

Overview of the Funds Administration

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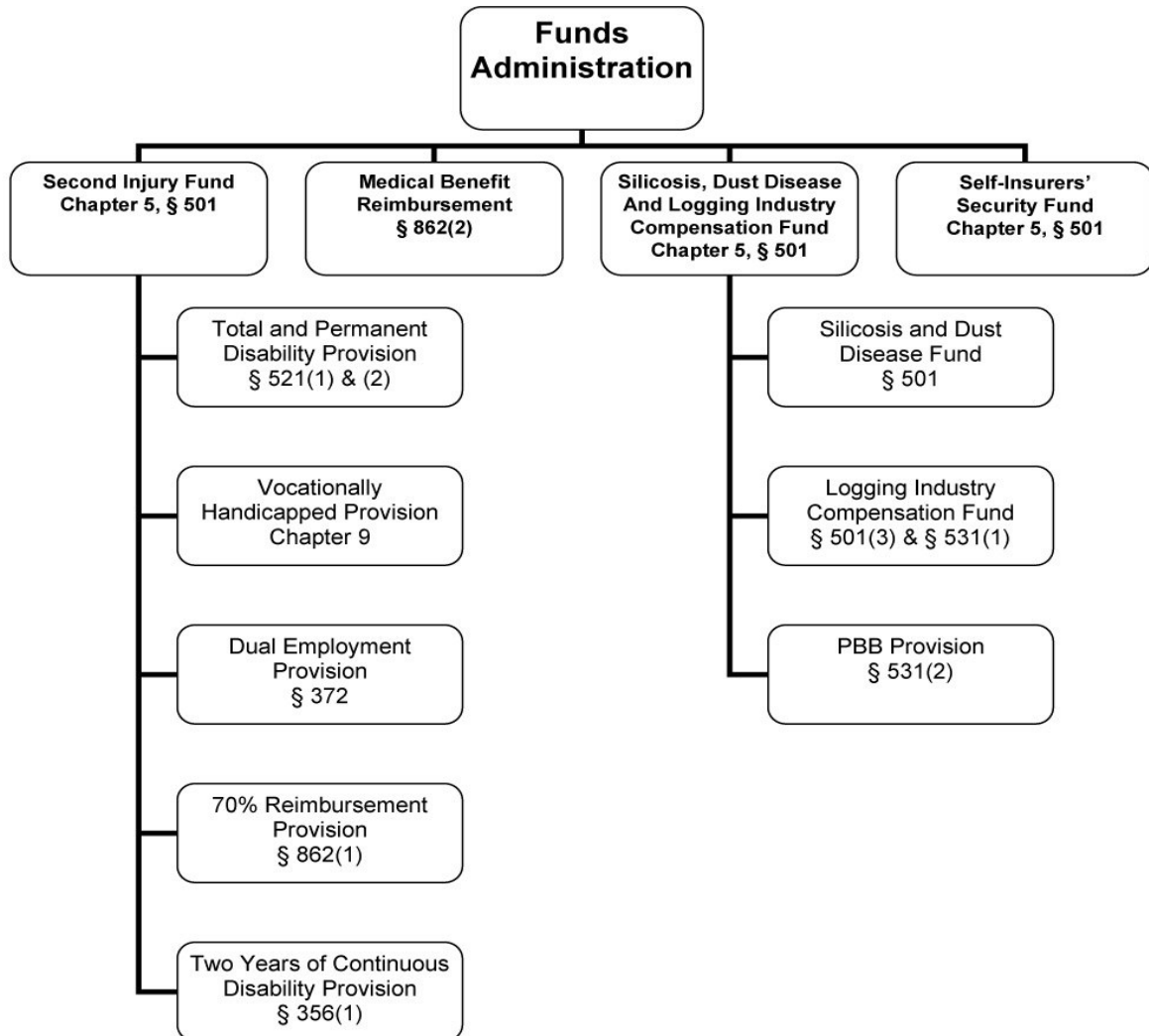
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Funds Administration Website:

