation, with the consent of the corporation as
24 approved by its board of directors, may elect to be individually
25 excluded from this act by giving a notice of the election in
26 writing to the carrier with the consent of the corporation endorsed
27 on the notice. The exclusion ~~shall remain~~ **REMAINS** in effect until

1 revoked by the employee by giving a notice in writing to the
2 carrier. While the exclusion is in effect, section 141 ~~shall~~**DOES**
3 not apply to any action brought by the employee against the
4 corporation.

5 (5) If the persons to be excluded from coverage under this act
6 pursuant to subsections (2) to (4) comprise all of the employees of
7 the employer, those persons may elect to be excluded from being
8 considered employees under this act by submitting written notice of
9 that election to the director upon a form prescribed by the
10 director. The exclusion shall remain in effect until revoked by
11 giving written notice to the director.

12 Sec. 205. The director shall devote his or her entire time to
13 and personally perform the duties of his or her office and shall
14 engage in no other business or professional activity. He or she may
15 make rules not inconsistent with this act for carrying out the
16 provisions of the act in accordance with ~~Act No. 306 of the Public~~
17 ~~Acts of 1969, as amended, being sections 24.201 to 24.328 of the~~
18 ~~Michigan Compiled Laws. THE ADMINISTRATIVE PROCEDURES ACT OF 1969,~~
19 **1969 PA 306, MCL 24.201 TO 24.328.** He or she shall appoint ~~such~~
20 assistants and employees as ~~may be necessary,~~ who ~~shall be~~**ARE**
21 entitled to necessary travel expenses incurred in ~~the performance~~
22 ~~of~~**PERFORMING** official duties subject to the standardized travel
23 regulations of ~~the~~**THIS** state, and ~~such compensation as shall be~~
24 ~~determined in accordance with~~ **APPLICABLE** civil service rules. ~~where~~
25 ~~applicable. He or she shall appoint an assistant who shall have~~
26 ~~charge of the Detroit office of the bureau. He or she shall have~~
27 **HAS** general supervisory control of the ~~bureau~~**AGENCY** and all **ITS**

1 officers and employees. ~~thereunder.~~ He or she ~~shall have~~ **HAS** charge
 2 of ~~the assignment of~~ **ASSIGNING** the work of the ~~bureau~~ **AGENCY** to the
 3 assistants, ~~hearing referees,~~ and employees. He or she ~~shall have~~
 4 ~~charge of the docketing and progress of contested cases including~~
 5 ~~the power to order a hearing referee to dismiss without prejudice~~
 6 ~~for lack of progress in the absence of good cause shown, in~~
 7 ~~accordance with rules and procedures established for effecting~~
 8 ~~these purposes. However, cases~~ **CASES** involving a carrier
 9 terminating the **VOLUNTARY** payment of benefits ~~which had been paid~~
 10 ~~voluntarily~~ and cases involving a petition to stop or reduce
 11 compensation shall **BE HELD WITHIN 60 DAYS AND** take precedence over
 12 other cases. ~~and a hearing thereon shall be held within 60 days.~~
 13 The director ~~is authorized to~~ **MAY** provide assistance to employers
 14 and employees in ~~the resolution of~~ **RESOLVING** small disputes. He or
 15 she ~~shall have~~ **HAS** general charge of all administrative functions
 16 of the ~~bureau~~ **AGENCY** and may delegate ~~such~~ **THE** duties, ~~the~~
 17 ~~performance of such~~ administrative functions, and the authority
 18 incident thereto. **TO THOSE DUTIES AND FUNCTIONS.**

19 Sec. 210. ~~(1) The qualifications advisory committee, in~~
 20 ~~consultation with the board of magistrates, shall develop a written~~
 21 ~~examination. The examination shall be administered to applicants~~
 22 ~~for the position of worker's compensation magistrate in order to~~
 23 ~~determine the applicant's ability and knowledge with regard to~~
 24 ~~worker's compensation in the following areas:~~

- 25 ~~—— (a) Knowledge of this act.~~
- 26 ~~—— (b) Skills with regard to fact finding.~~
- 27 ~~—— (c) The Michigan rules of evidence.~~

~~1 (d) A basic understanding of human anatomy and physiology.~~

~~2 (2) An applicant for the position of worker's compensation~~

~~3 magistrate, including those persons who were employed as hearing~~

~~4 referees under this act on or before March 31, 1987, who~~

~~5 successfully completes the examination provided for under~~

~~6 subsection (1) or who has not less than 5 years experience as an~~

~~7 attorney in the field of worker's compensation shall be interviewed~~

~~8 by the qualifications advisory committee for the position of~~

~~9 worker's compensation magistrate. To meet the requirement of 5~~

~~10 years' legal experience as an attorney in the field of worker's~~

~~11 compensation, an applicant must document to the qualifications~~

~~12 advisory committee a period of time totaling 5 years during which~~

~~13 the applicant met 1 of the following criteria:~~

~~14 (a) A significant portion of the applicant's personal practice~~

~~15 has been in active worker's compensation trial practice~~

~~16 representing claimants or employers.~~

~~17 (b) A significant portion of the applicant's personal practice~~

~~18 has been in active worker's compensation appellate practice~~

~~19 representing claimants or employers.~~

~~20 (c) Service as a member of the former worker's compensation~~

~~21 appeal board or the worker's compensation appellate commission.~~

~~22 (3) The qualifications advisory committee, after completing~~

~~23 personal interviews of the eligible applicants, shall determine~~

~~24 which of the applicants are considered qualified for the position~~

~~25 of worker's compensation magistrate. A person determined to be~~

~~26 qualified before this 1994 amendatory act shall continue to be~~

~~27 considered qualified after the effective date of this 1994~~

1 ~~amendatory act. The personal interviews shall be used to determine~~
2 ~~the applicant's suitability for the position, especially with~~
3 ~~regard to his or her objectivity.~~

4 ~~—— (4) The governor shall appoint only an applicant determined to~~
5 ~~be qualified by the qualifications advisory committee as a worker's~~
6 ~~compensation magistrate for each available position pursuant to~~
7 ~~section 213.~~ **WITHIN THE MICHIGAN ADMINISTRATIVE HEARING SYSTEM ONLY**
8 **AN INDIVIDUAL WHO IS A MEMBER IN GOOD STANDING OF THE STATE BAR OF**
9 **MICHIGAN AND HAS BEEN AN ATTORNEY LICENSED TO PRACTICE IN THE**
10 **COURTS OF THIS STATE FOR 5 YEARS OR MORE.**

11 ~~—— (5) The department of labor may develop pamphlets to assist~~
12 ~~those persons who desire to take the examination for worker's~~
13 ~~compensation magistrate.~~

14 Sec. 212. (1) ~~The qualifications advisory committee~~ **THE**
15 **EXECUTIVE DIRECTOR OF THE MICHIGAN ADMINISTRATIVE HEARING SYSTEM**
16 **AND THE CHAIR OF THE WORKER'S COMPENSATION BOARD OF MAGISTRATES, IN**
17 **CONSULTATION,** shall **ANNUALLY** evaluate the performance of each
18 worker's compensation magistrate. ~~at least once every 2 years.~~ The
19 evaluation shall be based upon at least the following criteria:

20 (a) The rate of affirmance by the ~~appeal board and the~~
21 **MICHIGAN COMPENSATION** appellate commission of the worker's
22 compensation magistrate's opinions and orders.

23 (b) Productivity including reasonable time deadlines for
24 disposing of cases **AND ADHERENCE TO ESTABLISHED PRODUCTIVITY**
25 **STANDARDS.**

26 (c) Manner in conducting hearings.

27 (d) Knowledge of rules of evidence as demonstrated by

1 transcripts of the hearings conducted by the worker's compensation
2 magistrate.

3 (e) Knowledge of the law.

4 (f) Evidence of any demonstrable bias against particular
5 defendants, claimants, or attorneys.

6 (g) Written surveys or comments of all interested parties.

7 Information obtained under this subdivision ~~shall be~~ **IS** exempt from
8 disclosure under the freedom of information act, ~~Act No. 442 of the~~
9 ~~Public Acts of 1976, being sections 15.231 to 15.246 of the~~
10 ~~Michigan Compiled Laws 1976 PA 442, MCL 15.231 TO 15.246.~~

11 (2) Upon completing an evaluation under this section, the
12 ~~qualifications advisory committee~~ **EXECUTIVE DIRECTOR OF THE**
13 **MICHIGAN ADMINISTRATIVE HEARING SYSTEM** shall submit a written
14 report including any supporting documentation to the ~~governor~~
15 **DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**
16 regarding that evaluation, which may include recommendations with
17 regard to 1 or more of the following:

18 (a) ~~Promotion.~~ **RETENTION.**

19 (b) Suspension.

20 (c) Removal.

21 (d) Additional training or education.

22 ~~— (3) The governor shall respond in writing to the committee~~
23 ~~regarding the action taken in response to the report of the~~
24 ~~committee.~~

25 (3) **THE GOVERNOR MAY REMOVE A MAGISTRATE UPON RECOMMENDATION**
26 **BY THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY**
27 **AFFAIRS BASED UPON RECOMMENDATIONS IN A REPORT UNDER SUBSECTION (2)**

1 OR UPON OTHER NEGLECT OF DUTIES.

2 Sec. 213. (1) ~~The~~ **CONSISTENT WITH EXECUTIVE REORGANIZATION**
3 **ORDER NO. 2011-6, MCL 445.2032, THE** worker's compensation board of
4 magistrates is established as an autonomous entity in the
5 ~~department of labor.~~ **MICHIGAN ADMINISTRATIVE HEARING SYSTEM.** The
6 board shall consist of ~~30~~ **17** members appointed by the governor with
7 the advice and consent of the senate. ~~The governor shall designate~~
8 ~~1 of the appointees as the member that will be chairperson. A~~
9 ~~person shall not be appointed to the board who has not been~~
10 ~~recommended by the qualifications advisory committee. All members~~
11 of the board shall be members in good standing of the state bar of
12 Michigan.

13 (2) The members of the board shall be appointed for terms of 4
14 years. ~~A member who has served for 12 years shall not be~~
15 ~~reappointed to a new term. A vacancy caused by the expiration of a~~
16 term shall be filled in the same manner as the original
17 appointment. A member shall not serve beyond the expiration of his
18 or her term. ~~unless the qualifications advisory committee fails to~~
19 ~~submit a recommendation to the governor before the expiration of~~
20 ~~the term.~~ A member may be reappointed. A member appointed to fill a
21 vacancy created other than by expiration of a term shall be
22 appointed for the balance of the unexpired term. ~~A member of the~~
23 ~~board may be removed by the governor for good cause which shall be~~
24 ~~explained in writing to the worker's compensation magistrate. Good~~
25 ~~cause for removal shall include, but not be limited to, lack of~~
26 ~~productivity or other neglect of duties.~~

27 (3) The governor ~~may~~ **SHALL** designate a member of the board as

1 the chairperson upon a vacancy occurring in that position. The
2 chairperson of the board shall have general supervisory control of
3 and be in charge of the ~~employees~~ **MEMBERS** of the board and the
4 assignment and scheduling of the work of the board **MEMBERS**.

5 (4) In the case of an extended leave of absence or disability
6 **OR A SIGNIFICANT INCREASE IN CASELOAD**, the ~~chairperson~~ **EXECUTIVE**
7 **DIRECTOR OF THE MICHIGAN ADMINISTRATIVE HEARING SYSTEM** may select
8 temporary magistrates to serve for not more than 6 months in any 2-
9 year period. ~~from a list maintained by the qualifications advisory~~
10 ~~committee. The list shall be composed of persons who are attorneys~~
11 ~~licensed to practice in this state and who are former or retired~~
12 ~~worker's disability compensation magistrates, or former or retired~~
13 ~~worker's disability compensation hearing referees or administrative~~
14 ~~law judges. A temporary magistrate selected by the chairperson~~
15 ~~shall have~~ **EXECUTIVE DIRECTOR OF THE MICHIGAN ADMINISTRATIVE**
16 **HEARING SYSTEM HAS** the same powers and duties as an appointed
17 magistrate under this act. The ~~chairperson~~ **EXECUTIVE DIRECTOR OF**
18 **THE MICHIGAN ADMINISTRATIVE HEARING SYSTEM** may also establish
19 productivity standards that are to be adhered to by employees of
20 the board, the board, and individual magistrates. Each member of
21 the board shall devote full time to the functions of the board.
22 Each member of the board shall personally perform the duties of the
23 office during the hours generally worked by officers and employees
24 of the executive departments of the state.

25 (5) ~~(4)~~ The chairperson of the board shall serve as
26 chairperson at the pleasure of the governor.

27 (6) ~~(5)~~ Each member of the board shall receive an annual

1 salary and shall ~~be entitled to~~ **RECEIVE** necessary traveling
2 expenses incurred in the performance of official duties subject to
3 the standardized travel regulations of the state.

4 (7) ~~(6) The board~~ **MICHIGAN ADMINISTRATIVE HEARING SYSTEM** may
5 employ the staff it considers necessary to be able to perform its
6 duties under this act, which may include legal assistants for the
7 purpose of legal research and otherwise assisting the board and
8 individual members of the board.

9 (8) ~~(7) The board is an independent body with the powers and~~
10 ~~duties as provided for under this act. The board~~ **MICHIGAN**
11 **ADMINISTRATIVE HEARING SYSTEM** may promulgate rules on
12 administrative hearing procedures for purposes under this act.

13 (9) ~~(8) The chairperson of the board may assign and reassign~~
14 ~~worker's compensation magistrates to hear cases at locations in~~
15 ~~this state.~~

16 (10) ~~(9) The department of labor~~ **LICENSING AND REGULATORY**
17 **AFFAIRS** shall provide suitable office space for the board of
18 worker's compensation magistrates and the employees of the board.

