Funds Administration Overview

September 2015

LICENSING AND REGULATORY AFFAIRS

CUSTOMER DRIVEN. BUSINESS MINDED.

Rick Snyder, Governor
State of Michigan

Mike Zimmer, Director
Department of Licensing and Regulatory Affairs

Douglas A. Green, Chair
Michael T. Reid
Mark C. Long
Board of Trustees

John W. Schrock
Acting Funds Administrator

Second Injury Fund
Silicosis, Dust Disease &
Logging Industry Compensation Fund
Self-Insurers' Security Fund

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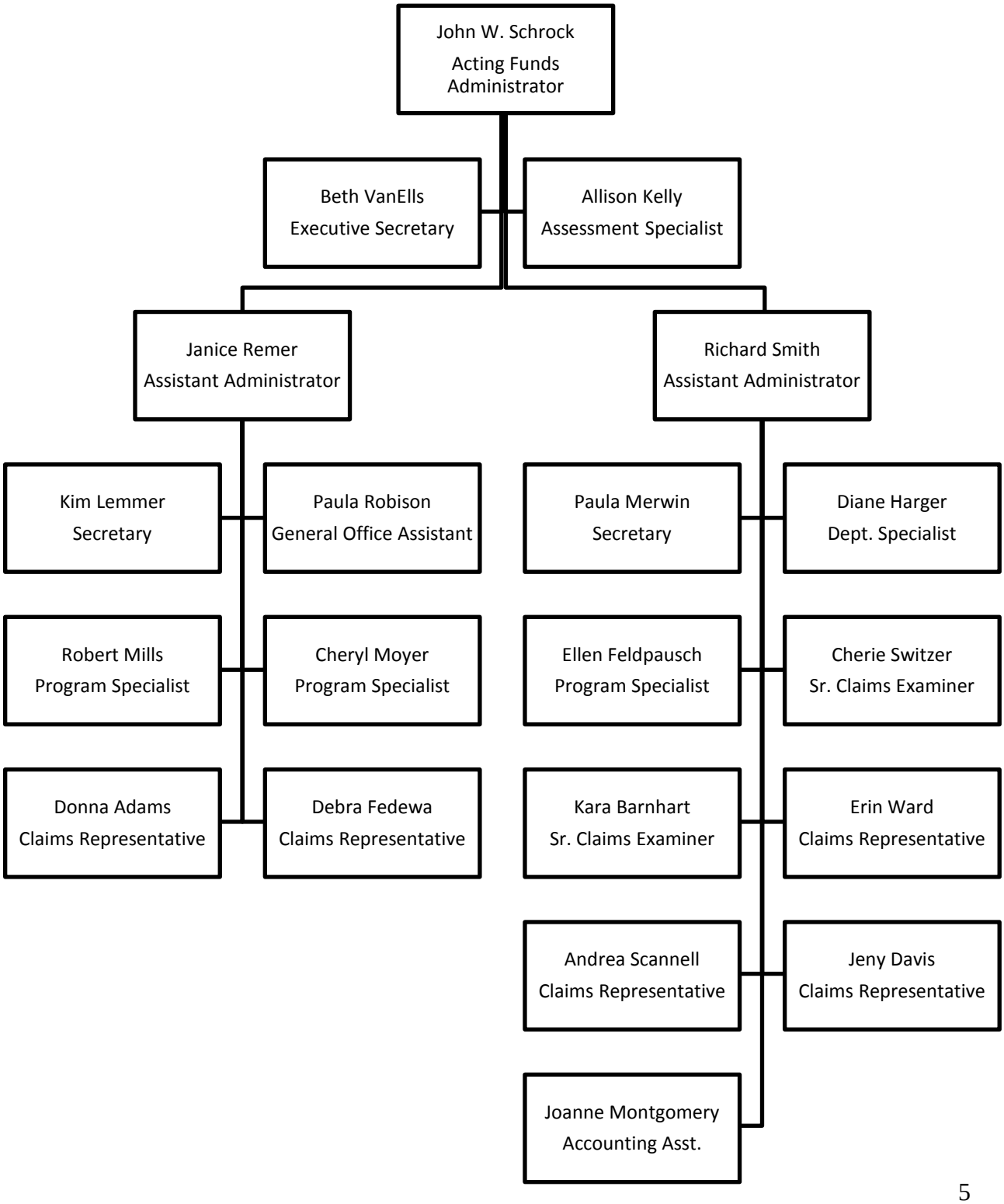
Who We Are

