JURISDICTION: MICHIGAN

ENVIRONMENT

Population Size 9.4 million in 1994, 8th largest state.
Labor Force 4.9 million in 1997

Demographic and Economic Indicators There has been relatively strong labour force and population growth in recent years. Leading state industries are durable goods manufacturing, including the automobile industry, and service industries. Michigan's economy is benefiting from the general strong U.S. economic performance in manufacturing and service industries. Michigan's per capita income ranks 19th in the U.S. and is higher than the national average.

The current unemployment rate is 4.5%, which is a 25 year low.
The average weekly wage in Michigan is $591.18 (1997).

GOVERNANCE & ADMINISTRATION

Nature of System Open competition with no competitive state fund - the competitive state fund was sold to a private carrier in 1994.

Principles and Mandate The objective seems to be to provide for workers' compensation coverage of employees with the minimum public sector involvement and the minimum economic impact on employers.

Access to Litigation Covered employees have no right to sue employers for covered injuries.

Scope of System Who is Covered? The Michigan workers' compensation legislation requires compulsory coverage of all employees with some exceptions. Executive officers, domestic workers working less than 35 hours per week or less than 13 weeks in a total of 52 weeks, or firms
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with two or fewer employees may elect not to be covered.

In 1992, the total labour force was 4.6 million, of which 3.0 million or 65% were covered by workers' compensation.

**What is Covered?**

All accidents arising out of and in the course of employment and diseases contracted by employees due to the nature of their employment are covered under the Michigan system.

To be compensable, a stress or mental disability claim must arise out of actual events occurring at the workplace, and the actual event or events must contribute in a significant manner to the mental disability when compared with non-occupational factors.

**Self Insurance**

Self insurance is permitted for large employers and groups of employers. The Bureau of Workers' Disability Compensation is responsible for certifying and regulating self insurers under the scheme.

**Organizational Framework**

The Bureau of Workers' Disability Compensation (BWDC), a division of the Department of Consumer and Industry Services, Michigan government, is responsible for monitoring claims, benefits and disputes. The Michigan Jobs Commission, Rehabilitation Services division, provides rehabilitation services. The Bureau of Insurance, also a division of the Department of Consumer and Industry Services, is responsible for the regulation of insurers.
Governance Structure

The directors of the various departments are appointed by the Governor.

Policy Development

Policy development is primarily the responsibility of the BWDC.

The Michigan Jobs Commission has a role in the development of workers' compensation policy, through its focus on economic development, job creation, and workforce enhancement, including training, rehabilitation and education, but it is not the lead agency.

Accountability

As a direct department, or bureau, of government, the BWDC is accountable and reports to government.

Performance Assessment

An administrative inventory was conducted in 1991, concentrating on the then competitive state fund administration, which has now been privatized. A subsequent administrative inventory, *Revisiting Workers' Compensation in Michigan*, was published in 1997.

Claims Adjudication Process

Claims filed with the employer must also be filed with the BWDC, as well as notices of compensation payment and disputes. Private insurers and self-insured employers adjudicate their own claims.

Dispute Resolution

Certain disputes go to a mediator to attempt to resolve them without a trial. This mediation program is part of the BWDC. The Bureau works closely with, and in support of, the Board of Magistrates (see below) to help in the resolution of disputes. Compromise and release agreements are allowed as a means of settlement, but must be approved by a magistrate.
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**Appeals Process**

There is a Board of Magistrates that hears appeals in a judicial environment, including attorneys and court reporters. Attorney fees are regulated by BWC.

Cases can be further appealed to the Appellate Commission, the Court of Appeals and the state Supreme Court.

**ASSESSMENTS / FINANCING**

**Assessment or Premium Setting Process**

Premiums are set by private insurers, subject to the same regulatory provisions as all insurers in Michigan face, including rate approval. That is, there is open competition and insurers compete based on price.

**Assessment/Premium Rates**

Insurers generally use both industry and firm experience rating in setting premiums, based on the National Council on Compensation Insurance (NCCI) standard rate setting methodology. Note that workers' compensation is exempt from U.S. anti-trust law, allowing for the information sharing between firms necessary to make informed pricing decisions (i.e. calculation of industry experience rating factors).

**Second Injury Funds / Disaster Funds**

The Michigan scheme provides for a Second Injury Fund, managed by BWDC, and financed by assessments on employers and insurance carriers, to facilitate the hiring of workers with pre-existing conditions covered by workers' compensation insurance.

**COMPENSATION BENEFITS**

**Claim Rate**

In 1996, 75,254 claims filed, as compared to 1995, when 84,335 claims were filed, and 1994, when about 90,000 claims were filed.

**Medical Aid**

**Nature of Aid**

Full coverage, with no time or monetary limits and no requirement for a time-loss claim.