19 Sec. 274. ~~(1) The worker's compensation appellate commission~~
20 ~~is established as an autonomous entity in the department of labor.~~
21 ~~The commission shall consist of 7 members appointed by the governor~~
22 ~~with the advice and consent of the senate. The governor shall~~
23 ~~appoint the initial members of the commission not later than~~
24 ~~January 1, 1986 and shall designate 1 of the appointees as the~~
25 ~~member that will be chairperson. The governor shall appoint only a~~
26 ~~person determined to be qualified by the qualifications advisory~~
27 ~~committee under section 209. All members of the commission shall be~~

1 ~~members in good standing of the state bar of Michigan.~~

2 ~~—— (2) The members of the commission shall be appointed for terms~~
3 ~~of 4 years. A member who has served for 12 years shall not be~~
4 ~~reappointed to a new term. A vacancy caused by the expiration of a~~
5 ~~term shall be filled in the same manner as the original~~
6 ~~appointment. A member shall not serve beyond the expiration of his~~
7 ~~or her term unless the qualification advisory committee fails to~~
8 ~~submit a recommendation to the governor before the expiration of~~
9 ~~the term. A member may be reappointed. A member appointed to fill a~~
10 ~~vacancy created other than by expiration of a term shall be~~
11 ~~appointed for the balance of the unexpired term. A member of the~~
12 ~~commission may be removed by the governor for good cause which~~
13 ~~shall be explained in writing. Good cause for removal shall~~
14 ~~include, but not be limited to, lack of productivity or other~~
15 ~~neglect of duties.~~

16 ~~—— (3) The governor may designate a member of the commission as~~
17 ~~the chairperson upon a vacancy occurring in that position. The~~
18 ~~chairperson of the commission shall have general supervisory~~
19 ~~control of and be in charge of the employees of the commission and~~
20 ~~the assignment and scheduling of the work of the commission. The~~
21 ~~chairperson may also establish productivity standards that are to~~
22 ~~be adhered to by employees of the commission, the commission,~~
23 ~~individual members of the commission, and panels of the commission.~~
24 ~~Each member of the commission shall devote full time to the~~
25 ~~functions of the commission. Each member shall personally perform~~
26 ~~the duties of the office during the hours generally worked by~~
27 ~~officers and employees of the executive departments of the state.~~

~~1 (4) The chairperson of the commission shall serve as
2 chairperson at the pleasure of the governor.~~

~~3 (5) Each member of the commission shall receive an annual
4 salary which shall be not less than the salary paid to worker's
5 compensation magistrates or hearing referees of the most senior
6 classification and shall be entitled to necessary traveling
7 expenses incurred in the performance of official duties subject to
8 the standardized travel regulations of the state.~~

~~9 (6) The commission may employ the staff it considers necessary
10 to be able to perform its duties under this act which may include
11 legal assistants for the purpose of legal research and otherwise
12 assisting the commission.~~

13 (1) ~~(7)~~ The commission is an independent body with the power
14 and authority to review the **MICHIGAN COMPENSATION APPELLATE**
15 **COMMISSION CREATED IN EXECUTIVE REORGANIZATION ORDER NO. 2011-6,**
16 **MCL 445.2032, AND HOUSED WITHIN THE MICHIGAN ADMINISTRATIVE HEARING**
17 **SYSTEM, MAY HANDLE, PROCESS, AND DECIDE APPEALS FROM** orders of the
18 director and hearing referees and the orders and opinions of the
19 worker's compensation magistrates as provided for under this act.
20 The commission may promulgate rules on administrative appellate
21 procedure for purposes under this act.

22 (2) ~~(8)~~ Except as otherwise provided in subsection ~~(9)~~, ~~(3)~~,
23 matters that are to be reviewed by the commission shall be randomly
24 assigned to a panel of 3 members of the commission for disposition.
25 The chairperson of the commission may reassign a matter in order to
26 ensure timely review and decision of that matter. The decision
27 reached by a majority of the assigned 3 members of a panel shall be

1 the final decision of the commission.

2 (3) ~~(9)~~ Any matter that is to be reviewed by the commission
3 that may establish a precedent with regard to worker's compensation
4 in this state as determined by the chairperson, or any matter ~~which~~
5 **THAT** 2 or more members of the commission request be reviewed by the
6 entire commission, shall be reviewed and decided by the entire
7 commission.

8 (4) ~~(10)~~ Opinions of the commission shall be in writing. The
9 commission shall provide for the publication of those opinions.

10 (5) ~~(11)~~ The department of ~~labor~~ **LICENSING AND REGULATORY**
11 **AFFAIRS** shall provide suitable office space for the commission and
12 employees of the commission.

13 Sec. 301. (1) An employee, who receives a personal injury
14 arising out of and in the course of employment by an employer who
15 is subject to this act at the time of the injury, shall be paid
16 compensation as provided in this act. **A PERSONAL INJURY UNDER THIS**
17 **ACT IS COMPENSABLE IF WORK CAUSES, CONTRIBUTES TO, OR AGGRAVATES**
18 **PATHOLOGY IN A MANNER SO AS TO CREATE A PATHOLOGY THAT IS MEDICALLY**
19 **DISTINGUISHABLE FROM ANY PATHOLOGY THAT EXISTED PRIOR TO THE**
20 **INJURY.** In the case of death resulting from the personal injury to
21 the employee, compensation shall be paid to the employee's
22 dependents as provided in this act. Time of injury or date of
23 injury as used in this act in the case of a disease or in the case
24 of an injury not attributable to a single event ~~shall be~~ **IS** the
25 last day of work in the employment in which the employee was last
26 subjected to the conditions that resulted in the employee's
27 disability or death.

1 (2) Mental disabilities and conditions of the aging process,
2 including but not limited to heart and cardiovascular conditions ~~7~~
3 ~~shall be~~ **AND DEGENERATIVE ARTHRITIS, ARE** compensable if contributed
4 to or aggravated or accelerated by the employment in a significant
5 manner. Mental disabilities ~~shall be~~ **ARE** compensable ~~when~~ **IF**
6 arising out of actual events of employment, not unfounded
7 perceptions thereof, **AND IF THE EMPLOYEE'S PERCEPTION OF THE ACTUAL**
8 **EVENTS IS REASONABLY GROUNDED IN FACT OR REALITY.**

9 (3) An employee going to or from his or her work, while on the
10 premises where the employee's work is to be performed, and within a
11 reasonable time before and after his or her working hours, is
12 presumed to be in the course of his or her employment.
13 Notwithstanding this presumption, an injury incurred in the pursuit
14 of an activity the major purpose of which is social or recreational
15 is not covered under this act. Any cause of action brought for such
16 an injury is not subject to section 131.

17 (4) As used in this chapter: ~~"disability"~~

18 **(A) "DISABILITY"** means a limitation of an employee's wage
19 earning capacity in work suitable to his or her qualifications and
20 training resulting from a personal injury or work-related disease.
21 **A LIMITATION OF WAGE EARNING CAPACITY OCCURS ONLY IF A PERSONAL**
22 **INJURY COVERED UNDER THIS ACT RESULTS IN THE EMPLOYEE'S BEING**
23 **UNABLE TO PERFORM ALL JOBS PAYING THE MAXIMUM WAGES IN WORK**
24 **SUITABLE TO THAT EMPLOYEE'S QUALIFICATIONS AND TRAINING, WHICH**
25 **INCLUDES WORK THAT MAY BE PERFORMED USING THE EMPLOYEE'S**
26 **TRANSFERABLE WORK SKILLS. A DISABILITY IS TOTAL IF THE EMPLOYEE IS**
27 **UNABLE TO EARN IN ANY JOB PAYING MAXIMUM WAGES IN WORK SUITABLE TO**

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1 THE EMPLOYEE'S QUALIFICATIONS AND TRAINING. A DISABILITY IS PARTIAL
2 IF THE EMPLOYEE RETAINS A WAGE EARNING CAPACITY AT A PAY LEVEL LESS
3 THAN HIS OR HER MAXIMUM WAGES IN WORK SUITABLE TO HIS OR HER
4 QUALIFICATIONS AND TRAINING. The establishment of disability does
5 not create a presumption of wage loss.

6 (B) EXCEPT AS PROVIDED IN SECTION 302, "WAGE EARNING CAPACITY"
7 MEANS THE WAGES THE EMPLOYEE EARNS OR IS CAPABLE OF EARNING AT A
8 JOB REASONABLY AVAILABLE TO THAT EMPLOYEE, WHETHER OR NOT WAGES ARE
9 ACTUALLY EARNED. FOR THE PURPOSES OF ESTABLISHING A LIMITATION OF
10 WAGE EARNING CAPACITY, AN EMPLOYEE HAS AN AFFIRMATIVE DUTY TO SEEK
11 WORK REASONABLY AVAILABLE TO THAT EMPLOYEE, TAKING INTO
12 CONSIDERATION THE LIMITATIONS FROM THE WORK-RELATED PERSONAL INJURY
13 OR DISEASE. A MAGISTRATE MAY CONSIDER GOOD-FAITH JOB SEARCH EFFORTS
14 TO DETERMINE WHETHER JOBS ARE REASONABLY AVAILABLE.

15 (C) "WAGE LOSS" MEANS THE AMOUNT OF WAGES LOST DUE TO A
16 DISABILITY. THE EMPLOYEE SHALL ESTABLISH A CONNECTION BETWEEN THE
17 DISABILITY AND REDUCED WAGES IN ESTABLISHING THE WAGE LOSS. WAGE
18 LOSS MAY BE ESTABLISHED, AMONG OTHER METHODS, BY DEMONSTRATING THE
19 EMPLOYEE'S GOOD-FAITH EFFORT TO PROCURE WORK WITHIN HIS OR HER WAGE
20 EARNING CAPACITY. A PARTIALLY DISABLED EMPLOYEE WHO ESTABLISHES A
21 GOOD-FAITH EFFORT TO PROCURE WORK BUT CANNOT OBTAIN << >> WORK WITHIN
22 HIS OR HER WAGE EARNING CAPACITY IS ENTITLED TO WEEKLY BENEFITS
23 UNDER SUBSECTION (7) AS IF TOTALLY DISABLED.

24 (5) TO ESTABLISH AN INITIAL SHOWING OF DISABILITY, AN EMPLOYEE
25 SHALL DO ALL OF THE FOLLOWING:

26 (A) DISCLOSE HIS OR HER QUALIFICATIONS AND TRAINING, INCLUDING
27 EDUCATION, SKILLS, AND EXPERIENCE, WHETHER OR NOT THEY ARE RELEVANT

1 TO THE JOB THE EMPLOYEE WAS PERFORMING AT THE TIME OF THE INJURY.

2 (B) PROVIDE EVIDENCE AS TO THE JOBS, IF ANY, HE OR SHE IS
3 QUALIFIED AND TRAINED TO PERFORM WITHIN THE SAME SALARY RANGE AS
4 HIS OR HER MAXIMUM WAGE EARNING CAPACITY AT THE TIME OF THE INJURY.

5 (C) DEMONSTRATE THAT THE WORK-RELATED INJURY PREVENTS THE
6 EMPLOYEE FROM PERFORMING JOBS IDENTIFIED AS WITHIN HIS OR HER
7 QUALIFICATIONS AND TRAINING THAT PAY MAXIMUM WAGES.

8 (D) IF THE EMPLOYEE IS CAPABLE OF PERFORMING ANY OF THE JOBS
9 IDENTIFIED IN SUBDIVISION (C), SHOW THAT HE OR SHE CANNOT OBTAIN
10 ANY OF THOSE JOBS. THE EVIDENCE SHALL INCLUDE A SHOWING OF A GOOD-
11 FAITH ATTEMPT TO PROCURE POST-INJURY EMPLOYMENT IF THERE ARE JOBS
12 AT THE EMPLOYEE'S MAXIMUM WAGE EARNING CAPACITY AT THE TIME OF THE
13 INJURY.

14 (6) ONCE AN EMPLOYEE ESTABLISHES AN INITIAL SHOWING OF A
15 DISABILITY UNDER SUBSECTION (5), THE EMPLOYER BEARS THE BURDEN OF
16 PRODUCTION OF EVIDENCE TO REFUTE THE EMPLOYEE'S SHOWING. IN
17 SATISFYING ITS BURDEN OF PRODUCTION OF EVIDENCE, THE EMPLOYER HAS A
18 RIGHT TO DISCOVERY IF NECESSARY FOR THE EMPLOYER TO SUSTAIN ITS
19 BURDEN AND PRESENT A MEANINGFUL DEFENSE. THE EMPLOYEE MAY PRESENT
20 ADDITIONAL EVIDENCE TO CHALLENGE THE EVIDENCE SUBMITTED BY THE
21 EMPLOYER.

22 (7) IF A PERSONAL INJURY ARISING OUT OF THE COURSE OF
23 EMPLOYMENT CAUSES TOTAL DISABILITY AND WAGE LOSS AND THE EMPLOYEE
24 IS ENTITLED TO WAGE LOSS BENEFITS, THE EMPLOYER SHALL PAY OR CAUSE
25 TO BE PAID TO THE INJURED EMPLOYEE AS PROVIDED IN THIS SECTION
26 WEEKLY COMPENSATION EQUAL TO 80% OF THE EMPLOYEE'S AFTER-TAX
27 AVERAGE WEEKLY WAGE, BUT NOT MORE THAN THE MAXIMUM WEEKLY RATE

1 DETERMINED UNDER SECTION 355. COMPENSATION SHALL BE PAID FOR THE
2 DURATION OF THE DISABILITY.

3 (8) IF A PERSONAL INJURY ARISING OUT OF THE COURSE OF
4 EMPLOYMENT CAUSES PARTIAL DISABILITY AND WAGE LOSS AND THE EMPLOYEE
5 IS ENTITLED TO WAGE LOSS BENEFITS, THE EMPLOYER SHALL PAY OR CAUSE
6 TO BE PAID TO THE INJURED EMPLOYEE AS PROVIDED IN THIS SECTION
7 WEEKLY COMPENSATION EQUAL TO 80% OF THE DIFFERENCE BETWEEN THE
8 INJURED EMPLOYEE'S AFTER-TAX AVERAGE WEEKLY WAGE BEFORE THE
9 PERSONAL INJURY AND THE EMPLOYEE'S WAGE EARNING CAPACITY AFTER THE
10 PERSONAL INJURY, BUT NOT MORE THAN THE MAXIMUM WEEKLY RATE
11 DETERMINED UNDER SECTION 355. COMPENSATION SHALL BE PAID FOR THE
12 DURATION OF THE DISABILITY.