<http://www.michigan.gov/wca/0,1607,7-191-26921---,00.html>

Chart of State Funds

State Funds Handled by the Funds Administration



Funds Administration Overview

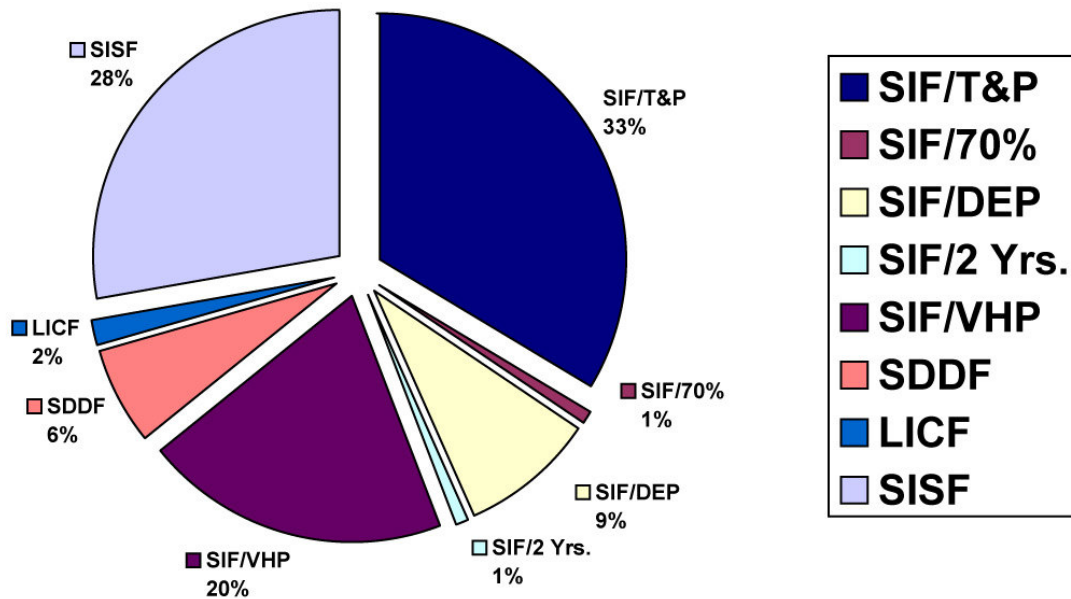
The Funds Administration consists of the Second Injury Fund, the Silicosis, Dust Disease and Logging Industry Compensation Fund, and the Self-Insurers' Security Fund. The Medical Benefit Reimbursement Provision [MCL 418.862(2)] is also administered by the Funds Administration. Funds for this provision, however, are funded by the State of Michigan General Fund. The Funds Administration is managed by a board of three trustees. Two of the trustees are appointed by the governor with the advice and consent of the senate. One represents employers authorized to act as self-insurers in Michigan and the other represents the insurance industry. The third trustee is the director of the Workers' Compensation Agency.

The Funds Administration is funded 100% by insurers who write workers' compensation policies in the State of Michigan, and employers (including groups) who self-insure their workers' compensation liability. See MCL 418.551 & 418.552. These statutory assessments cover all benefits paid by the Funds Administration, and all administrative and litigation costs. Each of the three funds makes a separate assessment. 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 assessments are made only against private self-insured employers (including groups).

