



SENATE BILL No. 656

May 25, 1993, Introduced by Senator HONIGMAN and referred to the Committee on Labor.

A bill to amend sections 201, 210, 213, 274, 375, 535, 801, 835, 836, 837, 841, 847, 851, 853, 858, 859a, 861a, 862, 863, and 931 of Act No. 317 of the Public Acts of 1969, entitled as amended

"Worker's disability compensation act of 1969,"

sections 210, 213, 274, 859a, and 861a as added and sections 375, 535, 801, 835, 836, 837, 841, 847, 851, 853, 858, 862, 863, and 931 as amended by Act No. 103 of the Public Acts of 1985, being sections 418.201, 418.210, 418.213, 418.274, 418.375, 418.535, 418.801, 418.835, 418.836, 418.837, 418.841, 418.847, 418.851, 418.853, 418.858, 418.859a, 418.861a, 418.862, 418.863, and 418.931 of the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 201, 210, 213, 274, 375, 535, 801, 835,
 2 836, 837, 841, 847, 851, 853, 858, 859a, 861a, 862, 863, and 931
 3 of Act No. 317 of the Public Acts of 1969, sections 210, 213,
 4 274, 859a, and 861a as added and sections 375, 535, 801, 835,
 5 836, 837, 841, 847, 851, 853, 858, 862, 863, and 931 as amended
 6 by Act No. 103 of the Public Acts of 1985, being
 7 sections 418.201, 418.210, 418.213, 418.274, 418.375, 418.535,
 8 418.801, 418.835, 418.836, 418.837, 418.841, 418.847, 418.851,
 9 418.853, 418.858, 418.859a, 418.861a, 418.862, 418.863, and
 10 418.931 of the Michigan Compiled Laws, are amended to read as
 11 follows:

12 Sec. 201. The bureau of ~~workmen's~~ WORKER'S compensation,
 13 herein referred to as the bureau, is created within the depart-
 14 ment of labor. The position of director of the bureau is
 15 created. ~~—he~~ THE DIRECTOR shall possess the powers and perform
 16 the duties granted and imposed by this act. As used in this act,
 17 "director" means the director of the bureau or his OR HER duly
 18 authorized representative.

19 Sec. 210. (1) The qualifications advisory committee, IN
 20 CONSULTATION WITH THE BOARD OF MAGISTRATES, shall develop a writ-
 21 ten examination. The examination shall be administered to appli-
 22 cants for the position of worker's compensation magistrate in
 23 order to determine the applicant's ability and knowledge with
 24 regard to worker's compensation in the following areas:

25 (a) Knowledge of this act.

26 (b) Skills with regard to fact finding.

1 (c) The Michigan rules of evidence.

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

3 (2) An applicant for the position of worker's compensation
4 magistrate, including those persons who were employed as hearing
5 referees under this act on or before March 31, 1987, who success-
6 fully completes the examination provided for under subsection (1)
7 OR WHO HAS NOT LESS THAN 5 YEARS EXPERIENCE AS AN ATTORNEY IN THE
8 FIELD OF WORKER'S COMPENSATION shall be interviewed by the quali-
9 fications advisory committee for the position of worker's compen-
10 sation magistrate. ~~An applicant who does not successfully com-~~
11 ~~plete the examination shall not be considered for the position of~~
12 ~~worker's compensation magistrate.~~

13 (3) The qualifications advisory committee, after completing
14 personal interviews of the ~~successful~~ ELIGIBLE applicants,
15 shall ~~rank~~ DETERMINE WHICH OF the applicants ~~as to their~~
16 ~~qualifications~~ ARE CONSIDERED QUALIFIED for the position of
17 worker's compensation magistrate. The personal interviews shall
18 be used to determine the applicant's suitability for the posi-
19 tion, especially with regard to his or her objectivity.