13 (9) ~~(5) If disability is AND WAGE LOSS ARE established,~~
14 ~~pursuant to subsection (4), entitlement to weekly wage loss~~
15 ~~benefits shall be determined~~ **AS APPLICABLE** pursuant to this section
16 and as follows:

17 (a) If an employee receives a bona fide offer of reasonable
18 employment from the previous employer, another employer, or through
19 the Michigan ~~employment security commission~~ **UNEMPLOYMENT INSURANCE**
20 **AGENCY** and the employee refuses that employment without good and
21 reasonable cause, the employee shall be considered to have
22 voluntarily removed himself or herself from the work force and is
23 ~~no longer~~ **NOT** entitled to any wage loss benefits under this act
24 during the period of ~~such~~ refusal.

25 (B) IF AN EMPLOYEE IS TERMINATED FROM REASONABLE EMPLOYMENT
26 FOR FAULT OF THE EMPLOYEE, THE EMPLOYEE IS CONSIDERED TO HAVE
27 VOLUNTARILY REMOVED HIMSELF OR HERSELF FROM THE WORK FORCE AND IS

1 NOT ENTITLED TO ANY WAGE LOSS BENEFITS UNDER THIS ACT.

2 (C) ~~(b)~~—If an employee is employed and the ~~average~~ weekly wage
3 of the employee is less than that which the employee received
4 before the date of injury, the employee shall receive weekly
5 benefits under this act equal to 80% of the difference between the
6 injured employee's after-tax weekly wage before the date of injury
7 and the after-tax weekly wage ~~which~~ **THAT** the injured employee ~~is~~
8 ~~able to earn~~ **EARN**s after the date of injury, but not more than the
9 maximum weekly rate of compensation, as determined under section
10 355.

11 (D) ~~(c)~~—If an employee is employed and the average weekly wage
12 of the employee is equal to or more than the average weekly wage
13 the employee received before the date of injury, the employee is
14 not entitled to any wage loss benefits under this act for the
15 duration of ~~such~~ **THAT** employment.

16 (E) ~~(d)~~—If the employee, after having been employed pursuant
17 to this subsection ~~for 100 weeks or more~~ loses his or her job
18 through no fault of the employee **AND THE EMPLOYEE IS STILL**
19 **DISABLED**, the employee shall receive compensation under this act
20 ~~pursuant to the following~~ **AS FOLLOWS:**

21 (i) ~~If after exhaustion of unemployment benefit eligibility of~~
22 ~~an employee, a worker's compensation magistrate or hearing referee,~~
23 ~~as applicable, determines for any employee covered under this~~
24 ~~subdivision, that the employments since the time of injury have not~~
25 ~~established a new wage earning capacity, the employee shall receive~~
26 ~~compensation based upon his or her wage at the original date of~~
27 ~~injury. There is a presumption of wage earning capacity established~~

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1 ~~for employments totalling 250 weeks or more.~~ IF THE EMPLOYEE WAS
2 EMPLOYED FOR LESS THAN 100 WEEKS, THE EMPLOYEE SHALL RECEIVE
3 COMPENSATION BASED UPON HIS OR HER AVERAGE WEEKLY WAGE AT THE TIME
4 OF THE ORIGINAL INJURY.

5 (ii) ~~The employee must still be disabled as determined pursuant~~
6 ~~to subsection (4). If the employee is still disabled, he or she~~
7 ~~shall be entitled to wage loss benefits based on the difference~~
8 ~~between the normal and customary wages paid to those persons~~
9 ~~performing the same or similar employment, as determined at the~~
10 ~~time of termination of the employment of the employee, and the~~
11 ~~wages paid at the time of the injury.~~ IF THE EMPLOYEE WAS EMPLOYED
12 FOR 100 WEEKS OR MORE BUT LESS THAN 250 WEEKS, THEN AFTER
13 EXHAUSTING UNEMPLOYMENT BENEFIT ELIGIBILITY, A WORKER'S
14 COMPENSATION MAGISTRATE MAY DETERMINE THAT THE EMPLOYMENT SINCE THE
15 TIME OF THE INJURY HAS NOT ESTABLISHED A NEW WAGE EARNING CAPACITY
16 AND, IF THE MAGISTRATE MAKES THAT DETERMINATION, BENEFITS SHALL BE
17 BASED ON HIS OR HER AVERAGE WEEKLY WAGE AT THE ORIGINAL DATE OF
18 INJURY. IF THE MAGISTRATE DOES NOT MAKE THAT DETERMINATION, THE
19 EMPLOYEE IS PRESUMED TO HAVE ESTABLISHED A POST-INJURY WAGE EARNING
20 CAPACITY AND BENEFITS SHALL NOT BE PAID BASED ON THE WAGE AT THE
21 ORIGINAL DATE OF INJURY.

22 (iii) ~~If the employee becomes reemployed and the employee is~~
23 ~~still disabled, he or she shall then receive wage loss benefits as~~
24 ~~provided in subdivision (b).~~ IF THE EMPLOYEE WAS EMPLOYED FOR 250
25 WEEKS OR MORE, THE EMPLOYEE IS << >> PRESUMED TO HAVE
26 ESTABLISHED A POST-INJURY WAGE EARNING CAPACITY.

27 ~~(c) If the employee, after having been employed pursuant to~~

~~this subsection for less than 100 weeks loses his or her job for whatever reason, the employee shall receive compensation based upon his or her wage at the original date of injury.~~

~~—— (6) A carrier shall notify the Michigan employment security commission of the name of any injured employee who is unemployed and to which the carrier is paying benefits under this act.~~

~~—— (7) The Michigan employment security commission shall give priority to finding employment for those persons whose names are supplied to the commission under subsection (6).~~

(10) ~~(8)~~ The Michigan employment security commission **UNEMPLOYMENT INSURANCE AGENCY** shall notify the ~~bureau~~ **AGENCY** in writing of the name of any employee who refuses any bona fide offer of reasonable employment. Upon notification to the ~~bureau~~ **AGENCY**, the ~~bureau~~ **AGENCY** shall notify the carrier who shall terminate the benefits of the employee pursuant to subsection ~~(5)(a)~~ **(9) (A)**.

(11) ~~(9)~~ "Reasonable employment", as used in this section, means work that is within the employee's capacity to perform that poses no clear and proximate threat to that employee's health and safety, and that is within a reasonable distance from that employee's residence. The employee's capacity to perform shall not be limited to jobs in work suitable to his or her qualifications and training.

(12) ~~(10)~~ Weekly benefits ~~shall not be~~ **ARE NOT** payable during the period of confinement to a person who is incarcerated in a penal institution for violation of the criminal laws of this state or who is confined in a mental institution pending trial for a violation of the criminal laws of this state, if the violation or

1 reason for the confinement occurred while at work and is directly
2 related to the claim.

3 (13) ~~(11)~~—A person shall not discharge an employee or in any
4 manner discriminate against an employee because the employee filed
5 a complaint or instituted or caused to be instituted a proceeding
6 under this act or because of the exercise by the employee on behalf
7 of himself or herself or others of a right afforded by this act.

8 (14) ~~(12)~~—This section ~~shall apply~~ **APPLIES** to personal
9 injuries and work related diseases occurring on or after June 30,
10 1985.

11 SEC. 302. AS USED IN CHAPTERS 3 AND 4, "WAGE EARNING CAPACITY"
12 MEANS THE WAGES THE EMPLOYEE EARNS OR IS CAPABLE OF EARNING AT A
13 JOB REASONABLY AVAILABLE TO THAT EMPLOYEE IF THE EMPLOYEE IS A
14 MEMBER OF A FULL PAID FIRE DEPARTMENT OF AN AIRPORT RUN BY A COUNTY
15 ROAD COMMISSION IN COUNTIES OF 1,000,000 POPULATION OR MORE OR BY A
16 STATE UNIVERSITY OR COLLEGE OR OF A FULL PAID FIRE OR POLICE
17 DEPARTMENT OF A CITY, TOWNSHIP, OR INCORPORATED VILLAGE EMPLOYED
18 AND COMPENSATED UPON A FULL-TIME BASIS, A COUNTY SHERIFF OR THE
19 DEPUTY OF THE COUNTY SHERIFF, A MEMBER OF THE STATE POLICE, A
20 CONSERVATION OFFICER, A MOTOR CARRIER INSPECTOR OF THE MICHIGAN
21 PUBLIC SERVICE COMMISSION, OR ANY EMPLOYEE OF ANY AUTHORITY,
22 DISTRICT, BOARD, OR ANY OTHER ENTITY CREATED IN WHOLE OR IN PART BY
23 THE AUTHORIZATION OF 1 OR MORE CITIES, COUNTIES, VILLAGES, OR
24 TOWNSHIPS, WHETHER CREATED BY STATUTE, ORDINANCE, CONTRACT,
25 RESOLUTION, DELEGATION, OR ANY OTHER MECHANISM, WHO IS ENGAGED AS A
26 POLICE OFFICER, OR IN FIREFIGHTING OR SUBJECT TO THE HAZARDS
27 THEREOF. FOR THE PURPOSES OF ESTABLISHING A LIMITATION OF WAGE

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1 EARNING CAPACITY, AN EMPLOYEE HAS AN AFFIRMATIVE DUTY TO SEEK WORK
2 REASONABLY AVAILABLE TO THAT EMPLOYEE, TAKING INTO CONSIDERATION
3 THE LIMITATIONS FROM THE WORK-RELATED INJURY OR DISEASE. A
4 MAGISTRATE MAY CONSIDER GOOD-FAITH JOB SEARCH EFFORTS TO DETERMINE
5 WHETHER JOBS ARE REASONABLY AVAILABLE.

6 Sec. 315. (1) The employer shall furnish, or cause to be
7 furnished, to an employee who receives a personal injury arising
8 out of and in the course of employment, reasonable medical,
9 surgical, and hospital services and medicines, or other attendance
10 or treatment recognized by the laws of this state as legal, when
11 they are needed. However, an employer is not required to reimburse
12 or cause to be reimbursed charges for an optometric service unless
13 that service was included in the definition of practice of
14 optometry under section 17401 of the public health code, 1978 PA
15 368, MCL 333.17401, as of May 20, 1992 or for a chiropractic
16 service unless that service was included in the definition of
17 practice of chiropractic under section 16401 of the public health
18 code, 1978 PA 368, MCL 333.16401, as of January 1, 2009. An
19 employer is not required to reimburse or cause to be reimbursed
20 charges for services performed by a profession that was not
21 licensed or registered by the laws of this state on or before
22 January 1, 1998, but that becomes licensed, registered, or
23 otherwise recognized by the laws of this state after January 1,
24 1998. Attendant or nursing care shall not be ordered in excess of
25 56 hours per week if the care is to be provided by the employee's
26 spouse, brother, sister, child, parent, or any combination of these
27 persons. After ~~10~~<<28>> days from the inception of medical care as

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1 provided in this section, the employee may treat with a physician
2 of his or her own choice by giving to the employer the name of the
3 physician and his or her intention to treat with the physician. The
4 employer or the employer's carrier may file a petition objecting to
5 the named physician selected by the employee and setting forth
6 reasons for the objection. If the employer or carrier can show
7 cause why the employee should not continue treatment with the named
8 physician of the employee's choice, after notice to all parties and
9 a prompt hearing by a worker's compensation magistrate, the
10 worker's compensation magistrate may order that the employee
11 discontinue treatment with the named physician or pay for the
12 treatment received from the physician from the date the order is
13 mailed. The employer shall also supply to the injured employee
14 dental service, crutches, artificial limbs, eyes, teeth,
15 eyeglasses, hearing apparatus, and other appliances necessary to
16 cure, so far as reasonably possible, and relieve from the effects
17 of the injury. If the employer fails, neglects, or refuses so to
18 do, the employee shall be reimbursed for the reasonable expense
19 paid by the employee, or payment may be made in behalf of the
20 employee to persons to whom the unpaid expenses may be owing, by
21 order of the worker's compensation magistrate. The worker's
22 compensation magistrate may prorate attorney fees at the contingent
23 fee rate paid by the employee. <<

>>

27 (2) Except as otherwise provided in subsection (1), all fees

1 and other charges for any treatment or attendance, service,
2 devices, apparatus, or medicine under subsection (1), are subject
3 to rules promulgated by the workers' compensation agency pursuant
4 to the administrative procedures act of 1969, 1969 PA 306, MCL
5 24.201 to 24.328. The rules promulgated shall establish schedules
6 of maximum charges for the treatment or attendance, service,
7 devices, apparatus, or medicine, which schedule shall be annually
8 revised. A health facility or health care provider shall be paid
9 either its usual and customary charge for the treatment or
10 attendance, service, devices, apparatus, or medicine, or the
11 maximum charge established under the rules, whichever is less.

12 (3) The director of the workers' compensation agency shall
13 provide for an advisory committee to aid and assist in establishing
14 the schedules of maximum charges under subsection (2) for charges
15 or fees that are payable under this section. The advisory committee
16 shall be appointed by and serve at the pleasure of the director.

17 (4) If a carrier determines that a health facility or health
18 care provider has made any excessive charges or required
19 unjustified treatment, hospitalization, or visits, the health
20 facility or health care provider shall not receive payment under
21 this chapter from the carrier for the excessive fees or unjustified
22 treatment, hospitalization, or visits, and is liable to return to
23 the carrier the fees or charges already collected. The workers'
24 compensation agency may review the records and medical bills of a
25 health facility or health care provider determined by a carrier to
26 not be in compliance with the schedule of charges or to be
27 requiring unjustified treatment, hospitalization, or office visits.

1 (5) As used in this section, "utilization review" means the
2 initial evaluation by a carrier of the appropriateness in terms of
3 both the level and the quality of health care and health services
4 provided an injured employee, based on medically accepted
5 standards. A utilization review shall be accomplished by a carrier
6 pursuant to a system established by the workers' compensation
7 agency that identifies the utilization of health care and health
8 services above the usual range of utilization for the health care
9 and health services based on medically accepted standards and
10 provides for acquiring necessary records, medical bills, and other
11 information concerning the health care or health services.