The Funds Administration consists of the Second Injury Fund, the Silicosis, Dust Disease and Logging Industry Compensation Fund, and the Self-Insurers' Security Fund. The Funds Administration is managed by a board of trustees. Two of our trustees are appointed by the governor with the advice and consent of the senate. Douglas A. Green, Manager of Benefits Administration for DTE Energy Company is the current Chairperson and represents employers authorized to act as self-insurers in Michigan. Michael T. Reid, Former Director Litigation, Subrogation and Medicare for Accident Fund Holdings Company represents the insurance industry. Mark C. Long, Director of the Workers' Compensation Agency is our third trustee.

We are 100% funded by insurers who write workers' compensation policies in the state of Michigan, and employers who self-insure their workers' compensation risk. Separate assessments are levied for each fund and the assessments cover all benefits paid as well as legal and administrative costs incurred by the Funds Administration. The Second Injury Fund and Silicosis, Dust Disease and Logging Industry Compensation Fund assessments are paid by insurance companies and self-insured employers. The Self-Insurers' Security Fund assessment is levied against private self-insured employers.

Legal advice and representation is provided by the Department of the Attorney General. In addition to the Division Chief and First Assistant of the Labor Division and the Funds Administration Unit Section Head, there are six Assistant Attorneys General and 15 Special Assistant Attorneys General.

In addition, to the three aforementioned funds, we also administer the Medical Benefits Reimbursement Fund [MCL 418.862(2)] under the authority of the WCA Director. Payments and administrative expenses from this fund come from the general fund.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Dept. Specialist
Ellen Feldpausch
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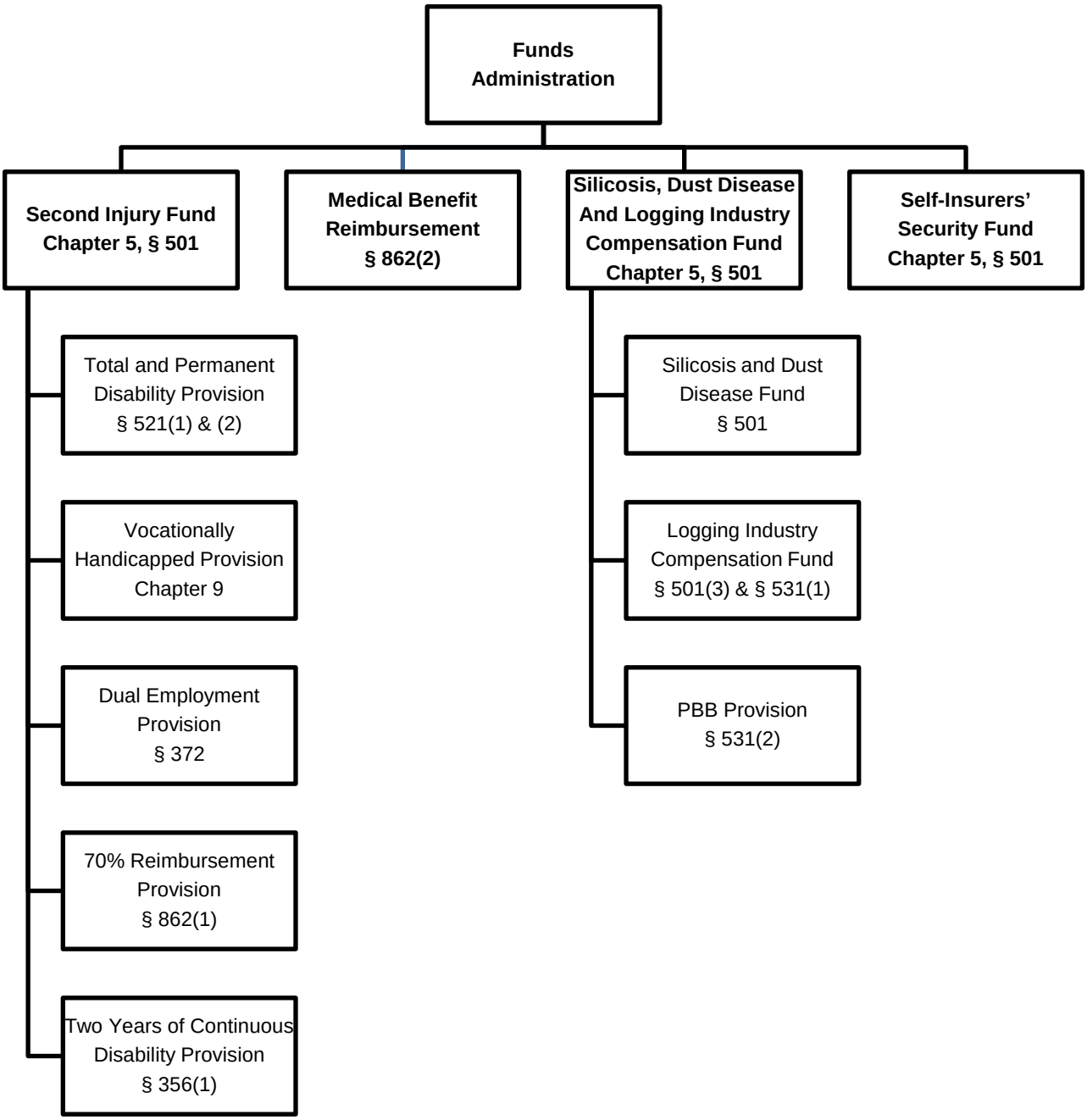
Sr. Claims Examiner
Kara Barnhart
Sr. Claims Examiner
Erin Ward
Claims Representative
Andrea Scannell
Claims Representative
Jeny Davis
Claims Representative
Joanne Montgomery
Accounting Asst.