2006 Total Fund Expenditures

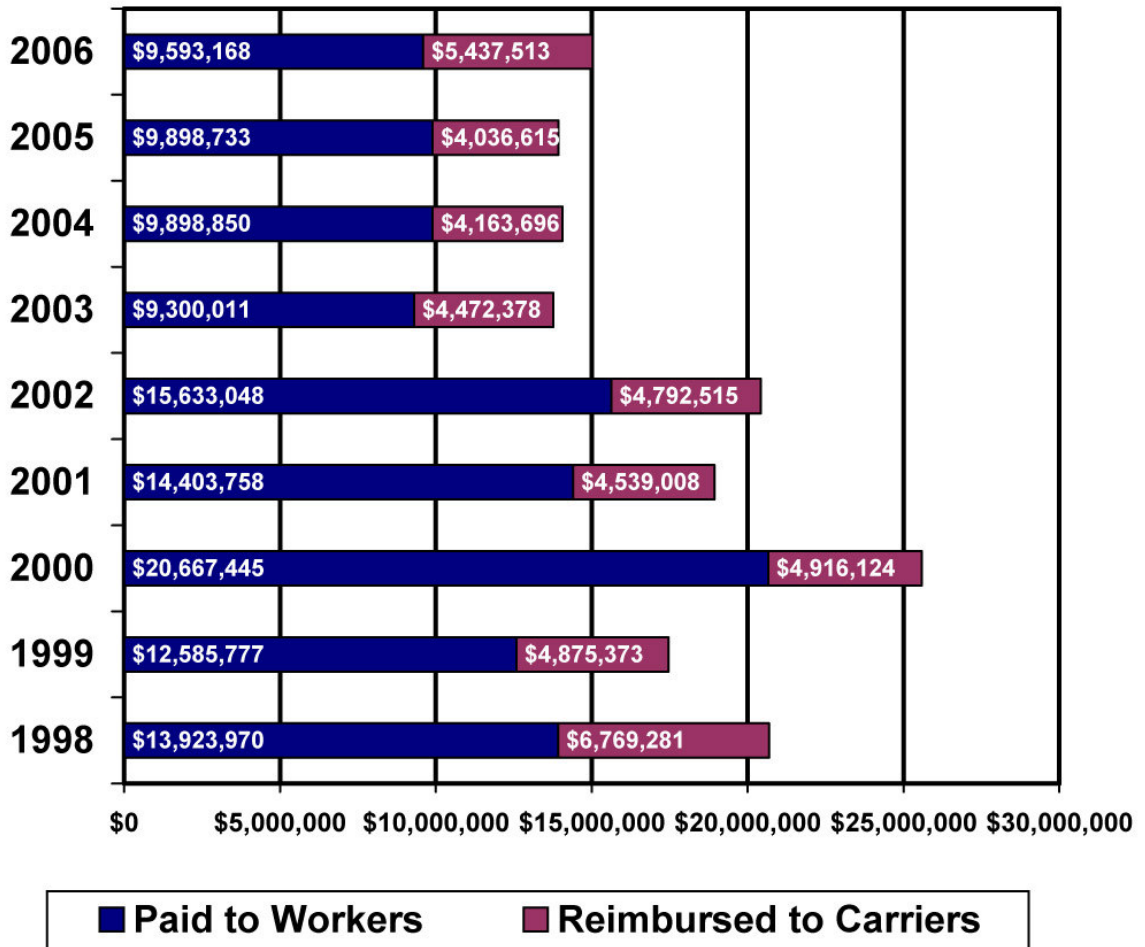
2006 Calendar Year Total Expenditures		
(Total expenditures include costs of litigation & administration)		
Second Injury Fund		\$17,677,010.76
❖ Total & Permanent Disability Provision	\$9,263,637.06	
❖ Vocationally Handicapped Provision	\$5,493,237.99	
❖ Dual Employment Provision	\$2,496,225.55	
❖ 70% Reimbursement Provision	\$193,296.17	
❖ Two Years of Continuous Disability Provision	\$230,613.99	
Silicosis, Dust Disease and Logging Industry Compensation Fund		\$2,174,068.25
❖ Silicosis and Dust Disease Fund	\$1,735,618.43	
❖ Logging Industry Compensation Fund	\$438,449.82	
❖ PBB	\$0	
Self-Insurers' Security Fund		\$7,671,424.94
Total of All Fund Payments		\$27,522,503.95