12 (6) By accepting payment under this chapter, a health facility
13 or health care provider shall be considered to have consented to
14 submitting necessary records and other information concerning
15 health care or health services provided for utilization review
16 pursuant to this section. The health facilities and health care
17 providers shall be considered to have agreed to comply with any
18 decision of the workers' compensation agency pursuant to subsection
19 (7). A health facility or health care provider that submits false
20 or misleading records or other information to a carrier or the
21 workers' compensation agency is guilty of a misdemeanor punishable
22 by a fine of not more than \$1,000.00 or by imprisonment for not
23 more than 1 year, or both.

24 (7) If it is determined by a carrier that a health facility or
25 health care provider improperly overutilized or otherwise rendered
26 or ordered inappropriate health care or health services, or that
27 the cost of the health care or health services was inappropriate,

1 the health facility or health care provider may appeal to the
2 workers' compensation agency regarding that determination pursuant
3 to procedures provided for under the system of utilization review.

4 (8) The criteria or standards established for the utilization
5 review shall be established by rules promulgated by the workers'
6 compensation agency. A carrier that complies with the criteria or
7 standards as determined by the workers' compensation agency shall
8 be certified by the department.

9 (9) If a health facility or health care provider provides
10 health care or a health service that is not usually associated
11 with, is longer in duration in time than, is more frequent than, or
12 extends over a greater number of days than that health care or
13 service usually does with the diagnosis or condition for which the
14 patient is being treated, the health facility or health care
15 provider may be required by the carrier to explain the necessity or
16 indication for the reasons why in writing.

17 Sec. 319. (1) An employee who has suffered an injury covered
18 by this act shall be entitled to prompt medical rehabilitation
19 services. When as a result of the injury he or she is unable to
20 perform work for which he or she has previous training or
21 experience, the employee shall be entitled to such vocational
22 rehabilitation services, including retraining and job placement, as
23 may be reasonably necessary to restore him or her to useful
24 employment. If such services are not voluntarily offered and
25 accepted, the director on his or her own motion or upon application
26 of the employee, carrier, or employer, after affording the parties
27 an opportunity to be heard, may refer the employee to ~~a bureau~~

1 ~~approved~~ **AN AGENCY-APPROVED** facility for evaluation of the need
2 for, and kind of service, treatment, or training necessary and
3 appropriate to render the employee fit for a remunerative
4 occupation. Upon receipt of such report, the director may order
5 that the training, services, or treatment recommended in the report
6 be provided at the expense of the employer. The director may order
7 that any employee participating in vocational rehabilitation shall
8 receive additional payments for transportation or any extra and
9 necessary expenses during the period and arising out of his or her
10 program of vocational rehabilitation. Vocational rehabilitation
11 training, treatment, or service shall not extend for a period of
12 more than 52 weeks except in cases when, by special order of the
13 director after review, the period may be extended for an additional
14 52 weeks or portion thereof. If there is an unjustifiable refusal
15 to accept rehabilitation pursuant to a decision of the director,
16 the director shall order a loss or reduction of compensation in an
17 amount determined by the director for each week of the period of
18 refusal, except for specific compensation payable under section
19 361(1) and (2).

20 ~~(2) If a dispute arises between the parties concerning~~
21 ~~application of any of the provisions of subsection (1), any of the~~
22 ~~parties may apply for a hearing before a hearing referee or~~
23 ~~worker's compensation magistrate, as applicable.~~ **A PARTY MAY APPEAL**
24 **AN ORDER OF THE DIRECTOR UNDER SUBSECTION (1) TO THE MICHIGAN**
25 **COMPENSATION APPELLATE COMMISSION WITHIN 15 DAYS AFTER THE ORDER IS**
26 **MAILED TO THE PARTIES.**

27 ~~Sec. 331. The following persons shall be conclusively presumed~~

1 ~~to be wholly dependent for support upon a deceased employee:~~

2 ~~—— (a) A wife upon a husband with whom she lives at the time of~~
3 ~~his death, or from whom, at the time of his death, a worker's~~
4 ~~compensation magistrate shall find the wife was living apart for~~
5 ~~justifiable cause or because he had deserted her.~~

6 ~~—— (b) A~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A** child
7 under the age of 16 years, or **16 YEARS OR** over ~~16 years of age~~ if
8 physically or mentally incapacitated from earning, **IS CONCLUSIVELY**
9 **PRESUMED TO BE WHOLLY DEPENDENT FOR SUPPORT** upon the parent with
10 whom he or she is living at the time of the death of that parent.
11 In the event of the death of an employee who has at the time of
12 death a living child by a former spouse or a child who has been
13 deserted by ~~such~~ **THE** deceased employee under the age of 16 years,
14 or over if physically or mentally incapacitated from earning, ~~such~~
15 **THAT** child shall be conclusively presumed to be wholly dependent
16 for support upon the deceased employee, even though not living with
17 the deceased employee at the time of death. ~~and in all cases the~~
18 **THE** death benefit shall be divided ~~between or among the surviving~~
19 ~~spouse and all the children of the deceased employee, and all other~~
20 ~~persons, if any,~~ **AMONG ALL PERSONS** who are wholly dependent upon
21 the deceased employee, in equal shares. ~~the surviving spouse taking~~
22 ~~the same share as a child. In all cases mentioned in this section~~
23 ~~the~~ **THE** total sum due a surviving spouse and his or her own
24 children shall be paid directly to the surviving spouse for his or
25 her own use, and for the use and benefit of his or her own
26 children. If during the time compensation payments ~~shall~~ continue,
27 a worker's compensation magistrate ~~shall find~~ **FINDS** that the

1 surviving spouse is not properly caring for ~~such~~ **THOSE** children,
2 the worker's compensation magistrate shall order the shares of ~~such~~
3 **THE** children to be thereafter paid to their guardian or legal
4 representative for their use and benefit, instead of to their
5 father or mother. In all cases the sums due to the children by the
6 former spouse of the deceased employee shall be paid to their
7 guardians or legal representatives for the use and benefit of ~~such~~
8 **THOSE** children. In all other cases questions of dependency, in
9 whole or in part, shall be determined in accordance with the ~~fact,~~
10 ~~as the fact may be~~ **FACTS** at the time of the injury. ~~Where~~ **IF** a
11 deceased employee leaves a person wholly dependent upon him or her
12 for support, ~~such~~ **THAT** person shall be entitled to the whole death
13 benefit and persons partially dependent, if any, shall receive no
14 part thereof, while the person wholly dependent is living. All
15 persons wholly dependent upon a deceased employee, whether by
16 conclusive presumption or as a matter of fact, shall be entitled to
17 share equally in the death benefit in accordance with the
18 provisions of this section. If there is no one wholly dependent or
19 if the death of all persons wholly dependent ~~shall occur~~ **OCCURS**
20 before all compensation is paid, and there is ~~but~~ **ONLY** 1 person
21 partially dependent, ~~such~~ **THAT** person ~~shall be~~ **IS** entitled to
22 compensation according to the extent of his or her dependency; and
23 if there is more than 1 person partially dependent, the death
24 benefit shall be divided among them according to the relative
25 extent of their dependency. A person shall not be considered a
26 dependent unless he or she is a member of the family of the
27 deceased employee, or unless such person bears to the deceased

1 employee the relation of widower or widow, lineal descendant,
2 ancestor, or brother or sister.

3 Sec. 353. (1) For the purposes of sections 351 to 361,
4 dependency shall be determined as follows:

5 ~~—— (a) The following shall be conclusively presumed to be~~
6 ~~dependent for support upon an injured employee:~~

7 ~~—— (i) The wife of an injured employee living with such employee~~
8 ~~as such wife at the time of the injury.~~

9 (A) ~~(ii)~~ A child under the age of 16 years, or **16 YEARS OR** over
10 ~~said age~~, if physically or mentally incapacitated from earning,
11 living with his parent at the time of the injury of ~~such~~ **THAT**
12 parent.

13 (b) In all other cases questions of dependency shall be
14 determined in accordance with the ~~fact, as the fact may be~~ **FACTS** at
15 the time of the injury, except as provided in subsection (3). ~~No~~
16 ~~person shall~~ **A PERSON SHALL NOT** be considered a dependent unless he
17 **OR SHE** is a member of the family of the injured employee, or unless
18 ~~such~~ **THE** person bears to ~~such~~ **THE** injured employee the relation of
19 husband or wife, or lineal descendent, or ancestor or brother or
20 sister. Except as to ~~these~~ **A PERSON** conclusively presumed to be
21 ~~dependents, no person shall be deemed a dependent who~~ **A DEPENDENT,**
22 **A PERSON WHO** receives less than 1/2 of his **OR HER** support from an
23 injured employee **SHALL NOT BE CONSIDERED TO BE A DEPENDENT.**

24 (2) Weekly payments to an injured employee shall be reduced by
25 the additional amount provided for any dependent child or spouse or
26 other dependent when ~~such~~ **THE** child either reaches the age of 18
27 years or after becoming 16 ceases for a period of 6 months to

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1 receive more than 1/2 of his **OR HER** support from ~~such~~**THE** injured
 2 employee, if at ~~such~~**THAT** time he ~~THE~~ **CHILD** is neither physically
 3 nor mentally incapacitated from earning; ~~or when such~~ **WHEN THE**
 4 spouse ~~shall be~~ **IS** divorced by final decree from his **OR HER** injured
 5 spouse; ~~or when such~~**THE** child, spouse, or other dependent ~~shall~~
 6 ~~be~~ **IS** deceased.

7 (3) An increase in payments shall be made for increased
 8 numbers of conclusive dependents as defined in this act **WHO WERE**
 9 not ~~so~~ dependent at the time of the injury of an employee.

10 Sec. 354. (1) This section ~~is applicable when~~ **APPLIES IF**
 11 either weekly or lump sum payments are made to an employee as a
 12 result of liability ~~pursuant to~~ **UNDER** section **301(7) OR (8)**, 351,
 13 ~~361~~, or 835 with respect to the same time period for which **THE**
 14 **EMPLOYEE ALSO RECEIVED OR IS RECEIVING** old-age insurance benefit
 15 payments under the social security act, 42 U.S.C. ~~USC~~ 301 to 1397f;
 16 payments under a self-insurance plan, a wage continuation plan, or
 17 a disability insurance policy provided by the employer; or pension
 18 or retirement payments ~~pursuant to~~ **UNDER** a plan or program
 19 established or maintained by the employer. ~~are also received or~~
 20 ~~being received by the employee.~~ Except as otherwise provided in
 21 this section, the employer's obligation to pay or cause to be paid
 22 weekly benefits other than specific loss benefits under section

23 361(2) and (3) shall be reduced by these amounts:

24 (a) Fifty percent of the amount of the old-age insurance
 25 benefits received or being received under the social security act<<,
CHAPTER 531, 49 STAT. 620. HOWEVER, IF THE INJURED EMPLOYEE HAS BEEN
RECEIVING OLD-AGE INSURANCE BENEFIT PAYMENTS UNDER THE SOCIAL
SECURITY ACT, CHAPTER 531, 49 STAT. 620, BEFORE THE DATE OF THE
PERSONAL INJURY OR WORK-RELATED DISEASE, THEN IN NO EVENT SHALL THE
WEEKLY BENEFITS PAYABLE AFTER THE REDUCTION PROVIDED BY THIS
SUBDIVISION BE LESS THAN 50% OF THE WEEKLY BENEFITS OTHERWISE
PAYABLE WITHOUT THE REDUCTION>>.

26 (b) The after-tax amount of the payments received or being
 27 received under a self-insurance plan, a wage continuation plan, or

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1 under a disability insurance policy provided by the same employer
2 from whom benefits under section 301(7) OR (8), 351, 361, or 835
3 are received if the employee did not contribute directly to the
4 plan or to the payment of premiums regarding the disability
5 insurance policy. If ~~such~~**THE** self-insurance plans, wage
6 continuation plans, or disability insurance policies are entitled
7 to repayment in the event of a worker's compensation benefit
8 recovery, the carrier shall satisfy ~~such~~**THAT** repayment out of
9 funds the carrier has received through the coordination of benefits
10 provided for under this section. Notwithstanding the provisions of
11 this subsection, attorney fees shall be paid pursuant to section
12 821 to the attorney who secured the worker's compensation recovery.

13 (c) The proportional amount, based on the ratio of the
14 employer's contributions to the total insurance premiums for the
15 policy period involved, of the after-tax amount of the payments
16 received or being received by the employee pursuant to a disability
17 insurance policy provided by the same employer from whom benefits
18 under section 301(7) OR (8), 351, 361, or 835 are received, if the
19 employee did contribute directly to the payment of premiums
20 regarding the disability insurance policy.

21 (d) ~~The~~**SUBJECT TO SUBSECTION (12), THE** after-tax amount of
22 the pension or retirement payments received or being received **BY**
23 **THE EMPLOYEE, OR WHICH THE EMPLOYEE IS CURRENTLY ELIGIBLE TO**
24 **RECEIVE IF THE EMPLOYEE HAS <<SUFFERED TOTAL AND PERMANENT DISABILITY**
AND HAS>> REACHED FULL RETIREMENT AGE, pursuant
25 to a plan or program established or maintained by the same employer
26 from whom benefits under section 301(7) OR (8), 351, 361, or 835
27 are received, if the employee did not contribute directly to the

1 pension or retirement plan or program. Subsequent increases in a
2 pension or retirement program shall not affect the coordination of
3 these benefits.

4 (e) The proportional amount, based on the ratio of the
5 employer's contributions to the total contributions to the plan or
6 program, of the after-tax amount of the pension or retirement
7 payments received or being received by the employee pursuant to a
8 plan or program established or maintained by the same employer from
9 whom benefits under section **301(7) OR (8)**, 351, ~~361~~, or 835 are
10 received, if the employee did contribute directly to the pension or
11 retirement plan or program. Subsequent increases in a pension or
12 retirement program shall not affect the coordination of these
13 benefits.

