

## ADDITIONAL INFORMATION

### ■ Wage Earning Capacity

Section 301 defines "wage earning capacity" as the wages the employee earns or is capable of earning at a job reasonably available to that employee, whether or not wages are actually earned.

### ■ Lump Sum Advance and Redemption Settlement

In certain cases, you may be allowed to draw all or part of your compensation in one lump sum through an advance payment of future benefits, or through a redemption (settlement) of your entire claim. An advance payment is a pre-payment of all or part of the present value of your employer's established and undisputed liability for compensation. A redemption is a complete and final settlement of your claim through the payment of a one-time lump sum payment.

### ■ Retired Persons

Retirees are presumed not to have a loss of wage earning capacity unless there is evidence to the contrary.

### ■ Unemployment Compensation

No person may receive full workers' compensation benefits and unemployment insurance benefits for the same period of time from the same employer.

### ■ Returning To Work

The law does not require the employer to offer a job. However, many employers try to make restricted work available for their injured employees whenever they are cleared to return to some form of work.

### ■ Can I File My Own Claim

Yes. Form WC-117, "Employee's Report of Claim" can be found on the Agency's website. Or you can contact the agency via phone and request the form be mailed to you. The agency will process the form upon receipt, and notify the employer and their insurance company that a claim has been filed.

### ■ How Long Do I Have To File A Claim

You should always report any accident at work, however minor, to your employer immediately. The statute states that you should provide notice of injury to the employer within 90 days of the injury. However, you have up to two years from the date of injury, or the date the disability manifests itself, to file a workers' compensation claim. You cannot receive past due benefits for more than two years back from the date you file an application for hearing.

## YOUR RESPONSIBILITIES

You must:

- ✓ Promptly report your injury to your employer.
- ✓ Notify your employer or their insurance carrier of any wages earned during the benefit period. Michigan law does not permit the payment of weekly workers' compensation benefits to persons who are employed and receiving wages equal to or greater than wages earned on the date of injury except for specific loss or permanent and total disability.
- ✓ Seek jobs reasonably available to you and that are within your post-injury abilities, especially if your employer is unable to accommodate your restrictions.
- ✓ Submit to reasonable periodic medical examination if required by your employer or their insurance carrier.
- ✓ Cooperate with reasonable rehabilitation efforts directed toward assisting you in returning to appropriate competitive employment.
- ✓ Accept a valid offer of employment from your previous employer or another employer if it is within your physical restrictions.

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# A Summary of Your Rights and Responsibilities Under Michigan Workers' Compensation



LARA is an equal opportunity employer/program.

**W**orkers' Compensation is an employee benefit established in 1912 by the Michigan Legislature. It is administered by the Michigan Department of Licensing and Regulatory Affairs, Workers' Compensation Agency and covers most employees.

Compensation is provided for disability or death as a result of a work-related injury or disease, without regard to who may be at fault. Benefits are paid by employers (either directly or through their insurance carriers) and should not be confused with unemployment compensation, hospital, health, or accident insurance.

If you don't know whether your employer has workers' compensation insurance, simply ask them. You can also find out by calling our agency at the toll-free number listed on the back cover of this pamphlet, or by checking our website at [www.michigan.gov/wca](http://www.michigan.gov/wca).

The right to recovery of benefits as provided in the Workers' Disability Compensation Act is your exclusive remedy against your employer for work-related injuries or diseases. You do not have the right to sue your employer for benefits not provided for in the Act.

This pamphlet only summarizes your rights and responsibilities under the Workers' Disability Compensation Act. For additional information and clarification specific to your claim, you can contact the Workers' Compensation Agency, or you may discuss your case with your employer and/or their insurance carrier, or your attorney if you have one.

## YOUR RIGHTS

### ■ Medical Care

You are entitled to reasonable and necessary medical care for work-related injuries or diseases. This includes medical, surgical, hospital services and medicines. Under certain conditions, attendant care, dental care, crutches and such artificial appliances as limbs, eyes, teeth, eyeglasses and hearing aids may also be covered.