20 (4) ~~If 2 or more positions are available, the qualifica-~~
21 ~~tions advisory committee shall forward to the governor the names~~
22 ~~of the most qualified applicants, as determined by the advisory~~
23 ~~committee, equal to at least 1 1/2 times but not more than 3~~
24 ~~times the number of positions available. If only 1 position is~~
25 ~~available, the qualifications advisory committee shall submit the~~
26 ~~names of the 2 most qualified applicants to the governor. The~~
27 governor shall appoint ~~1 of these recommended applicants~~ ONLY

1 AN APPLICANT DETERMINED TO BE QUALIFIED BY THE QUALIFICATIONS
2 ADVISORY COMMITTEE as a worker's compensation magistrate for each
3 available position pursuant to section 213. AN APPLICANT RECOM-
4 MENDED BY THE QUALIFICATIONS ADVISORY COMMITTEE BEFORE THE EFFEC-
5 TIVE DATE OF THIS 1993 AMENDATORY ACT SHALL BE CONSIDERED QUALI-
6 FIED UNDER THE REVISED REQUIREMENTS OF THIS SECTION.

7 (5) THE DEPARTMENT OF LABOR MAY DEVELOP PAMPHLETS TO ASSIST
8 THOSE PERSONS WHO DESIRE TO TAKE THE EXAMINATION FOR WORKER'S
9 COMPENSATION MAGISTRATE.

10 Sec. 213. (1) The worker's compensation board of magis-
11 trates is established as an autonomous entity in the department
12 of labor. The board shall consist of ~~30~~ 35 members appointed
13 by the governor with the advice and consent of the senate. The
14 governor shall ~~appoint the initial members of the board not~~
15 ~~later than March 31, 1986 and shall~~ designate 1 of the appoin-
16 tees as the member that will be chairperson. A person shall not
17 be appointed to the board who has not been recommended by the
18 qualifications advisory committee. All members of the board
19 shall be members in good standing of the state bar of Michigan.

20 (2) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
21 THE members of the board shall be appointed for terms of 4 years.
22 ~~except that of the members first appointed, 10 shall serve for 2~~
23 ~~years, 10 shall serve for 3 years, and 10 shall serve for 4~~
24 ~~years.~~ THE 5 NEW MEMBERS CREATED BY THIS 1993 AMENDATORY ACT
25 SHALL BE INITIALLY APPOINTED FOR TERMS TO EXPIRE JANUARY 26,
26 1996, AND THEREAFTER FOR TERMS OF 4 YEARS. A member who has
27 served for 12 years shall not be reappointed to a new term. A

1 vacancy caused by the expiration of a term shall be filled in the
2 same manner as the original appointment. A member shall not
3 serve beyond the expiration of his or her term unless the quali-
4 fications advisory committee fails to submit a recommendation to
5 the governor before the expiration of the term. A member may be
6 reappointed. A member appointed to fill a vacancy created other
7 than by expiration of a term shall be appointed for the balance
8 of the unexpired term. A member of the board may be removed by
9 the governor for good cause which shall be explained in writing
10 to the worker's compensation magistrate. Good cause for removal
11 shall include, but not be limited to, lack of productivity or
12 other neglect of duties.

13 (3) The governor may designate a member of the board as the
14 chairperson upon a vacancy occurring in that position. The
15 chairperson of the board shall have general supervisory control
16 of and be in charge of the employees of the board and the assign-
17 ment and scheduling of the work of the board. The chairperson
18 may also establish productivity standards that are to be adhered
19 to by employees of the board, the board, and individual
20 magistrates. Each member of the board shall devote full time to
21 the functions of the board. Each member of the board shall per-
22 sonally perform the duties of the office during the hours gener-
23 ally worked by officers and employees of the executive depart-
24 ments of the state.

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

1 (5) Each member of the board shall receive an annual salary
2 ESTABLISHED BY THE LEGISLATURE AT LEAST EQUAL TO THE MAXIMUM
3 ANNUAL SALARY RECEIVED BY AN ADMINISTRATIVE LAW EXAMINER VI UNDER
4 THE STATE CIVIL SERVICE SYSTEM and shall be entitled to necessary
5 traveling expenses incurred in the performance of official duties
6 subject to the standardized travel regulations of the state.

7 (6) The board may employ the staff it considers necessary to
8 be able to perform its duties under this act which may include
9 legal assistants for the purpose of legal research and otherwise
10 assisting the board and individual members of the board.