2006 Fund Provision Percentage of Expenditures



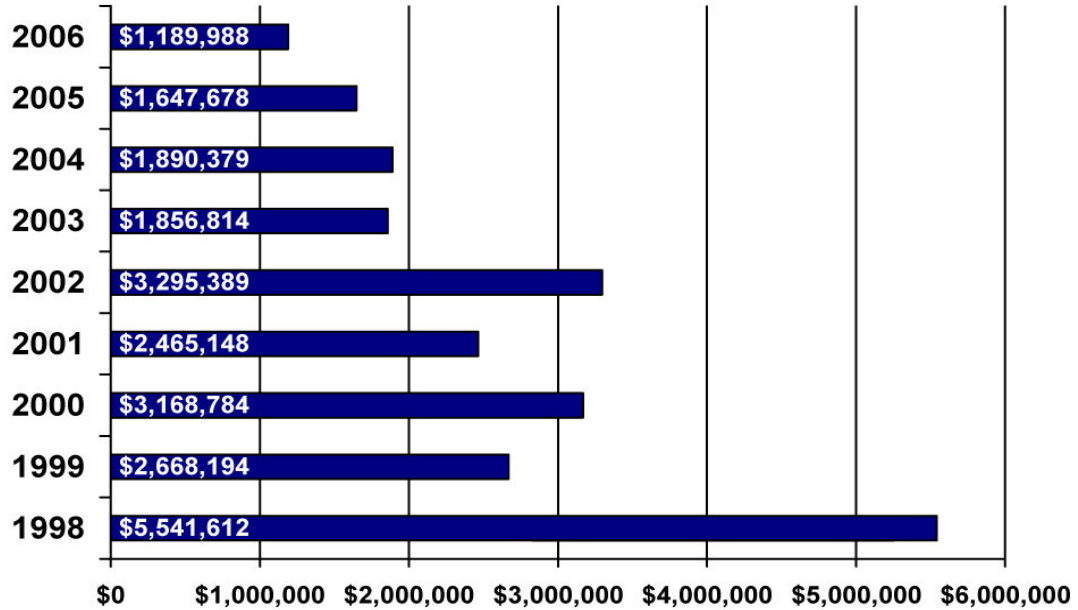
Benefits Paid (By Specific Annual Comparisons)