State Funds Managed by the Funds Administration



Second Injury Fund

The Second Injury Fund has five distinct responsibilities under the Workers' Disability Compensation Act:

- Total and Permanent Disability Provision
- Vocationally Handicapped Provision
- Dual Employment Provision
- Seventy Percent Reimbursement Provision
- Two Years of Continuous Disability Provision

Total and Permanent Disability Provision

Total and permanent disability benefits are provided to individuals who meet the definition of total and permanent disability under the terms of the Workers' Disability Compensation Act. Under section 361(3), total and permanent disability, compensation for which is provided in section 351 means:

a) Total and permanent loss of sight of both eyes.
b) Loss of both legs or both feet at or above the ankle.
c) Loss of both arms or both hands at or above the wrist.
d) Loss of any two of the members or faculties in the subdivisions (a), (b), or (c).
e) Permanent and complete paralysis of both legs or both arms or of one leg and one arm.
f) Incurable insanity or imbecility.
g) Permanent and total loss of industrial use of both legs or both hands or both arms or one leg and one arm; for the purpose of this subdivision such permanency shall be determined not less than 30 days before the expiration of 500 weeks from the date of injury.

Sequential losses (also called 8A cases) - 521(1) - If there is a prior loss of a hand, arm, foot, leg or eye, followed by the compensable loss of one or more of the above, the fund assumes payment of the basic weekly benefit after the carrier has paid for the second specific loss.

Differential benefits - 521(2) - Benefits paid by the Second Injury Fund to a totally and permanently disabled employee. The differential benefit is the difference between the statutory weekly rate payable by the employer or insurance carrier for the date of injury and the weekly benefit rate now provided by the statute.