11 (7) The board is an independent body with the powers and
12 duties as provided for under this act. The board may promulgate
13 rules on administrative hearing procedures for purposes under
14 this act.

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

18 (9) The department of labor shall provide suitable office
19 space for the board of worker's compensation magistrates and the
20 employees of the board.

21 Sec. 274. (1) The worker's compensation appellate commis-
22 sion is established as an autonomous entity in the department of
23 labor. The commission shall consist of 7 members appointed by
24 the governor with the advice and consent of the senate. The gov-
25 ernor shall appoint the initial members of the commission not
26 later than January 1, 1986 and shall designate 1 of the
27 appointees as the member that will be chairperson. A person

1 shall not be appointed to the commission who has not been
2 recommended by the qualifications advisory committee under sec-
3 tion 209. The qualifications advisory committee shall recommend
4 a number of candidates equal to at least 1-1/2 times but not more
5 than 3 times the number of positions available. All members of
6 the commission shall be members in good standing of the state bar
7 of Michigan.

8 (2) The members of the commission shall be appointed for
9 terms of 4 years except that of the members first appointed, 2
10 shall serve for 2 years, 2 shall serve for 3 years, and 3 shall
11 serve for 4 years. A member who has served for 12 years shall
12 not be reappointed to a new term. A vacancy caused by the expi-
13 ration of a term shall be filled in the same manner as the origi-
14 nal appointment. A member shall not serve beyond the expiration
15 of his or her term unless the qualification advisory committee
16 fails to submit a recommendation to the governor before the expi-
17 ration of the term. A member may be reappointed. A member
18 appointed to fill a vacancy created other than by expiration of a
19 term shall be appointed for the balance of the unexpired term. A
20 member of the commission may be removed by the governor for good
21 cause which shall be explained in writing. Good cause for
22 removal shall include, but not be limited to, lack of productiv-
23 ity or other neglect of duties.

24 (3) The governor may designate a member of the commission as
25 the chairperson upon a vacancy occurring in that position. The
26 chairperson of the commission shall have general supervisory
27 control of and be in charge of the employees of the commission

1 and the assignment and scheduling of the work of the commission.
2 The chairperson may also establish productivity standards that
3 are to be adhered to by employees of the commission, the commis-
4 sion, individual members of the commission, and panels of the
5 commission. Each member of the commission shall devote full time
6 to the functions of the commission. Each member shall personally
7 perform the duties of the office during the hours generally
8 worked by officers and employees of the executive departments of
9 the state.

10 (4) The chairperson of the commission shall serve as chair-
11 person at the pleasure of the governor.

12 (5) Each member of the commission shall receive an annual
13 salary which shall be not less than the salary paid to worker's
14 compensation magistrates or hearing referees of the most senior
15 classification and shall be entitled to necessary traveling
16 expenses incurred in the performance of official duties subject
17 to the standardized travel regulations of the state.

18 (6) The commission may employ the staff it considers neces-
19 sary to be able to perform its duties under this act which may
20 include legal assistants for the purpose of legal research and
21 otherwise assisting the commission.

22 (7) The commission is an independent body with the power and
23 authority to review the orders of the director and hearing refer-
24 ees and the orders and opinions of the worker's compensation mag-
25 istrates as provided for under this act. The commission may
26 promulgate rules on administrative appellate procedure for
27 purposes under this act.

1 (8) Except as otherwise provided in subsection (9), matters
2 that are to be reviewed by the commission shall be randomly
3 assigned to a panel of 3 members of the commission for
4 disposition. The chairperson of the commission may reassign a
5 matter in order to ensure timely review and decision of that
6 matter. The decision reached by a majority of the assigned 3
7 members of a panel shall be the final decision of the
8 commission. THE THIRD MEMBER OF A PANEL SHALL PARTICIPATE IN THE
9 MATTER ONLY IF THE FIRST 2 MEMBERS DISAGREE ON THE DECISION.