14 (f) For those employers who do not provide a pension plan, the
15 proportional amount, based on the ratio of the employer's
16 contributions to the total contributions made to a qualified profit
17 sharing plan under section 401(a) of the internal revenue code or
18 any successor to section 401(a) of the internal revenue code
19 covering a profit sharing plan which provides for the payment of
20 benefits only upon retirement, disability, death, or other
21 separation of employment to the extent that benefits are vested
22 under the plan.

23 (2) To satisfy any remaining obligations under section **301(7)**
24 **OR (8)**, 351, ~~361~~, or 835, the employer shall pay or cause to be
25 paid to the employee the balance due in either weekly or lump sum
26 payments after the application of subsection (1).

27 (3) In the application of subsection (1) any credit or

1 reduction shall occur pursuant to this section and all of the
2 following:

3 (a) The ~~bureau~~**AGENCY** shall promulgate rules to provide for
4 notification by an employer or carrier to an employee of possible
5 eligibility for social security benefits and the requirements for
6 establishing proof of application for those benefits. Notification
7 shall be promptly mailed to the employee after the date on which by
8 reason of age the employee may be entitled to social security
9 benefits. A copy of the notification of possible eligibility shall
10 be filed with the ~~bureau~~**AGENCY** by the employer or carrier.

11 (b) Within 30 days after receipt of the notification of
12 possible employee eligibility the employee shall:

13 (i) ~~Make application~~**APPLY** for social security benefits.

14 (ii) Provide the employer or carrier with proof of that
15 application.

16 (iii) Provide the employer or carrier with an authority for
17 release of information which shall be utilized by the employer or
18 carrier to obtain necessary benefit entitlement and amount
19 information from the social security administration. The authority
20 for release of information shall be effective for 1 year.

21 (4) ~~Failure of~~**IF** the employee **FAILS** to provide the proof of
22 application or the authority for release of information as
23 prescribed in subsection (3), ~~shall allow~~ the employer or carrier,
24 with the approval of the ~~bureau~~**to AGENCY**, **MAY** discontinue the
25 compensation benefits payable to the employee under section **301(7)**
26 **OR (8)**, 351, ~~361~~, or 835 until the proof of application and the
27 authority for release of information is provided. Compensation

1 benefits withheld shall be reimbursed to the employee upon ~~the~~
2 providing ~~of~~ the required proof of application, or the authority
3 for release of information, or both.

4 (5) If the employer or carrier is required to submit a new
5 authority for release of information to the social security
6 administration in order to receive information necessary to comply
7 with this section, the employee shall provide the new authority for
8 release of information within 30 days of a request by the employer
9 or carrier. ~~Failure~~ **IF THE EMPLOYEE FAILS** to provide the new
10 authority for release of information, ~~shall allow~~ the employer or
11 carrier, with the approval of the ~~bureau~~ **to AGENCY, MAY** discontinue
12 benefits until the authority for release of information is provided
13 as prescribed in this subsection. Compensation benefits withheld
14 shall be reimbursed to the employee upon ~~the providing of~~ the new
15 authority for release of information.

16 (6) Within 30 days after either the date of first payment of
17 compensation benefits under section **301(7) OR (8)**, 351, ~~361~~, or
18 835, or 30 days after the date of application for any benefit under
19 subsection (1)(b), (c), (d), or (e), whichever is later, the
20 employee shall provide the employer or carrier with a properly
21 executed authority for release of information, which shall be
22 utilized by the employer or carrier to obtain necessary benefit
23 entitlement and amount information from the appropriate source. The
24 authority for release of information is effective for 1 year.
25 Failure of the employee to provide a properly executed authority
26 for release of information ~~shall allow~~ **ALLOWS** the employer or
27 carrier with the approval of the ~~bureau~~ **AGENCY** to discontinue the

1 compensation benefits payable under section 301 (7) OR (8), 351,
2 ~~361~~, or 835 to the employee until the authority for release of
3 information is provided. Compensation benefits withheld shall be
4 reimbursed to the employee upon providing the required authority
5 for release of information. If the employer or carrier is required
6 to submit a new authority for release of information to the
7 appropriate source in order to receive information necessary to
8 comply with this section, the employee shall provide a properly
9 executed new authority for release of information within 30 days
10 after a request by the employer or carrier. Failure of the employee
11 to provide a properly executed new authority for release of
12 information ~~shall allow~~ **ALLOWS** the employer or carrier with the
13 approval of the ~~bureau~~ **AGENCY** to discontinue benefits under section
14 301(7) OR (8), 351, ~~361~~, or 835 until the authority for release of
15 information is provided as prescribed in this subsection.

16 Compensation benefits withheld shall be reimbursed to the employee
17 upon the providing of the new authority for release of information.

18 (7) A credit or reduction under this section shall not occur
19 because of an increase granted by the social security
20 administration as a cost of living adjustment.

21 (8) Except as provided in subsections (4), (5), and (6), a
22 credit or reduction of benefits otherwise payable for any week
23 shall not be taken under this section until there has been a
24 determination of the benefit amount otherwise payable to the
25 employee under section 301(7) OR (8), 351, ~~361~~, or 835 and the
26 employee has begun receiving the benefit payments.

27 (9) Except as otherwise provided in this section, any benefit

1 payments under the social security act, or any fund, policy, or
2 program as specified in subsection (1) ~~which~~**THAT** the employee has
3 received or is receiving after March 31, 1982 and during a period
4 in which the employee was receiving unreduced compensation benefits
5 under section **301(7) OR (8)**, 351, ~~361~~, or 835 shall be considered
6 to have created an overpayment of compensation benefits for that
7 period. The employer or carrier shall calculate the amount of the
8 overpayment and send a notice of overpayment and a request for
9 reimbursement to the employee. Failure by the employee to reimburse
10 the employer or carrier within 30 days after the mailing date of
11 the notice of request for reimbursement ~~shall allow~~**ALLOWS** the
12 employer or carrier with the approval of the ~~bureau~~**AGENCY** to
13 discontinue 50% of future weekly compensation payments under
14 section **301(7) OR (8)**, 351, ~~361~~, or 835. The compensation payments
15 withheld shall be credited against the amount of the overpayment.
16 Payment of the appropriate compensation benefit shall resume when
17 the total amount of the overpayment has been withheld.

18 (10) The employer or carrier taking a credit or making a
19 reduction as provided in this section shall immediately report to
20 the ~~bureau~~**AGENCY** the amount of any credit or reduction, and as
21 requested by the ~~bureau~~**AGENCY**, furnish to the ~~bureau~~**AGENCY**
22 satisfactory proof of the basis for a credit or reduction.

23 (11) Disability insurance benefit payments under the social
24 security act shall be considered to be payments from funds provided
25 by the employer and to be primary payments on the employer's
26 obligation under section **301(7) OR (8)**, 351, ~~361~~, or 835 as old-age
27 benefit payments under the social security act are considered

1 pursuant to this section. The coordination of social security
2 disability benefits shall commence on the date of the award
3 certificate of the social security disability benefits. Any accrued
4 social security disability benefits shall not be coordinated.
5 However, social security disability insurance benefits shall only
6 be so considered if section 224 of the social security act, 42
7 ~~U.S.C.—USC~~ 424a, is revised so that a reduction of social security
8 disability insurance benefits is not made because of the receipt of
9 worker's compensation benefits by the employee.

10 (12) Nothing in this section shall be considered to compel an
11 employee to apply for early federal social security old-age
12 insurance benefits or to apply for early or reduced pension or
13 retirement benefits.

14 (13) As used in this section, "after-tax amount" means the
15 gross amount of any benefit under subsection (1)(b), (1)(c),
16 (1)(d), or (1)(e) reduced by the prorated weekly amount which would
17 have been paid, if any, under the federal insurance contributions
18 act, 26 ~~U.S.C.—USC~~ 3101 to ~~3126, 3128, AND~~ state income tax and
19 federal income tax, calculated on an annual basis using as the
20 number of exemptions the disabled employee's dependents plus the
21 employee, and without excess itemized deductions. In determining
22 the "after-tax amount" the tables provided for in section 313(2)
23 shall be used. The gross amount of any benefit under subsection
24 (1)(b), (1)(c), (1)(d), or (1)(e) shall be presumed to be the same
25 as the average weekly wage for purposes of the table. The
26 applicable 80% of after-tax amount as provided in the table will be
27 multiplied by 1.25 which will be conclusive for determining the

1 "after-tax amount" of benefits under subsection (1)(b), (1)(c),
2 (1)(d), or (1)(e).

3 (14) This section does not apply to any payments received or
4 to be received under a disability pension plan provided by the same
5 employer, which plan is in existence on March 31, 1982. Any
6 disability pension plan entered into or renewed after March 31,
7 1982 may provide that the payments under that disability pension
8 plan provided by the employer shall not be coordinated pursuant to
9 this section.

10 (15) With respect to volunteer fire fighters, volunteer safety
11 patrol officers, volunteer civil defense workers, and volunteer
12 ambulance drivers and attendants who are considered employees for
13 purposes of this act pursuant to section 161(1)(a), the reduction
14 of weekly benefits provided for disability insurance payments under
15 subsection (1)(b) and (c) and subsection (11) may be waived by the
16 employer. An employer that is not a self-insurer may make the
17 waiver provided for under this subsection only at the time a
18 worker's compensation insurance policy is entered into or renewed.

19 (16) This section ~~shall~~**DOES** not apply to payments made to an
20 employee as a result of liability pursuant to section 361(2) and
21 (3) for the specific loss period set forth therein. It is the
22 intent of the legislature that, because benefits under section
23 361(2) and (3) are benefits ~~which~~**THAT** recognize human factors
24 substantially in addition to the wage loss concept, coordination of
25 benefits should not apply to ~~such~~**THOSE** benefits.

26 (17) The decision of the Michigan Supreme Court in Franks v
27 White Pine Copper Division, 422 Mich 636 (1985) is declared to have

1 been erroneously rendered insofar as it interprets this section, it
2 having been and being the legislative intention not to coordinate
3 payments under this section resulting from liability pursuant to
4 section **301(7) OR (8)**, 351, ~~361~~, or 835 for personal injuries
5 occurring before March 31, 1982. It is the purpose of ~~this~~ **THE**
6 amendatory act **THAT ADDED THIS SUBSECTION** to so affirm. This
7 remedial and curative amendment shall be liberally construed to
8 effectuate this purpose.

9 (18) This section applies only to payments resulting from
10 liability pursuant to section **301 (7) OR (8)**, 351, ~~361~~, or 835 for
11 personal injuries occurring on or after March 31, 1982. Any
12 payments made to an employee resulting from liability pursuant to
13 section **301(7) OR (8)**, 351, ~~361~~, or 835 for a personal injury
14 occurring before March 31, 1982 that have not been coordinated
15 under this section as of the effective date of this subsection
16 shall not be coordinated, shall not be considered to have created
17 an overpayment of compensation benefits, and shall not be subject
18 to reimbursement to the employer or carrier.

19 (19) Notwithstanding any other section of this act, any
20 payments made to an employee resulting from liability pursuant to
21 section **301(7) OR (8)**, 351, ~~361~~, or 835 for a personal injury
22 occurring before March 31, 1982 that have been coordinated before
23 ~~the effective date of this subsection~~ **MAY 14, 1987** shall be
24 considered to be an underpayment of compensation benefits, and the
25 amounts withheld pursuant to coordination shall be reimbursed with
26 interest, ~~within 60 days of the effective date of this subsection,~~
27 **BY JULY 13, 1987**, to the employee by the employer or carrier.

(20) Notwithstanding any other section of this act, any employee who has paid an employer or carrier money alleged by the employer or carrier to be owed the employer or carrier because that employee's benefits had not been coordinated under this section and whose date of personal injury was before March 31, 1982 shall be reimbursed with interest, ~~within 60 days of the effective date of this subsection,~~ **BY JULY 13, 1987,** that money by the employer or carrier.

(21) If any portion of this section is subsequently found to be unconstitutional or in violation of applicable law, it shall not affect the validity of the remainder of this section.

Sec. 358. Net weekly benefits payable under section 351, 361, or lump sum benefits under section 835, shall be reduced by 100% of the amount of benefits paid or payable to the injured employee under the Michigan employment security act, ~~Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being sections 421.1 to 421.67a of the Michigan Compiled Laws, 1936 (EX SESS) PA 1, MCL 421.1 TO 421.75,~~ for identical periods of time. ~~and chargeable to the same employer.~~

Sec. 360. (1) A person who suffers an injury arising out of and in the course of employment as a professional athlete ~~shall be~~ **IS** entitled to weekly benefits only when the person's average weekly wages in all employments at the time of application for benefits, and thereafter, as computed in accordance with section 371, are less than 200% of the state average weekly wage.

~~—(2) This section~~ **THIS SUBSECTION** shall not be construed to prohibit an otherwise eligible person from receiving benefits under

1 section 315, 319, or 361.

2 (2) A PROFESSIONAL ATHLETE WHO IS HIRED UNDER A CONTRACT WITH
3 AN EMPLOYER OUTSIDE OF THIS STATE IS EXEMPT FROM THIS ACT IF ALL OF
4 THE FOLLOWING CONDITIONS APPLY:

5 (A) THE ATHLETE SUSTAINS A PERSONAL INJURY ARISING OUT OF THE
6 COURSE OF EMPLOYMENT WHILE THE PROFESSIONAL ATHLETE IS TEMPORARILY
7 WITHIN THIS STATE.

8 (B) THE EMPLOYER HAS OBTAINED WORKER'S COMPENSATION INSURANCE
9 COVERAGE UNDER THE WORKER'S COMPENSATION LAW OF ANOTHER STATE THAT
10 COVERS THE INJURY IN THIS STATE.

11 (C) THE OTHER STATE RECOGNIZES THE EXTRATERRITORIAL PROVISIONS
12 OF THIS ACT AND PROVIDES A RECIPROCAL EXEMPTION FOR PROFESSIONAL
13 ATHLETES WHOSE INJURIES ARISE OUT OF EMPLOYMENT WHILE TEMPORARILY
14 IN THAT STATE AND ARE COVERED BY THE WORKER'S COMPENSATION LAW OF
15 THIS STATE.