Factors used to determine the Second Injury Fund total and permanent disability benefit rate and accrued compensation:

- Date of injury
- Average weekly wage
- Value of discontinued fringe benefits
- Dependents
- Income tax filing status
- Date of birth of employee and dependents
- Carrier's weekly benefit rates for the period of fund payment
- Date of total and permanent disability
- Date of first notice (for application of the two-year back rule in cases with dates of injury after 6/30/68)
- Supplemental benefit rate, period and amount paid in cases with dates of injury from 9/1/65 through 12/31/79

Total and permanent differential benefits may be paid directly to the employee by the fund if the carrier is either unable to pay, has no separate obligation to pay, or has redeemed liability. This provision of the fund pays and/or reimburses weekly differential benefits only. Reimbursements are made to the carrier every six months. Redemption by an employer or insurance carrier before an admission or adjudication of liability for permanent and total disability extinguishes an employee's claim for benefits from the Second Injury Fund. When an employee and the employer or insurance carrier redeem the employer's liability after all parties concede permanent and total disability or there is an adjudication of permanent and total disability, the employee's claim for benefits from the Second Injury Fund can continue. Once it is agreed or determined by final decision that an employee is permanently and totally disabled, redemption by the employer or insurance carrier will not affect the responsibility of the Second Injury Fund to pay benefits to the claimant. The fund will pay weekly benefits to the employee for as long as the employee is permanently and totally disabled as defined in the workers' compensation statute. The Second Injury Fund will consider redemption after all parties have conceded or there has been an adjudication regarding permanent and total disability. The fund may redeem in conjunction with, or separate from, the employer or insurance carrier.

Vocationally Handicapped Provision

This program encourages Michigan employers to hire individuals with medically identifiable impairments of the back or heart, or who have epilepsy or diabetes when these impairments cause a substantial obstacle to employment. The Department of Human Services, Michigan Rehabilitation Services and the Second Injury Fund jointly administer this program.

In the event of a work-related injury, the Second Injury Fund will either reimburse or pay direct workers' compensation benefit obligations beyond 52 weeks after the date of injury when all provisions of Chapter 9 have been met. The Second Injury Fund is also responsible for vocational rehabilitation costs from the date of injury.

An employer or carrier must complete the certification process in order to receive the protection of Chapter 9. Employer certification is invalid if the person was employed with the same employer within 52 weeks of issuance of the certificate. A certification is invalid if the employer certification is not filed with the Michigan Rehabilitation Services within 60 days after the first day of employment, or before an injury for which benefits are payable under the Act.

A carrier shall place the Second Injury Fund on notice not less than 90 nor more than 150 days before the expiration of 52 weeks from the date of injury when it is likely that compensation may be payable beyond a period of 52 weeks after the date of injury.

Dual Employment Provision

Section 371(2) provides that an injured employee engaged in more than one employment at the time of injury is entitled to weekly benefits based on all wages earned in **employments covered** by the Michigan Workers' Disability Compensation Act. Section 372 provides for proportionate reimbursement from the Second Injury Fund. This provision applies to dates of injury on or after January 1, 1982.

Examples of dual employment situations that are **not** covered:

- Federal employment (excluding military members of the Michigan National Guard).
- Sole proprietorships, self-employment, and independent contractors.
- Partnerships or corporations where the owner/employee or other family members have excluded themselves from workers' compensation coverage.
- Domestic workers (there are exceptions).
- Real Estate salespeople/brokers (there are exceptions).

The dual employment provision does not have reimbursement liability in the following situations:

- There is no wage loss from the non-injury employer.
- The injured worker is not disabled from performing the non-injury job.
- Both employers are agricultural.
- Earnings from the non-injury employer were not reported to the Internal Revenue Service.
- Both jobs caused the disability.
- The non-injury employment is not covered under the act.
- On call or volunteer workers entitled to benefits under sections 161(1) as amended by 2012 PA 83, effective 04/11/12.

In calculating the employee's benefit rate, the average weekly wage for each employer is calculated separately, in accordance with Section 371, and then combined. If the employment which caused the personal injury or death provides 80% or less of the employee's total average weekly wage, the fund will reimburse its apportionment share of the weekly rate based on the ratio of the employee's average weekly wage at the non-injury employer to the total average weekly wage. If the place of injury or death provided more than 80% of the total average wage, there will be no reimbursement from the fund. However, the employer is responsible for compensation based on the total average weekly wage.

This provision reimburses the carrier for weekly benefits. This provision does not reimburse uninsured employers and has no statutory authority to pay disabled employees directly. Reimbursement should be requested quarterly on the Form 112, Application for Reimbursement.