Benefits Paid Out by the Second Injury Fund

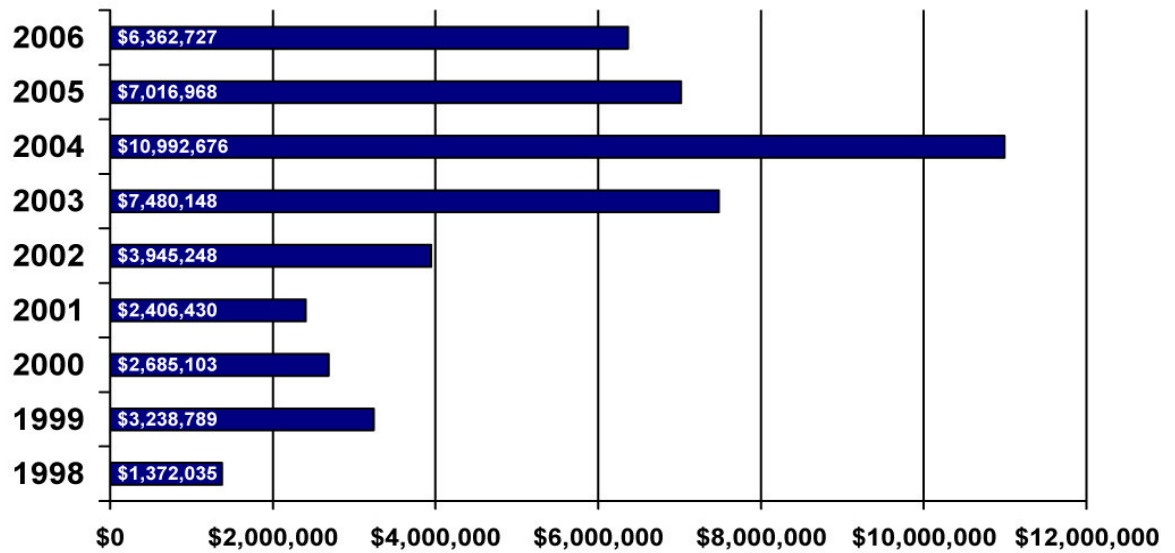


Benefits Paid (By Specific Annual Comparisons) (cont.)

Benefits Reimbursed by the Silicosis, Dust Disease and Logging Industry Compensation Fund



Benefits Paid to Workers' by the Self-Insurers' Security Fund



2007 Assessments

Second Injury Fund

2007 Assessment: \$19,432,486.70

2007 Assessment Rates for Self-Insured Employers: .0214

2007 Assessment Rates for Insurance Companies: .00798

Silicosis, Dust Disease and Logging Fund

2007 Assessment: \$1,406,355.72

2007 Assessment Rates for Self-Insured Employers: .00155

2007 Assessment Rates for Insurance Companies: .00058

Self Insured Security Fund

2007 Assessment: \$9,766,478.00

2007 Assessment Rate: .0274

See MCL 418.551.4 (Director's discretion with input from self-insurers Trustee)

Medical Benefits Fund

Statutory References

MCL 418.862; Rule 2a (408.32a)

Purpose:

Ensures the payment of medical pending appeal.

An employer/carrier's claim of review does not operate as a stay of providing medical benefits by the terms of the award.

If the benefit amount is reduced or rescinded by a final determination of the appeal, the employer/carrier is reimbursed by the Medical Benefits Fund. Interest is not paid.

Monies come from the general fund of the state, but administered by the Funds Administration.

Second Injury Fund

Statutory References:

MCL 418.501 et seq

Purpose:

Since its origin in 1943, the Second Injury Fund has become a basic legislative funding mechanism to provide adjusted compensation benefits to various classes of employees and/or to provide reimbursement of certain benefits to employers (or insurance carriers).

The Fund is entitled to third-party recovery under § 827.

Currently six statutory responsibilities:

1. Original purpose—“8a or sequential loss benefits.”

Section 521(1).

Encourages the employment of certain handicapped persons by providing that, when an employee with a permanent disability in the form of the loss of a hand, arm, foot, leg or eye who subsequently has an injury arising out of and in the course of his employment which results in a second permanent loss of a hand, arm, foot, leg or eye, the employer is held responsible only for the weekly benefits remaining for the second specific loss, with the Second Injury Fund paying all further basic weekly benefits remaining for total and permanent disability. Employer/carrier continues to pay medical.

2. Differential total and permanent benefits.

Section 521 (2) and Section 361(3).

1955 PA 250 created differential, i.e. COLA benefits, for employees who are totally and permanently disabled. While the employer/carrier would

continue to pay basic benefits, the Second Injury Fund was given the responsibility for the new differential benefit.

The Act provides for permanent and total disability benefit for 800 weeks and thereafter, based on the facts, for the duration of the disability.

Example of payment: The employer/carrier pays the basic payment—80% of employee's after tax average weekly wage—subject to a maximum of 90% of the state's average weekly wage for the year of injury, whichever is less.

An employer's rate is fixed, the Second Injury Fund would pay differential, i.e. the difference between employer's maximum rate and subsequent increases in the state's maximum weekly benefit rate until 80% of the employee's average weekly wage is reached. Generally occurs if the employee has high average weekly wage and the employer is paying the 90% maximum.