Employers or their insurance carriers are required by law to provide these services. During the first 28 days of treatment, your employer has the right to choose the physician. After 28 days you are free to change physicians, but you must notify your employer of the intent to change and the doctor's name. Your employer has a right to dispute your choice of physician.

If your employer refuses to provide medical care, you should contact our agency at the toll-free number on the back of this pamphlet.

You should not receive a bill from a health care provider for treatment or co-pay of a covered work-related injury or illness. If you do receive such a bill, you should contact your employer or their insurance carrier.

### ■ Wage Loss Benefits

Michigan is a "wage loss compensation" state. If your injury "arises out of and in the course of employment" while working for an employer subject to the Workers' Disability Compensation Act, you are entitled to weekly compensation benefits. For most dates of injury, the benefit rate is 80% of your after-tax average weekly wage, subject to a maximum rate. These benefits may be claimed as long as a disability and wage loss continue.

No compensation is paid for an injury which does not last for at least one week (7 days). If the disability lasts beyond one week, the worker is entitled to benefits as of the eighth day after the injury. If a disability continues for two weeks or longer, then the worker is entitled to compensation for the first week of disability.

In order to receive wage loss benefits, you must establish a disability and a limitation of wage earning capacity. Many times this limitation is very apparent, such as being off work completely due to surgery. However, if you are only partially disabled and retain some level of wage earning capacity, you do have a duty to seek reasonably available work, taking into consideration those limitations (restrictions) from the work-related personal injury or disease. You may also need to demonstrate, or show that you've made a "good-faith" attempt to seek and obtain post-injury employment.

If you return to work at a job that pays less than you were earning at the time of injury because you are still medically restricted, you could be entitled to partial compensation benefits.

If you suffer a "specific loss" such as the loss of an eye, finger, arm or other body member, you are entitled to a specific amount for a prescribed number of weeks.

### ■ Prompt Payment

Prompt payment of benefits is required by law. The first payment is due on the 14<sup>th</sup> day after your employer has notice or knowledge of a disability or death, and all compensation

accrued should be paid weekly. However, a benefit check is not considered late until 30 days after the due date.

### ■ Coordination of Benefits

If you are eligible for, or are receiving, old-age social security benefits, pension or retirement benefits, or other benefits paid for by your employer, there will be a reduction or coordination of benefits.

### ■ More Than One Employer

For benefit calculation purposes, if you work for more than one employer, you get credit for all wages earned in all jobs covered under the Workers' Disability Compensation Act.

### ■ Vocational Rehabilitation

Section 319 of the Act provides that a worker has a right to vocational rehabilitation benefits when he or she is unable to perform work for which they have previous training or experience. Vocational rehabilitation can include a variety of professional services designed to help injured workers re-enter the workforce. These services may include job placement assistance, retraining support, or guidance in starting your own business. Vocational rehabilitation services are paid for by the employer/insurance carrier, so in most cases you must have an open workers' compensation claim to receive rehabilitation benefits.

### ■ Vocational Rehabilitation Hearings

If you and your employer or their insurance carrier cannot agree upon a rehabilitation program, you have the right to a vocational rehabilitation hearing before the agency.

### ■ Hearings/Mediation

If you disagree with any claim decision by your employer or their carrier, you may file an application for hearing, Form WC-104A. The application form can be obtained by calling our toll-free number, or by downloading from the Agency's website.

Your case will be scheduled for mediation if:

- Your employer does not have insurance coverage.
- Your claim is for vocational rehabilitation services only.
- Your claim is for medical benefits only.
- You are not represented by an attorney.
- Our agency determines that the dispute may be resolved by mediation.

If your claim is not resolved by mediation, or does not meet the above criteria, your case will be transferred to a magistrate's docket.