70% Reimbursement Provision

Defendants who appeal an open award by a workers' disability compensation magistrate must pay 70% of the awarded weekly compensation benefits while the case is on appeal. If the award of benefits is later rescinded or reduced by final determination, excess weekly benefit payments are reimbursable by the Second Injury Fund.

Seventy percent benefits are paid from the mailing date of the magistrate's decision. Weekly benefits should be paid in accordance with the act (i.e., apply age reductions, coordination, dependency changes, partial, etc.). When there is a final award, credit should be taken for 70% benefits paid against what is due by final order. If more money has been paid than owed, the excess is reimbursed by the fund. If less has been paid than owed, the balance is due with interest. Weekly benefits paid by one carrier must be taken as a credit if another carrier is responsible.

Two Years of Continuous Disability Provision

The statute provides that if a person is injured on or after January 1, 1982 and, at the time of personal injury, is entitled to a compensation rate less than 50% of the state average weekly wage, after two years of continuous disability, the employee may petition for an increase in the rate of compensation. The employee may present evidence, that by virtue of the employee's age, education, training, experience or other documented evidence, the employee's earnings would have been expected to increase. Factors which affect all employees in a similar manner, such as inflation, should not be considered when determining whether a disabled employee qualifies for a rate increase. A magistrate may order an adjustment of the compensation rate up to 50% of the state's average weekly wage for the year in which the employee's injury occurred. The amount of the adjustment to the compensation rate is reimbursable by the Second Injury Fund. Only one adjustment is made for an employee and the adjustment is made from the date the petition was filed. This provision does not apply to partially disabled workers.

Redemption by a carrier before an admission of or an adjudication regarding the employer's liability extinguishes both the employee's right to seek a rate increase under the two years of continuous disability provision and the employer's right to seek reimbursement from the fund. Once it is agreed or determined by final decision that an employee is entitled to a rate increase, the carrier can redeem its liability independent of the Second Injury Fund, however, the carrier must continue to pay the two years of continuous disability benefit to the employee and seek reimbursement from the fund.

Silicosis, Dust Disease and Logging Industry Compensation Fund

The Silicosis, Dust Disease and Logging Industry Compensation Fund has three separate types of responsibilities:

- Silicosis and Dust Disease Fund
- Logging Industry Compensation Fund
- PBB Provision

For claims with dates of injury from May 1, 1966 through June 30, 1985, reimbursement occurs after the employee has been paid more than $12,500 in weekly benefits. Claims with dates of injury on or after July 1, 1985, carriers will pay $25,000 or 104 weeks of benefits, whichever is greater, before reimbursement is due. The fund does not reimburse medical, burial expense, rehabilitation costs, penalty or interest payments. It is the employer that adds the Silicosis, Dust Disease and Logging Industry Compensation Fund to a litigated case. The employee cannot add the fund.

The fund has the right to reimbursement and credit from third party recoveries pursuant to MCLA 428.827. Carriers who obtain third party reimbursement, must repay those monies before reimbursement resumes from the fund. The carrier is expected to avail itself of its right to reimbursement and where it has failed to do so will be held accountable for monies it was entitled to recoup [Nelligan v Gibson Insulation 193 Mich App 274; 483 NW2d 460 (1992)].

Silicosis and Dust Disease Fund

The Dust Fund provides reimbursement to the carrier for the payment of weekly benefits to an employee disabled from silicosis, pneumoconiosis, phthisis and asbestosis. The Dust Fund also reimburses for silica related lung conditions from the foundry industry. In addition, the employer is not required to prove “threat to the industry” in cases where the employee’s work related disability or death, due to lung cancer has been caused by exposures to asbestos or silica.

Logging Industry Compensation Fund

The Logging Fund reimburses carriers for the payment of weekly workers’ compensation benefits to individuals who sustained personal injury or death out of the course of employment in the logging industry, specifically employment described in the workers’ compensation and employer’s liability insurance manual entitled, “logging or lumbering and driver’s code no. 2702,” in effect in 1980. The classification 2702 includes all aspects of the logging operation with the exception of clerical employees and outside sales. Sawmill operations are separately rated.