The seven statutorily defined total and permanent differential benefits categories (Section 361(3)) are:

1. Total and permanent loss of sight of both eyes (corrected vision standard). See Hakala v Burroughs, 417 Mich 359 (1983).
2. Loss of both legs or both feet at or above the ankle.
3. Loss of both arms or both hands at or above the wrist.
4. Loss of any two of the members or faculties enumerated above.
5. Permanent and complete paralysis of both legs or both arms or of one leg and one arm.
6. Incurable insanity or imbecility (severe social dysfunction/cognitive dysfunction standard). See Refern v Sparks-Withington Co, 403 Mich 63 (1978), and Modreski v General Motors Corp, 417 Mich 323 (1983).

7. Permanent and total loss of industrial use of both legs or both hands or both arms or one leg and one arm; for the purposes of this subsection such permanency to be determined not less than thirty days before the expiration of 500 weeks from the date of injury. For the loss of industrial use standard, see Burke v Ontonagon Road Commission, 391 Mich 103 (1974), and DeGeer v DeGeer Farm Equipment Co, 391 Mich 96 (1974).

For the time requirement, see Johnson v Harnischfeger Co, 414 Mich 102 (1982).

In Triplett v Chrysler Corp, 394 Mich 518 (1975), the court held that maladies of the heart, lung, and kidney do not qualify under this category.

3. Vocationally Handicapped Provisions

Section 901 et seq (Chapter 9)

1971 PA 183 added Chapter 9 of the Act and was enacted to encourage the hiring of a select group of vocationally handicapped persons who have a medically certifiable impairment of the back or heart or who are subject to epilepsy, or who have diabetes, and whose impairment is a substantial obstacle to employment, considering such factors as age, education, training, experience and employment rejection.

The Fund reimburses the employer/carrier at six (6) month intervals, all weekly benefits and medical paid beyond 104 weeks after the date of injury (52 weeks for employees hired on or after July 30, 1985). In addition, the Fund reimburses all vocational rehabilitation expenses from the date of injury.

If the employer redeems with the employee prior to the actual payment of the statutory weeks of benefits, the redemption eliminates the liability of the Fund. Section 935.

4. 70% Repayments

Section 862.

Ensures the payment of weekly wage loss benefits pending appeal.

§ 862 provides for the payment of weekly benefits at 70% of the rate ordered by a magistrate in any case appealed by the employer/carrier.

In the event of a successful appeal by the employer/carrier, the Second Injury Fund reimburses the carrier for benefits paid in accordance with the Act.

Reimbursement of funds paid at an improper rate will be disputed by the Second Injury Fund.

5. Dual and/or Multiple Employment (Compensation Supplement)

Sections 371 and 372.

Rule 16(2) (R 408.46).

(<80%) Where an employee is engaged in more than one employment at time of injury or death, and where the employment causing the injury or death provided 80% or less of the employee's total average weekly wage, the liability is apportioned between the employer causing the injury or death and the Second Injury Fund.

Example: Employee injured at Employer A, earning \$100 a week. Also worked at Employer B, earning \$900 a week. Total average weekly wage

of \$1000 (\$100 (10%) + \$900 (90%)). Employer A pays 10% of compensation rate and Second Injury Fund pays 90%.

The employer remains fully responsible for all medical and rehabilitation expenses. Section 372(1).

The Fund reimburses the employer/carrier for the balance of the weekly benefits on a quarterly basis. Section 372(1)(b).

(>80%) If the employment in which the injury or death occurred provided more than 80% of the employee's average weekly wage, there is no apportionment of weekly benefits. That employer pays all. In prior example, if injury occurred at Employer B (\$900 average weekly wage) Employee B would pay all weekly benefits based upon the \$1000 total average weekly wage.

6. Two Years of Continuous Disability

Section 356(1)

Rule 16(3) (R 408.46(3)).

For injuries after January 1, 1982, § 356(1) provides that injured employees receiving less than 50% of the states average weekly wage for the year of injury, and after two years of continuous disability, may petition for a hearing to demonstrate that by virtue of age, education, training, experience and other documented evidence, the employee's earning capacity would be expected to increase. The magistrate may order a one-time adjustment in the compensation rate, up to 50% of the state average weekly wage on the date of injury. The effective date of the adjustment shall be the date the petition was filed.