16 (3) THE BENEFITS AND OTHER REMEDIES UNDER THE WORKER'S
17 COMPENSATION LAWS OF ANOTHER STATE ARE THE EXCLUSIVE REMEDY AGAINST
18 THE EMPLOYER UNDER THE CONDITIONS IN SUBSECTION (2). A CERTIFICATE
19 FROM THE DULY AUTHORIZED OFFICER OF ANOTHER STATE CERTIFYING THAT
20 THE EMPLOYER IS INSURED IN THAT STATE AND HAS OBTAINED
21 EXTRATERRITORIAL COVERAGE INSURING THE EMPLOYER'S PROFESSIONAL
22 ATHLETES IN THIS STATE IS PRIMA FACIE EVIDENCE THAT THE EMPLOYER
23 HAS OBTAINED INSURANCE MEETING THE REQUIREMENTS FOR THE EXCEPTION
24 TO COVERAGE UNDER THIS ACT UNDER SUBSECTION (2).

25 ~~Sec. 361. (1) While the incapacity for work resulting from a~~
26 ~~personal injury is partial, the employer shall pay, or cause to be~~
27 ~~paid to the injured employee weekly compensation equal to 80% of~~

~~the difference between the injured employee's after tax average weekly wage before the personal injury and the after tax average weekly wage which the injured employee is able to earn after the personal injury, but not more than the maximum weekly rate of compensation, as determined under section 355. Compensation shall be paid for the duration of the disability. However, an AN employer shall not be~~ **IS NOT** liable for compensation under section **301(7) OR (8), 351, 371(1), or this subsection OR 401(5) OR (6)** for such periods of time that the employee is unable to obtain or perform work because of imprisonment or commission of a crime.

(2) In cases included in the following schedule, the disability in each case shall be considered to continue for the period specified, and the compensation paid for the personal injury shall be 80% of the after-tax average weekly wage subject to the maximum and minimum rates of compensation under this act. ~~for the loss of the following.~~ **THE EFFECT OF ANY INTERNAL JOINT REPLACEMENT SURGERY, INTERNAL IMPLANT, OR OTHER SIMILAR MEDICAL PROCEDURE SHALL BE CONSIDERED IN DETERMINING WHETHER A SPECIFIC LOSS HAS OCCURRED. THE SPECIFIC LOSS PERIOD FOR THE LOSS SHALL BE CONSIDERED AS FOLLOWS:**

- (a) Thumb, 65 weeks.
- (b) First finger, 38 weeks.
- (c) Second finger, 33 weeks.
- (d) Third finger, 22 weeks.
- (e) Fourth finger, 16 weeks.

The loss of the first phalange of the thumb, or of any finger, shall be considered to be equal to the loss of 1/2 of that thumb or

1 finger, and compensation shall be 1/2 of the amount above
2 specified.

3 The loss of more than 1 phalange shall be considered as the
4 loss of the entire finger or thumb. The amount received for more
5 than 1 finger shall not exceed the amount provided in this schedule
6 for the loss of a hand.

7 (f) Great toe, 33 weeks.

8 (g) A toe other than the great toe, 11 weeks.

9 The loss of the first phalange of any toe shall be considered
10 to be equal to the loss of 1/2 of that toe, and compensation shall
11 be 1/2 of the amount above specified.

12 The loss of more than 1 phalange shall be considered as the
13 loss of the entire toe.

14 (h) Hand, 215 weeks.

15 (i) Arm, 269 weeks.

16 An amputation between the elbow and wrist that is 6 or more
17 inches below the elbow shall be considered a hand, and an
18 amputation above that point shall be considered an arm.

19 (j) Foot, 162 weeks.

20 (k) Leg, 215 weeks.

21 An amputation between the knee and foot 7 or more inches below
22 the tibial table (plateau) shall be considered a foot, and an
23 amputation above that point shall be considered a leg.

24 (l) Eye, 162 weeks.

25 Eighty percent loss of vision of 1 eye shall constitute the
26 total loss of that eye.

27 (3) Total and permanent disability, compensation for which is

1 provided in section 351 means:

2 (a) Total and permanent loss of sight of both eyes.

3 (b) Loss of both legs or both feet at or above the ankle.

4 (c) Loss of both arms or both hands at or above the wrist.

5 (d) Loss of any 2 of the members or faculties in ~~subdivisions~~

6 **SUBDIVISION** (a), (b), or (c).

7 (e) Permanent and complete paralysis of both legs or both arms
8 or of 1 leg and 1 arm.

9 (f) Incurable insanity or imbecility.

10 (g) Permanent and total loss of industrial use of both legs or
11 both hands or both arms or 1 leg and 1 arm; for the purpose of this
12 subdivision such permanency shall be determined not less than 30
13 days before the expiration of 500 weeks from the date of injury.

14 (4) The amounts specified in this clause are all subject to
15 the same limitations as to maximum and minimum as above stated. In
16 case of the loss of 1 member while compensation is being paid for
17 the loss of another member, compensation shall be paid for the loss
18 of the second member for the period provided in this section.
19 Payments for the loss of a second member shall begin at the
20 conclusion of the payments for the first member.

21 Sec. 381. (1) A proceeding for compensation for an injury
22 under this act shall not be maintained unless a claim for
23 compensation for the injury, which claim may be either oral or in
24 writing, has been made to the employer or a written claim has been
25 made to the ~~bureau~~ **AGENCY EITHER ELECTRONICALLY, AS PRESCRIBED BY**
26 **THE DIRECTOR, OR** on forms prescribed by the director, within 2
27 years after the occurrence of the injury. In case of the death of

1 the employee, the claim shall be made within 2 years after death.
2 The employee shall provide a notice of injury to the employer
3 within 90 days after the happening of the injury, or within 90 days
4 after the employee knew, or should have known, of the injury.
5 Failure to give such notice to the employer shall be excused unless
6 the employer can prove that he or she was prejudiced by the failure
7 to provide such notice. In the event of physical or mental
8 incapacity of the employee, the notice and claim shall be made
9 within 2 years from the time the injured employee is not physically
10 or mentally incapacitated from making the claim. A claim shall not
11 be valid or effectual for any purpose under this chapter unless
12 made within 2 years after the later of the date of injury, the date
13 disability manifests itself, or the last day of employment with the
14 employer against whom claim is being made. If an employee claims
15 benefits for a work injury and is thereafter compensated for the
16 disability by worker's compensation or benefits other than worker's
17 compensation, or is provided favored work by the employer because
18 of the disability, the period of time within which a claim shall be
19 made for benefits under this act shall be extended by the time
20 during which the benefits are paid or the favored work is provided.

21 (2) Except as provided in subsection (3), if any compensation
22 is sought under this act, payment shall not be made for any period
23 of time earlier than 2 years immediately preceding the date on
24 which the employee filed an application for a hearing with the
25 ~~bureau~~-**AGENCY**.

26 (3) Payment for nursing or attendant care shall not be made
27 for any period which is more than 1 year before the date an

1 application for a hearing is filed with the ~~bureau~~-**AGENCY**.

2 (4) The receipt by an employee of any other occupational or
3 nonoccupational benefit does not suspend the duty of the employee
4 to comply with this section, except under the circumstances
5 described in subsection (1).

6 Sec. 401. (1) As used in this chapter, "disability" means a
7 limitation of an employee's wage earning capacity in work suitable
8 to his or her qualifications and training resulting from a personal
9 injury or work related disease. **A LIMITATION OF WAGE EARNING**
10 **CAPACITY OCCURS ONLY IF A PERSONAL INJURY COVERED UNDER THIS ACT**
11 **RESULTS IN THE EMPLOYEE'S BEING UNABLE TO PERFORM ALL JOBS PAYING**
12 **THE MAXIMUM WAGES IN WORK SUITABLE TO THAT EMPLOYEE'S**
13 **QUALIFICATIONS AND TRAINING, WHICH INCLUDES WORK THAT MAY BE**
14 **PERFORMED USING THE EMPLOYEE'S TRANSFERABLE WORK SKILLS. A**
15 **DISABILITY IS TOTAL IF THE EMPLOYEE IS UNABLE TO EARN IN ANY JOB**
16 **PAYING MAXIMUM WAGES IN WORK SUITABLE TO THE EMPLOYEE'S**
17 **QUALIFICATIONS AND TRAINING. A DISABILITY IS PARTIAL IF THE**
18 **EMPLOYEE RETAINS A WAGE EARNING CAPACITY AT A PAY LEVEL LESS THAN**
19 **HIS OR HER MAXIMUM WAGES IN WORK SUITABLE TO HIS OR HER**
20 **QUALIFICATIONS AND TRAINING.** The establishment of disability does
21 not create a presumption of wage loss.

22 (2) As used in this ~~act~~-**CHAPTER**:

23 (a) "Disablement" means the event of becoming so disabled.

24 (b) "Personal injury" ~~shall include~~-**INCLUDES** a disease or
25 disability ~~which-THAT~~ is due to causes and conditions ~~which-THAT~~
26 are characteristic of and peculiar to the business of the employer
27 and ~~which-THAT~~ arises out of and in the course of the employment.

1 An ordinary disease of life to which the public is generally
2 exposed outside of the employment is not compensable. **A PERSONAL**
3 **INJURY UNDER THIS ACT IS COMPENSABLE IF WORK CAUSES, CONTRIBUTES**
4 **TO, OR AGGRAVATES PATHOLOGY IN A MANNER SO AS TO CREATE A PATHOLOGY**
5 **THAT IS MEDICALLY DISTINGUISHABLE FROM ANY PATHOLOGY THAT EXISTED**
6 **PRIOR TO THE INJURY.** Mental disabilities and conditions of the
7 aging process, including but not limited to heart and
8 cardiovascular conditions, **AND DEGENERATIVE ARTHRITIS** shall be
9 compensable if contributed to or aggravated or accelerated by the
10 employment in a significant manner. Mental disabilities shall be
11 compensable when arising out of actual events of employment, not
12 unfounded perceptions thereof, **AND IF THE EMPLOYEE'S PERCEPTION OF**
13 **THE ACTUAL EVENTS IS REASONABLY GROUNDED IN FACT OR REALITY.** A
14 hernia to be compensable must be clearly recent in origin and
15 result from a strain arising out of and in the course of the
16 employment and be promptly reported to the employer.

17 (C) EXCEPT AS PROVIDED IN SECTION 302, "WAGE EARNING CAPACITY"
18 MEANS THE WAGES THE EMPLOYEE EARNS OR IS CAPABLE OF EARNING AT A
19 JOB REASONABLY AVAILABLE TO THAT EMPLOYEE, WHETHER OR NOT ACTUALLY
20 EARNED. FOR THE PURPOSES OF ESTABLISHING WAGE EARNING CAPACITY, AN
21 EMPLOYEE HAS AN AFFIRMATIVE DUTY TO SEEK WORK REASONABLY AVAILABLE
22 TO THAT EMPLOYEE, TAKING INTO CONSIDERATION THE LIMITATIONS FROM
23 THE WORK-RELATED PERSONAL INJURY OR DISEASE. A MAGISTRATE MAY
24 CONSIDER GOOD-FAITH JOB SEARCH EFFORTS TO DETERMINE WHETHER JOBS
25 ARE REASONABLY AVAILABLE.

26 (D) "WAGE LOSS" MEANS THE AMOUNT OF WAGES LOST DUE TO A
27 DISABILITY. THE EMPLOYEE SHALL ESTABLISH A CONNECTION BETWEEN THE

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1 DISABILITY AND REDUCED WAGES IN ESTABLISHING THE WAGE LOSS. WAGE
2 LOSS MAY BE ESTABLISHED, AMONG OTHER METHODS, BY DEMONSTRATING THE
3 EMPLOYEE'S GOOD-FAITH EFFORT TO PROCURE WORK WITHIN HIS OR HER WAGE
4 EARNING CAPACITY. A PARTIALLY DISABLED EMPLOYEE WHO ESTABLISHES A
5 GOOD-FAITH EFFORT TO PROCURE WORK BUT CANNOT OBTAIN << >> WORK WITHIN
6 HIS OR HER WAGE EARNING CAPACITY IS ENTITLED TO WEEKLY BENEFITS
7 UNDER SUBSECTION (5) AS IF TOTALLY DISABLED.

8 (3) TO ESTABLISH AN INITIAL SHOWING OF DISABILITY, AN EMPLOYEE
9 SHALL DO ALL OF THE FOLLOWING:

10 (A) DISCLOSE HIS OR HER QUALIFICATIONS AND TRAINING, INCLUDING
11 EDUCATION, SKILLS, AND EXPERIENCE, WHETHER OR NOT THEY ARE RELEVANT
12 TO THE JOB THE EMPLOYEE WAS PERFORMING AT THE TIME OF THE INJURY.

13 (B) PROVIDE EVIDENCE AS TO THE JOBS, IF ANY, HE OR SHE IS
14 QUALIFIED AND TRAINED TO PERFORM WITHIN THE SAME SALARY RANGE AS
15 HIS OR HER MAXIMUM WAGE EARNING CAPACITY AT THE TIME OF THE INJURY.

16 (C) DEMONSTRATE THAT THE WORK-RELATED INJURY PREVENTS THE
17 EMPLOYEE FROM PERFORMING JOBS IDENTIFIED AS WITHIN HIS OR HER
18 QUALIFICATIONS AND TRAINING THAT PAY MAXIMUM WAGES.

19 (D) IF THE EMPLOYEE IS CAPABLE OF PERFORMING ANY OF THE JOBS
20 IDENTIFIED IN SUBDIVISION (C), SHOW THAT HE OR SHE CANNOT OBTAIN
21 ANY OF THOSE JOBS. THE EVIDENCE SHALL INCLUDE A SHOWING OF A GOOD-
22 FAITH ATTEMPT TO PROCURE POSTINJURY EMPLOYMENT IF THERE ARE JOBS AT
23 THE EMPLOYEE'S MAXIMUM WAGE EARNING CAPACITY AT THE TIME OF THE
24 INJURY.