PBB Provision

The PBB provision provides reimbursement to carriers for weekly benefits paid as a result of disability or death caused by, contributed to, or aggravated by exposure to polybrominated biphenyl (PBB) if exposure occurred before July 24, 1979, by an employer located in Michigan engaged in the manufacture of PBB. The fund has yet to reimburse a claim.

Self-Insurers' Security Fund

The Self-Insurers' Security Fund (SISF) provides workers' compensation benefits to employees of self-insured employers who become insolvent after November 15, 1971. If a private self-insured employer becomes insolvent, payments are made to injured workers from the Self-Insurers' Security Fund when three statutory conditions are met, unless insurance or other coverage is available:

- The private self-insured employer is insolvent.
- The employee requests payment of benefits from the Funds Administrator or files an Application for Mediation or Hearing with the Workers' Compensation Agency and/or the Michigan Administrative Hearing System.
- The insolvent private self-insured employer is unable to continue payments.

The fund pays from the date all three conditions are met. No payments for benefits owed before that date are paid by the SISF. Assessments for the SISF are paid by private self-insured employers only.

In accordance with Rule 408.43q, the Self-Insurers' Security Fund, when triggered, may utilize financial guarantees posted with the agency to pay claims. In addition, both specific and aggregate excess liability insurance policies continue to have responsibility for payments when retention levels have been met (Rule 408.43k).

It should be noted that public employers are not covered by the SISF. In the event of a bankruptcy the employee should also file a claim in bankruptcy court for any workers' compensation benefits the fund cannot pay.

Medical Benefit Reimbursement

Reimbursement of medical benefits is a program administered within the Funds Administration. The objective of this program is to administer and provide reimbursement to the carrier for medical benefits paid to the claimant between the date of the magistrate's award and the date of the final determination of the appeal. If the final determination of the appeal has reversed the medical benefit awarded in the magistrate's decision, then reimbursement for payments would be processed and administered by the agency and paid from the general fund of the state. Once the final appeal process has been completed, the agency is required to provide a thorough review of any application for reimbursement submitted by the carrier. The staff must examine copies of the original medical bills and all final decisions (magistrate or appellate orders) to determine that reimbursement for medical costs is appropriate. After ensuring specific criteria and provisions of Section 862(2) and Rule 408.32a are met, then the reimbursement application is processed by the program staff and the department's finance division.

SIF and SDDF 2015 ASSESSMENTS

SECOND INJURY FUND:

Beginning Fund Balance: 1-1- 2014:		$9,756,947.27
Revenues:		
Assessments:	$13,282,025.06	
Third Party Recovery:	$20,724.21	
Interest Earnings:	$8,310.58	
Miscellaneous:	$24,159.16	
Total Revenues:		$13,335,219.01
Available Funds:		$23,092,166.28
Disbursements:	$12,572,959.35	
Multiplier:	1.75	$22,002,678.86
Ending Fund Balance: 12-31-2014:	$10,519,008.93	
	-$200,000.00	-$10,319,008.93
2015 SIF ASSESSMENT:		**$11,683,669.93**

SILICOSIS & DUST DISEASE FUND:

Beginning Fund Balance: 1-1- 2014:		$1,853,141.82
Revenues:		
Assessments:	$900,729.10	
Third Party Recovery:	$4,294.99	
Interest Earnings:	$1,437.98	
Miscellaneous:	$0.10	
Total Revenues:		$906,462.17
Available Funds:		$2,759,603.99
Disbursements:	$1,510,690.53	
Multiplier:	1.75	$2,643,708.43
Ending Fund Balance: 12-31-2014:	$1,248,913.46	
	-$200,000.00	-$1,048,913.46
2015 SDDF ASSESSMENT:		**$1,594,794.97**

2015 SIF AND SDDF ASSESSMENT PERCENTAGES

SELF-INSURED EMPLOYERS:	Public Losses:	Private Losses:	Total Losses:
Individual Reports:	$61,311,499.15	$186,354,846.99	$247,666,346.14
Estimated CY2014 Payments:	$0.00	$0.00	$0.00
Total:	$61,311,499.15	$186,354,846.99	$247,666,346.14