**Choice of Provider**

The employer/insurer choose the health care provider for the first 10 days. The employee can change their provider after 10
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days by notifying their employer/insurer. The choice of health care provider by the employee can be challenged with BWDC and if the employee loses, they must pay for the treatment.

**Medical Cost Containment Initiatives**

Insurance carriers are permitted to contract with a health care provider. Utilization review is mandatory for all cases with medical costs over $5,000 and all in-patient hospital cases and cases of inappropriate, insufficient or excessive care. Bill reviews are mandatory for all medical and hospital bills.

**Rehabilitation**

*Physical/ Occupational/ Vocational*

The employer/insurer may require physical or vocational rehabilitation for up to 104 weeks. The employee receives wage loss and travel expense compensation while undergoing rehabilitation. Rehabilitation services are available from the state Michigan Jobs Commission and private service providers.

**Social**

None identified.

**Rehabilitation Incentives**

No specific incentives except for referrals and training provided by rehabilitation services.

**Trends in Treatment of Subjective Complaints**

None identified.
Disability Benefits

Short-Term Benefits - Temporary Disability

Weekly "loss of earnings or wage loss" compensation:
Rate: 80% of worker's spendable (after-tax) earnings to a maximum of 90% of State Average Weekly Wage (SAWW) (SAWW for 1997 is $591.18 and maximum weekly compensation is $533).

Indexed: The system is indexed to the extent that the SAWW increases each year, but new rates apply only to injured that occur during that year. Injuries of past years are capped as of the time of injury.

Duration: Duration of disability

Taxable: No.

Employer's Excess / Waiting Periods: There is a seven day waiting period for the worker, but benefits are paid retroactively if the disability continues for more than two weeks.
## Long-Term Benefits - Permanent Partial and Total Disability

**Economic "loss of earnings or wage loss" awards or pensions:**

**Rate:** Permanently disabled workers are eligible for a pension equal to 80% of spendable earnings to a maximum of 90% of SAWW.

**Indexed:** Minimum and maximum changes with SAWW.

**Duration:** Presumption of 800 weeks, extendible depending on the facts.

**Taxable:** No.

**Offset Against Other Social Security Benefits:** Long-term benefits are reduced by 50% of any social security benefits and by amounts received from other plans (pension, wage continuation etc.) and are offset against unemployment compensation benefits.

**Award for "functional impairment":**

**Periodic (pension or annuity):** None, the Michigan does not have a separate award for functional impairment.

**Lump-sum:** None\(^1\).

**Covers Disfigurement:** No.

**Impairment Schedule:** There is a statutory schedule that establishes benefits for disabilities resulting in wage loss and/or specific losses such as loss of arm, finger, leg, eye, etc.

**Supplemental Awards:** None identified.

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\(^1\) Lump-sum settlements are permitted to resolve wage loss liability.
Hearing Loss

Hearing loss is only covered when the hearing loss results from employment and causes a wage loss. If there is no wage loss or inability to perform the employee's job, there is no compensation for hearing loss.

Death Benefits

Funeral Expense Benefits

Funeral Costs: A lump-sum of up to $6,000.00, or actual costs, is provided to cover funeral costs and incidental expenses.

Emergency Lump-sum: None.

Survivor Benefits

<table>
<thead>
<tr>
<th>Survivor Category</th>
<th>Lump-sum</th>
<th>Pension</th>
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<tbody>
<tr>
<td>Dependents</td>
<td>None.</td>
<td>80% of the deceased's spendable earnings to a minimum of 50% of SAWW and a maximum of 90% SAWW, for up to 500 weeks duration.</td>
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<tr>
<td>Dependent children, if disabled</td>
<td>None.</td>
<td>Continue to receive the benefit longer than 500 weeks.</td>
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**HEALTH & SAFETY & PREVENTION**

### Organization Structure

**Agencies Responsible**

Michigan has a state occupational safety and health statute administered by the Bureau of Safety and Regulation in the Department of Consumer and Industry Services. The Bureau has total responsibility for the education, promotion, and enforcement of occupational health and safety and accident prevention in the state.

**Source of Funding**

Unknown.

**Accident Reporting**

Unknown.

**OHS Representatives & Committees**

Unknown.

**Offenses & Penalties**

**Contraventions of the Legislation**

Unknown.

**Administrative Penalties**

Unknown.

**OHS Legislative Review**

Unknown.

**Health and Safety and Loss Prevention Initiatives**

Accident prevention programs are required for each construction company and each construction site in the state.
The BWDC has an internal fraud unit responsible for receiving allegations or evidence of fraud and referring this information to the appropriate employer and or insurance carrier to pursue and investigate. Evidence of fraudulent activity is also referred by the bureau directly to the Michigan Attorney General's office. Statistics on the number of investigations and the impact and cost savings of fraud prevention activities is not available.