25 (4) ONCE AN EMPLOYEE ESTABLISHES AN INITIAL SHOWING OF A
26 DISABILITY UNDER SUBSECTION (3), THE EMPLOYER BEARS THE BURDEN OF
27 PRODUCTION OF EVIDENCE TO REFUTE THE EMPLOYEE'S SHOWING. IN

1 SATISFYING ITS BURDEN OF PRODUCTION OF EVIDENCE, THE EMPLOYER HAS A
2 RIGHT TO DISCOVERY IF NECESSARY FOR THE EMPLOYER TO SUSTAIN ITS
3 BURDEN AND PRESENT A MEANINGFUL DEFENSE. THE EMPLOYEE MAY PRESENT
4 ADDITIONAL EVIDENCE TO CHALLENGE THE EVIDENCE SUBMITTED BY THE
5 EMPLOYER.

6 (5) IF A PERSONAL INJURY ARISING OUT OF THE COURSE OF
7 EMPLOYMENT CAUSES TOTAL DISABILITY AND WAGE LOSS AND THE EMPLOYEE
8 IS ENTITLED TO WAGE LOSS BENEFITS, THE EMPLOYER SHALL PAY OR CAUSE
9 TO BE PAID TO THE INJURED EMPLOYEE AS PROVIDED IN THIS SECTION
10 WEEKLY COMPENSATION EQUAL TO 80% OF THE EMPLOYEE'S AFTER-TAX
11 AVERAGE WEEKLY WAGE, BUT NOT MORE THAN THE MAXIMUM WEEKLY RATE
12 DETERMINED UNDER SECTION 355. COMPENSATION SHALL BE PAID FOR THE
13 DURATION OF THE DISABILITY.

14 (6) IF A PERSONAL INJURY ARISING OUT OF THE COURSE OF
15 EMPLOYMENT CAUSES PARTIAL DISABILITY AND WAGE LOSS AND THE EMPLOYEE
16 IS ENTITLED TO WAGE LOSS BENEFITS, THE EMPLOYER SHALL PAY OR CAUSE
17 TO BE PAID TO THE INJURED EMPLOYEE AS PROVIDED IN THIS SECTION
18 WEEKLY COMPENSATION EQUAL TO 80% OF THE DIFFERENCE BETWEEN THE
19 INJURED EMPLOYEE'S AFTER-TAX AVERAGE WEEKLY WAGE BEFORE THE
20 PERSONAL INJURY AND THE EMPLOYEE'S WAGE EARNING CAPACITY AFTER THE
21 PERSONAL INJURY, BUT NOT MORE THAN THE MAXIMUM WEEKLY RATE
22 DETERMINED UNDER SECTION 355. COMPENSATION SHALL BE PAID FOR THE
23 DURATION OF THE DISABILITY.

24 (7) ~~(3)~~—If disability ~~is~~ AND WAGE LOSS ARE established,
25 ~~pursuant to subsection (1),~~ entitlement to weekly wage loss
26 benefits shall be determined **AS APPLICABLE** pursuant to this section
27 and as follows:

1 (a) If an employee receives a bona fide offer of reasonable
2 employment from the previous employer, another employer, or through
3 the Michigan ~~employment security commission~~ **UNEMPLOYMENT INSURANCE**
4 **AGENCY** and the employee refuses that employment without good and
5 reasonable cause, the employee shall be considered to have
6 voluntarily removed himself or herself from the work force and is
7 no longer entitled to any wage loss benefits under this act during
8 the period of ~~such~~ refusal.

9 (B) IF AN EMPLOYEE IS TERMINATED FROM REASONABLE EMPLOYMENT
10 FOR FAULT OF THE EMPLOYEE, THE EMPLOYEE IS CONSIDERED TO HAVE
11 VOLUNTARILY REMOVED HIMSELF OR HERSELF FROM THE WORK FORCE AND IS
12 NOT ENTITLED TO ANY WAGE LOSS BENEFITS UNDER THIS ACT.

13 (C) ~~(b)~~ If an employee is employed and the average weekly wage
14 of the employee is less than that which the employee received
15 before the date of injury, the employee shall receive weekly
16 benefits under this act equal to 80% of the difference between the
17 injured employee's after-tax weekly wage before the date of injury
18 and the after-tax weekly wage ~~which~~ **THAT** the injured employee ~~is~~
19 ~~able to earn~~ **EARNs** after the date of injury, but not more than the
20 maximum weekly rate of compensation, as determined under section
21 355.

22 (D) ~~(c)~~ If an employee is employed and the average weekly wage
23 of the employee is equal to or more than the average weekly wage
24 the employee received before the date of injury, the employee is
25 not entitled to any wage loss benefits under this act for the
26 duration of ~~such~~ **THAT** employment.

27 (E) ~~(d)~~ If the employee, after having been employed pursuant

1 to this subsection, ~~for 100 weeks or more~~ loses his or her job
2 through no fault of the employee **AND THE EMPLOYEE IS STILL**
3 **DISABLED**, the employee shall receive compensation under this act
4 ~~pursuant to the following:~~ **AS FOLLOWS:**

5 ~~—— (i) If after exhaustion of unemployment benefit eligibility of~~
6 ~~an employee, a worker's compensation magistrate or hearing referee,~~
7 ~~as applicable, determines for any employee covered under this~~
8 ~~subdivision, that the employments since the time of injury have not~~
9 ~~established a new wage earning capacity, the employee shall receive~~
10 ~~compensation based upon his or her wage at the original date of~~
11 ~~injury. There is a presumption of wage earning capacity established~~
12 ~~for employments totalling 250 weeks or more.~~

13 ~~—— (ii) The employee must still be disabled as determined pursuant~~
14 ~~to subsection (1). If the employee is still disabled, the employee~~
15 ~~shall be entitled to the wage loss benefits based on the difference~~
16 ~~between the normal and customary wages paid to those persons~~
17 ~~performing the same or similar employment as determined at the time~~
18 ~~of termination of employment of the employee and the wages paid at~~
19 ~~the time of the injury.~~

20 ~~—— (iii) If the employee becomes reemployed and the employee is~~
21 ~~still disabled, the employee shall then receive wage loss benefits~~
22 ~~as provided in subdivision (b).~~

23 ~~—— (e) If the employee, after having been employed pursuant to~~
24 ~~this subsection for less than 100 weeks, loses his or her job~~
25 ~~through no fault of the employee, the employee shall receive~~
26 ~~compensation based upon his or her wage at the original date of~~
27 ~~injury.~~

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1 ~~—— (4) A carrier shall notify the Michigan employment security~~
2 ~~commission of the name of any injured employee who is unemployed~~
3 ~~and to which the carrier is paying benefits under this act.~~

4 ~~—— (5) The Michigan employment security commission shall give~~
5 ~~priority to finding employment for those persons whose names are~~
6 ~~supplied to the commission under subsection (4).~~

7 (i) IF THE EMPLOYEE WAS EMPLOYED FOR LESS THAN 100 WEEKS, THE
8 EMPLOYEE SHALL RECEIVE COMPENSATION BASED UPON HIS OR HER WAGE AT
9 THE TIME OF THE ORIGINAL INJURY.

10 (ii) IF THE EMPLOYEE WAS EMPLOYED FOR 100 WEEKS OR MORE BUT
11 LESS THAN 250 WEEKS, THEN AFTER THE EMPLOYEE EXHAUSTS UNEMPLOYMENT
12 BENEFIT ELIGIBILITY, A WORKER'S COMPENSATION MAGISTRATE MAY
13 DETERMINE THAT THE EMPLOYMENT SINCE THE TIME OF THE INJURY HAS NOT
14 ESTABLISHED A NEW WAGE EARNING CAPACITY AND, IF THE MAGISTRATE
15 MAKES THAT DETERMINATION, BENEFITS SHALL BE BASED ON THE EMPLOYEE'S
16 WAGE AT THE ORIGINAL DATE OF INJURY. IF THE MAGISTRATE DOES NOT
17 MAKE THAT DETERMINATION, THE EMPLOYEE IS PRESUMED TO HAVE
18 ESTABLISHED A POST-INJURY WAGE EARNING CAPACITY AND BENEFITS SHALL
19 NOT BE PAID BASED ON THE WAGE AT THE ORIGINAL DATE OF INJURY.

20 (iii) IF THE EMPLOYEE WAS EMPLOYED FOR 250 WEEKS OR MORE, THE
21 EMPLOYEE IS << >> PRESUMED TO HAVE ESTABLISHED A POST-INJURY
22 WAGE EARNING CAPACITY.

23 (8) ~~(6) The Michigan employment security commission~~
24 UNEMPLOYMENT INSURANCE AGENCY shall notify the ~~bureau~~ AGENCY in
25 writing of the name of any employee who refuses any bona fide offer
26 of reasonable employment. Upon notification to the ~~bureau~~, AGENCY,
27 the ~~bureau~~ AGENCY shall notify the carrier who shall terminate the

benefits of the employee pursuant to subsection ~~(3)(a)~~ **(7) (A)** .

(9) ~~(7)~~—As used in this section, "reasonable employment" means work that is within the employee's capacity to perform that poses no clear and proximate threat to that employee's health and safety, and that is within a reasonable distance from that employee's residence. The employee's capacity to perform shall not be limited to work suitable to his or her qualifications and training.

(10) ~~(8)~~—This section shall apply to personal injuries or work related diseases occurring on or after June 30, 1985.

SEC. 613. IF THE AGENCY DETERMINES THAT SERVICES ARE COVERED EMPLOYMENT UNDER SECTION 161(1) (N) AND THE AGENCY RECEIVED THE REQUEST ON OR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION AND BEFORE JANUARY 1, 2013, THE EMPLOYER SHALL NOT BE SUBJECT TO PENALTIES OR INTEREST ON UNDERPAYMENTS OR OTHER VIOLATIONS BEFORE THE DATE OF THE DETERMINATION ARISING FROM THE MISCLASSIFICATION OF THOSE SERVICES.

Sec. 625. Each insurer mentioned in section 611 issuing an insurance policy covering worker's compensation in this state shall file with the director, within 30 days after the effective date of the policy, a notice of the issuance of the policy and its effective date. A notice of issuance of insurance, a notice of termination of insurance, or a notice of employer name change may be submitted in writing or by using ~~bureau~~ **AGENCY**-approved electronic ~~record layout~~ **FILING** and transaction standards and may be submitted by the insurer directly or by the compensation advisory organization of Michigan on behalf of the insurer. Payment shall not be required by the ~~bureau~~ **AGENCY** or any third party for

1 the use of ~~bureau~~**AGENCY**-approved electronic record layout and
2 transaction standards under this act. Time requirements for notices
3 under this act apply whether filed by the insurer or the
4 compensation advisory organization of Michigan. If the policy
5 covers persons who would otherwise be exempted from this act by
6 section 115, the notice shall contain a specific statement to that
7 effect. A notice ~~shall not be~~**IS** required of any insurer ~~where~~**IF**
8 the policy issued is a renewal of the preceding policy. The
9 insurer, if it refuses to accept any coverage under this act, shall
10 do so in writing.

11 **SEC. 659. (1) IF THE SUBURBAN MOBILITY AUTHORITY REGIONAL**
12 **TRANSPORTATION AUTHORITY CREATED PURSUANT TO THE METROPOLITAN**
13 **TRANSPORTATION AUTHORITIES ACT OF 1967, 1967 PA 204, MCL 124.401 TO**
14 **124.426, AN AUTHORITY CREATED BY INTERLOCAL AGREEMENT PURSUANT TO**
15 **THE URBAN COOPERATION ACT OF 1967, 1967 (EX SESS) PA 7, MCL 124.501**
16 **TO 124.512, AN AUTHORITY CREATED PURSUANT TO THE PUBLIC**
17 **TRANSPORTATION AUTHORITY ACT, 1986 PA 196, MCL 124.451 TO 124.479,**
18 **A METROPOLITAN COUNCIL ESTABLISHED PURSUANT TO THE METROPOLITAN**
19 **COUNCILS ACT, 1989 PA 292, MCL 124.651 TO 124.729, AN AUTHORITY OR**
20 **A MUNICIPAL CORPORATION THAT HAS ENTERED INTO AN INTERGOVERNMENTAL**
21 **CONTRACT TO PROVIDE TRANSPORTATION SERVICES PURSUANT TO 1951 PA 35,**
22 **MCL 124.1 TO 124.13, OR 1963 PA 55, MCL 124.351 TO 124.359, OR AN**
23 **AUTHORITY CREATED PURSUANT TO 1969 PA 55, MCL 124.351 TO 124.359,**
24 **CEASES TO OPERATE OR IS DISSOLVED, AND A SUCCESSOR AGENCY IS NOT**
25 **CREATED TO ASSUME ITS ASSETS, LIABILITIES, AND PERFORM ITS**
26 **FUNCTIONS, AND IF THE AUTHORITY IS AUTHORIZED TO SECURE THE PAYMENT**
27 **OF COMPENSATION UNDER SECTION 611(1)(A), THEN THE STATE HEREBY**

1 GUARANTEES THE PAYMENT OF CLAIMS FOR BENEFITS ARISING UNDER THIS
2 ACT AGAINST THE AUTHORITY. PAYMENT OF CLAIMS BY THE STATE UNDER
3 THIS SECTION SHALL BE MADE FROM THE GENERAL FUND. THE DIRECTOR OF
4 THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET SHALL
5 DESIGNATE A THIRD PARTY ADMINISTRATOR TO HANDLE CLAIMS UNDER THIS
6 SECTION UNTIL THE ASSIGNMENT UNDER SUBSECTION (3) OCCURS.

7 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), THE THIRD
8 PARTY ADMINISTRATOR SHALL DETERMINE IN DETAIL AS THE DIRECTOR OF
9 THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET MAY REQUIRE
10 THE AMOUNT NECESSARY TO PAY THE CLAIMS FOR BENEFITS FOR WHICH THE
11 STATE IS RESPONSIBLE PURSUANT TO SUBSECTION (1). THE THIRD PARTY
12 ADMINISTRATOR SHALL BE RESPONSIBLE FOR THE PROCESSING OF THESE
13 CLAIMS AND SHALL BE COMPENSATED FOR ITS SERVICES IN THE SAME MANNER
14 AS A CARRIER IS COMPENSATED FOR PROCESSING THE CLAIMS OF STATE
15 EMPLOYEES.