The adjustment is paid by the carrier on a weekly basis and reimbursed by the Fund on a quarterly basis.

Under Rule 16(3), and R 408.46(3), the Fund is a party in any action where § 356(1) is involved.

The Fund may be named as a defendant by an employee or added by a carrier.

Section 356(1) intended to lessen harshness of no minimums.

Silicosis, Dust Disease, and Logging Industry Compensation Fund

Statutory References:

MCL 418.501 et seq

Rule 16 (R 408.46)

Purpose:

Limitation of employer liability (through reimbursement from Fund), designed to preserve the economic existence of certain industries.

The Fund is entitled to a third party recovery under § 827.

A redemption by the employer/carrier prior to the actual payment of the statutory limits eliminates all liability of the Fund. Section 595.

History:

1912 Act contained no provision for occupational diseases. Example: Back injury was compensable whereas silicosis was not.

1937- Legislature provided benefits to only 31 specific occupational diseases. Benefits limited to \$3,000.

1947- Legislature provided benefits for silicosis or other dust diseases. Benefits limited to \$4,000.

1966- Silicosis and Dust Disease Fund created, employee entitled to full benefits, with reimbursement to employer by Fund.

1979- PBB Fund added.

1980- Logging Fund added.

Currently three (3) Statutory Responsibilities of this Fund:

1. Silicosis or Other Dust Diseases

Section 531(1)

Applies to occupational diseases with date of personal injury on or after May 1, 1966.

Disability or death must be due to work related silicosis or other dust disease.

Injury date after June 30, 1985, Dust Fund reimburses employers/carriers weekly benefits paid in excess of \$25,000, or 104 weeks of benefits, whichever is greater. Not medical or burial.

Injury date prior to July 1, 1985, Dust Fund reimburses weekly benefits paid in excess of \$12,500, or 104 weeks of benefits, whichever is greater. Not medical or burial.

2. PBB

Section 531(2)

Applies to disability or death resulting from an employee's exposure to polybrominated biphenyl (PBB).

To be reimbursable by Dust Fund, the exposure must have occurred before July 24, 1979 and at a Michigan employer engaged in the manufacture of PBB.

3. Logging Industry

Section 501(2) and (4).

Section 531(1).

Rule 16 (R 408.46)

Fund's responsibility expanded to cover employment in the logging and lumbering industries.

Effective January 1, 1982.

Same \$12,500, \$25,000 or 104-week limitations apply as in the Dust Fund, supra. Medical not paid by Fund.

§ 501(4) defines covered employment in the logging industry as described in the section of the workers' compensation and employers' liability insurance manual entitled "logging or lumbering and drivers code no. 2702." That code provides:

"Logging or Lumbering Drivers - 2702 - includes transportation of logs to mill, construction, operation, maintenance, or extension of logging road or logging railroads. Mill operations to be separately rated as 2710 – sawmill" (Emphasis supplied).

Michigan Manufacturers Association v Director, 134 Mich App 723 (1984).

Court of Appeals upheld the constitutionality of the Logging Fund, noting the Fund served a legislative purpose of preserving the logging industry as a viable and competitive industry in Michigan.

Self Insurers' Security Fund

Statutory References:

MCL 418.501

MCL 418.502

MCL 418.537

MCL 418.611(a)

See Rules 13 (408.43) et seq.

Purpose:

Provide workers' disability compensation benefits to disabled employees of private self-insured employers (including groups) who become insolvent after November 16, 1971 and who are unable to make compensation payments.

- A self-insurer (including groups) must be one authorized by the director. Section 611(1).
- An insolvent employer is defined as one who files for relief under the Bankruptcy Act, or against whom bankruptcy proceeding are commenced or for whom a receiver is appointed in a state court. Section 502.