INSURANCE COMPANIES:	Ins. Comp. Losses:	Direct Premiums Written:
Individual Reports:	$342,654,502.14	$1,308,289,347.00
Estimated CY2014 Payments:	$0.00	
MPCGA Payments	$2,120,203.00	
Total:	$344,774,705.14	

TOTAL PAYMENTS DURING CY2013:	Amount:	Percent:
Self-Insured Employers:	$247,666,346.14	0.41804
Insurance Companies:	$344,774,705.14	0.58196
Total:	$592,441,051.28	

2015 ASSESSMENT RATES FOR SELF-INSURED EMPLOYERS:

SECOND INJURY FUND:

($11,683,669.93 * 0.41804) / $247,666,346.14 = .01972

Assessment Rate: **.01972**

SILICOSIS AND DUST DISEASE FUND:

($1,594,794.97 * 0.41804) / $247,666,346.14 = .00269

Assessment Rate: **.00269**

2015 ASSESSMENT RATES FOR INSURANCE COMPANIES:

SECOND INJURY FUND:

($11,683,669.93 * 0.58196) / $1,308,289,347 = .00520

Assessment Rate: **.00520**

SILICOSIS AND DUST DISEASE FUND:

($1,594,794.97 * 0.58196) / $1,308,289,347 = .00071

Assessment Rate: **.00071**

Assessment Collections

	SIF	SDD & LICF	SISF	Total
2015	$11,683,670	$1,594,795	$5,590,645	$18,869,110
2014	$13,390,648	$904,181	$6,503,000	$20,797,519
2013	$11,967,428	$2,080,022	$7,673,000	$21,720,450
2012	$10,886,616	$1,104,272	$7,589,000	$19,579,888
2011	$16,543,451	$1,287,506	$6,815,798	$24,646,755
2010	$10,622,552	$2,338,607	$7,686,000	$20,647,159
2009	$12,677,658	$1,234,268	$8,717,292	$22,629,218
2008	$15,919,650	$2,685,127	$3,157,000	$21,761,777
2007	$19,432,487	$1,406,356	$9,013,000	$29,851,843
2006	$15,726,115	$2,022,928	$6,646,600	$24,397,643

		Employer Multipliers			Insurance Multipliers	
	Call Date	**SIF**	**SDDF**	**SISF***	**SIF**	**SDDF**
2015 **	06/03/15	.01972	.00269	.03	.0052	.00071
2014	05/02/14	.01896	.00128	.03	.00632	.00043
2013	05/02/13	.01581	.00275	.03	.00561	.00097
2012	05/02/12	.01386	.00141	.03	.00564	.00057
2011	04/22/11	.02213	.00172	.03	.00884	.00069
2010	05/28/10	.01103	.00243	.03	.00577	.00127
2009	06/25/09	.01435	.0014	.03	.00594	.00058
2008	05/23/08	.01664	.00281	.01	.00744	.00216
2007	05/04/07	.0214	.00155	.02774	.00798	.00058
2006	06/20/06	.01665	.00214	.02	.00625	.0008

*Applies to private self-insurers only.

**Two assessment call dates this year, 06/03/15 for the Second Injury Fund and the Silicosis, Dust Disease and Logging Fund, and 09/02/2015 for the Self-Insurers' Security Fund.

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Cheryl Moyer	Program Specialist	(517) 284-8870

Handles:

- Dual Employment Provision of the Second Injury Fund - Section 372
- Silicosis and Dust Disease Provision of the SDD & LICF - Chapter 5
- Logging Industry Compensation Fund Provision of the SDD & LICF - Chapter 5
- PBB Provision of the SDD & LICF - Chapter 5
- Total and Permanent Disability Provision of the Second Injury Fund - Sections 351, 361 (3), 521
- 70% Reimbursement Provision of the Second Injury Fund - Section 862(1)

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Handles:

- Self-Insurers' Security Fund - Chapter 5
- Vocationally Handicapped Provision of the Second Injury Fund - Chapter 9
- Total and Permanent Disability Provision of the Second Injury Fund - Sections 351, 361 (3), 521
- Two Years of Continuous Disability Provision of the Second Injury Fund - Section 356(1)
- Medical Benefit Reimbursement - Section 862(2)
- Fiscal Management
- Information Technology