16 (3) THE MICHIGAN WORKER'S COMPENSATION PLACEMENT FACILITY
17 SHALL RANDOMLY ASSIGN A CARRIER LICENSED TO WRITE WORKER'S
18 DISABILITY COMPENSATION INSURANCE TO DETERMINE IN DETAIL AS THE
19 DIRECTOR OF THE DEPARTMENT OF TECHNOLOGY, MANAGEMENT, AND BUDGET
20 MAY REQUIRE THE AMOUNT NECESSARY TO PAY THE CLAIMS FOR BENEFITS FOR
21 WHICH THE STATE IS RESPONSIBLE PURSUANT TO SUBSECTION (1). THE
22 CARRIER SO ASSIGNED IS RESPONSIBLE FOR PROCESSING THESE CLAIMS AND
23 SHALL BE COMPENSATED FOR ITS SERVICES IN THE SAME MANNER AS FOR
24 PROCESSING THE CLAIMS OF STATE EMPLOYEES.

25 (4) THE STATE IS ENTITLED TO A LIEN THAT TAKES PRECEDENCE OVER
26 ALL OTHER LIENS ON ITS PORTION OF THE ASSETS OF THE AUTHORITY IN
27 SATISFACTION OF THE PAYMENT OF CLAIMS FOR BENEFITS UNDER THIS

1 SECTION.

2 (5) THIS SECTION SHALL NOT BE CONSTRUED TO PERMIT THE USE OF
 3 STATE FUNDS FOR THE PAYMENT OF PRIVATE OBLIGATIONS. THEREFORE, IF
 4 AN AUTHORITY CREATED PURSUANT TO 1987 PA 204, MCL 124.401 TO
 5 124.426; 1967 (EX SESS) PA 7, MCL 124.501 TO 124.512; 1986 PA 196,
 6 MCL 124.451 TO 124.479; A METROPOLITAN COUNCIL ESTABLISHED PURSUANT
 7 TO 1989 PA 292, MCL 124.651 TO 124.685; AN AUTHORITY OR A MUNICIPAL
 8 CORPORATION THAT HAS ENTERED INTO AN INTERGOVERNMENTAL CONTRACT TO
 9 PROVIDE TRANSPORTATION SERVICES PURSUANT TO 1951 PA 35, MCL 124.1
 10 TO 124.13; OR 1963 PA 55, MCL 124.351 TO 124.359, DELEGATES TO A
 11 PRIVATE EMPLOYER OR CONTRACTS WITH A PRIVATE EMPLOYER FOR THE
 12 PERFORMANCE OF ANY OF THE FUNCTIONS PERMITTED UNDER ITS ENABLING
 13 STATUTE, THE DIRECTOR SHALL NOT PERMIT THE PRIVATE EMPLOYER
 14 PERFORMING THESE FUNCTIONS TO BE INCLUDED UNDER THE AUTHORIZATION
 15 GRANTED BY THE DIRECTOR TO THE AUTHORITY OR OTHER AGENCY TO SELF-
 16 INSURE PURSUANT TO SECTION 611(1) (A) .

17 Sec. 801. (1) Compensation shall be paid promptly and directly
 18 to the person entitled thereto and shall become due and payable on
 19 the fourteenth day after the employer has notice or knowledge of
 20 the disability or death, on which date all compensation then
 21 accrued shall be paid. Thereafter compensation shall be paid in
 22 weekly installments. Every carrier shall keep a record of all
 23 payments made under this act and of the time and manner of making
 24 the payments and shall furnish reports, based upon these records,
 25 to the ~~bureau~~ **AGENCY** as the director may reasonably require.

26 (2) If weekly compensation benefits or accrued weekly benefits
 27 are not paid within 30 days after becoming due and payable ~~in~~

1 ~~eases where~~ **AND** there is not an ongoing dispute, \$50.00 per day
2 shall be added and paid to the worker for each day over 30 days in
3 which the benefits are not paid. Not more than \$1,500.00 in total
4 may be added pursuant to this subsection.

5 (3) If medical bills or **A** travel allowance ~~are~~ **IS** not paid
6 within 30 days after the carrier has received notice of nonpayment
7 by certified mail, ~~in cases where~~ **AND** there is no ongoing dispute,
8 \$50.00 or the amount of the bill due, whichever is less, shall be
9 added and paid to the worker for each day over 30 days in which the
10 medical bills or travel allowance ~~are~~ **IS** not paid. Not more than
11 \$1,500.00 in total may be added pursuant to this subsection.

12 (4) For purposes of rate-making, daily charges paid under
13 subsection (2) shall not constitute elements of loss.

14 (5) An employer who has notice or knowledge of the disability
15 or death and fails to give notice to the carrier shall pay the
16 penalty provided for in subsection (2) for the period during which
17 the employer failed to notify the carrier.

18 (6) When weekly compensation is paid pursuant to an award of a
19 worker's compensation magistrate, an arbitrator, the board, the
20 appellate commission, or a court, interest on the compensation
21 shall be paid at the ~~A rate of 10% per annum from the date each~~
22 ~~payment was due, until paid.~~ **CALCULATED IN THE SAME MANNER AS**
23 **INTEREST ON A MONEY JUDGMENT IN A CIVIL ACTION UNDER SECTION**
24 **6013(8) OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL**
25 **600.6013.**

26 (7) **BY APRIL 1, 2012, THE DIRECTOR OF THE WORKER'S**
27 **COMPENSATION AGENCY SHALL COORDINATE WITH THE DEPARTMENT OF**

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1 TECHNOLOGY, MANAGEMENT, AND BUDGET ON THE DEVELOPMENT OF
2 COMPREHENSIVE DATA AND SHALL FILE WITH THE SECRETARY OF THE SENATE
3 AND THE CLERK OF THE HOUSE OF REPRESENTATIVES A REPORT MAKING
4 RECOMMENDATIONS TO THE LEGISLATURE ON A SYSTEM UTILIZING ADVANCED
5 ANALYTICS FOR THE DETECTION AND PREVENTION OF FRAUD, WASTE, AND
6 ABUSE IN THE WORKER'S COMPENSATION SYSTEM. <<ADDITIONALLY, THE
DIRECTOR SHALL INCLUDE INFORMATION ON THE NUMBER OF CASES FILED,
AND THE NUMBER OF EMPLOYEES WHO HAD BENEFITS REDUCED AS A RESULT
OF A DETERMINATION OF THEIR WAGE EARNING CAPACITY.>>

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

25 (2) The carrier shall notify the employer in writing, **WHICH**
26 **MAY BE ELECTRONICALLY TRANSMITTED**, of the proposed redemption
27 agreement not less than 10 business days before a hearing on the

1 proposed redemption agreement is held. The notice shall include all
2 of the following:

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

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

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

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

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

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

1 ~~party under section 532.~~

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

9 (a) Education and training.

10 (b) Case management.

11 (c) Hearings and claims for review.

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

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

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

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

24 (c) That if an application has been filed pursuant to section
25 847 it alleges a compensable cause of action under this act.

26 (d) That the injured employee is fully aware of his or her
27 rights under this act and the consequences of a redemption

1 agreement.

2 (2) PARTIES MAY STIPULATE IN WRITING TO THE DETERMINATIONS IN
3 SUBSECTION (1). IF ALL PARTIES STIPULATE IN WRITING TO THOSE
4 DETERMINATIONS, THE STIPULATION MAY SERVE AS A WAIVER OF HEARING,
5 AND THE MAGISTRATE MAY APPROVE THE REDEMPTION AGREEMENT. A
6 MAGISTRATE MAY CONDUCT A HEARING ON A PROPOSED STIPULATION.

7 (3) ~~(2)~~—In making a determination under subsection (1),
8 factors to be considered by the worker's compensation magistrate
9 shall include, but not be limited to, all of the following:

10 (a) Any other benefits the injured employee is receiving or is
11 entitled to receive and the effect a redemption agreement might
12 have on those benefits.

13 (b) The nature and extent of the injuries and disabilities of
14 the employee.

15 (c) The age and life expectancy of the injured employee.

16 (d) Whether the injured employee has any health, disability,
17 or related insurance.

18 (e) The number of dependents of the injured employee.

19 (f) The marital status of the injured employee.

20 (g) Whether any other person may have any claim on the
21 redemption proceeds.

22 (h) The amount of the injured employee's average monthly
23 expenses.

24 (i) The intended use of the redemption proceeds by the injured
25 employee.

26 (4) ~~(3)~~—The factors considered by the worker's compensation
27 magistrate in making a determination under this section and the

1 responses of the injured employee thereto shall be placed on the
2 record.

3 (5) ~~(4)~~—An employer shall be considered a party for purposes
4 under this section.

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

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

16 (3) Unless review is ordered or requested within 15 days after
17 the date the order of the worker's compensation magistrate is
18 mailed, **OR DISTRIBUTED ELECTRONICALLY**, to the parties, the order
19 shall be final.

20 Sec. 847. (1) Except as otherwise provided for under this act,
21 upon the filing with the ~~bureau~~ **AGENCY** by any party in interest of
22 an application in writing stating the general nature of any claim
23 as to which any dispute or controversy may have arisen, the case
24 shall be set for mediation or hearing, as applicable. **AN**
25 **APPLICATION MAY BE SUBMITTED ELECTRONICALLY.** A worker's
26 compensation magistrate shall hear a case that is set for hearing.

27 ~~(2) For cases in which an application for a hearing under this~~

1 ~~section is filed after March 31, 1986, the~~ **THE** worker's
2 compensation magistrate, in addition to a written order, shall file
3 a concise written opinion stating his or her reasoning for the
4 order including any findings of fact and conclusions of law. The
5 order and opinion shall be part of the record of the hearing. **THE**
6 **ORDER AND OPINION MAY BE FILED AND DISTRIBUTED ELECTRONICALLY.**

7 **(3) IF THE AGENCY OR THE MICHIGAN ADMINISTRATIVE HEARING**
8 **SYSTEM DETERMINES THAT A CASE MAY BE RESOLVED BY MEDIATION, THE**
9 **CASE MAY BE MEDIATED BY THE PARTIES. IF THE MATTER IS NOT RESOLVED**
10 **BY THE MEDIATION, THE CASE SHALL BE SET FOR HEARING.**

11 Sec. 853. Process and procedure under this act shall be as
12 summary as reasonably may be. The director, worker's compensation
13 magistrates, arbitrators, and the ~~board shall have the power to~~
14 **MICHIGAN COMPENSATION APPELLATE COMMISSION MAY** administer oaths,
15 subpoena witnesses, and ~~to~~ examine such parts of the books and
16 records of the parties to a proceeding as relate to questions in
17 dispute. **A SUBPOENA SIGNED BY AN ATTORNEY OF RECORD IN THE ACTION**
18 **HAS THE FORCE AND EFFECT OF AN ORDER SIGNED BY THE WORKER'S**
19 **COMPENSATION MAGISTRATE OR ARBITRATOR ASSOCIATED WITH THE HEARING.**
20 Any witness who refuses to obey a subpoena, who refuses to be sworn
21 or testify, or who fails to produce any papers, books, or documents
22 touching any matter under investigation or any witness, party, or
23 attorney who is guilty of any contempt while in attendance at any
24 hearing held under this act may be punished as for contempt of
25 court. An application for this purpose may be made to any circuit
26 court within whose jurisdiction the offense is committed and for
27 which purpose the court is given jurisdiction.

1 Sec. 862. (1) A claim for review filed pursuant to section
2 ~~859, 859a, 860, 861, or 864(11)~~ ~~shall~~ **DOES** not operate as a stay of
3 payment to the claimant of 70% of the weekly benefit required by
4 the terms of the award of the worker's compensation magistrate or
5 arbitrator. Payment shall commence as of the date of the worker's
6 compensation magistrate's or arbitrator's award, and shall continue
7 until final determination of the appeal or for a shorter period if
8 specified in the award. Benefits accruing prior to the award shall
9 be withheld until final determination of the appeal. If the weekly
10 benefit is reduced or rescinded by a final determination, the
11 carrier ~~shall be~~ **IS** entitled to reimbursement in a sum equal to the
12 compensation paid pending the appeal in excess of the amount
13 finally determined. Reimbursement shall be paid upon audit and
14 proper voucher from the second injury fund established in chapter
15 5. If the award is affirmed by a final determination, the carrier
16 shall pay all compensation which has become due under the
17 provisions of the award, less any compensation already paid.
18 Interest shall not be paid on amounts paid pending final
19 determination. Payments made to the claimant during the appeal
20 period ~~shall be~~ **IS** considered as accrued compensation for purposes
21 of determining attorneys' fees under the rules of the
22 ~~bureau~~ **AGENCY**.

23 (2) A claim for review filed pursuant to section 859a or
24 864(11) of a case for which an application under section 847 is
25 filed after March 31, 1986 ~~shall~~ **DOES** not operate as a stay of
26 providing **REASONABLE AND NECESSARY** medical benefits required by the
27 terms of the award. Medical benefits shall be provided as of the

1 date of the award and shall continue until final determination of
2 the appeal or for a shorter period if specified in the award.
3 Benefits accruing prior to the award shall be withheld until final
4 determination of the appeal. If the benefit amount is reduced or
5 rescinded by a final determination, the carrier shall be reimbursed
6 for the amount of the expenses incurred in providing the medical
7 benefits pending the appeal in excess of the amount finally
8 determined. Reimbursement shall be paid upon audit and proper
9 voucher from the general fund of the state. If the award is
10 affirmed by a final determination, the carrier shall provide all
11 medical benefits ~~which~~**THAT** have become due under the provisions of
12 the award, less any benefits already provided for. Interest shall
13 not be paid on amounts paid pending final determination.

14 Enacting section 1. Sections 209, 211, 215, 223, and 364 and
15 chapter 7 of the worker's disability compensation act of 1969, 1969
16 PA 317, MCL 418.209, 418.211, 418.215, 418.223, 418.364, and
17 418.700 to 418.751, are repealed.

18 Enacting section 2. This amendatory act applies to injuries
19 incurred on or after its effective date.