10 (9) Any matter that is to be reviewed by the commission that
11 may establish a precedent with regard to worker's compensation in
12 this state as determined by the chairperson, or any matter which
13 2 or more members of the commission request be reviewed by the
14 entire commission, shall be reviewed and decided by the entire
15 commission.

16 (10) Opinions of the commission shall be in writing. The
17 commission shall provide for the publication of those opinions.

18 (11) The department of labor shall provide suitable office
19 space for the commission and employees of the commission.

20 Sec. 375. (1) The death of the injured employee ~~prior to~~
21 BEFORE the expiration of the period within which he or she would
22 receive ~~such~~ weekly payments shall be ~~deemed~~ CONSIDERED to
23 end the disability and all liability for the remainder of such
24 payments which he or she would have received in case he or she
25 had lived shall be terminated, but the employer shall thereupon
26 be liable for the following death benefits in lieu of any further
27 disability indemnity.

1 (2) If the injury received by such employee was the
2 proximate cause of his or her death, and the deceased employee
3 leaves dependents, as hereinbefore specified, wholly or partially
4 dependent on him or her for support, the death benefit shall be a
5 sum sufficient, when added to the indemnity which at the time of
6 death has been paid or becomes payable under the provisions of
7 this act to the deceased employee, to make the total compensation
8 for the injury and death exclusive of medical, surgical, hospital
9 services, medicines, and rehabilitation services, and expenses
10 furnished as provided in sections 315 and 319, equal to the full
11 amount which such dependents would have been entitled to receive
12 under the provisions of section 321, in case the injury had
13 resulted in immediate death. Such benefits shall be payable in
14 the same manner as they would be payable under the provisions of
15 section 321 had the injury resulted in immediate death.

16 (3) If an application for benefits has been filed but has
17 not been decided by a ~~hearing referee,~~ worker's compensation
18 magistrate, or on appeal and the claimant dies from a cause unre-
19 lated to his or her injury, the proceedings shall not abate but
20 may be continued in the name of his or her personal
21 representative. In such case, the benefits payable up to time of
22 death shall be paid to the same beneficiaries and in the same
23 amounts as would have been payable if the employee had suffered a
24 compensable injury resulting in death.

25 Sec. 535. If an employee's disability is caused by a combi-
26 nation of silicosis or other dust disease, or arose in the course
27 of employment in the logging industry, and other compensable

1 causes, a ~~hearing referee or~~ worker's compensation magistrate
2 ~~, as applicable,~~ shall apportion the amount of disability
3 between that due to silicosis or other dust disease, or to
4 employment in the logging industry, and other compensable
5 causes. The trustees of the silicosis, dust disease, and logging
6 industry compensation fund shall reimburse the employer liable
7 for compensation for that portion of compensation paid in excess
8 of \$12,500.00 for personal injury dates before July 1, 1985, and
9 for all compensation paid in excess of \$25,000.00 or 104 weeks of
10 weekly compensation, whichever is greater, for personal injury
11 dates after June 30, 1985, that the silicosis or other dust dis-
12 ease disability, or disability arising out of and in the course
13 of employment in the logging industry, bears to the total
14 disability.

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

25 (2) If weekly compensation benefits or accrued weekly bene-
26 fits are not paid within 30 days after becoming due and payable,
27 in cases where there is not an ongoing dispute, \$50.00 per day

1 shall be added and paid to the worker for each day over 30 days
2 in which the benefits are not paid. Not more than \$1,500.00 in
3 total may be added pursuant to this subsection.

4 (3) If medical bills or travel allowance are not paid within
5 30 days after the carrier has received notice of nonpayment by
6 certified mail, in cases where there is no ongoing dispute,
7 \$50.00 or the amount of the bill due, whichever is less, shall be
8 added and paid to the worker for each day over 30 days in which
9 the medical bills or travel allowance are not paid. Not more
10 than \$1,500.00 in total may be added pursuant to this
11 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 disabil-
15 ity or death and fails to give notice to the carrier shall pay
16 the penalty provided for in subsection (2) for the period during
17 which the employer failed to notify the carrier.

18 (6) When weekly compensation is paid pursuant to an award of
19 a ~~hearing referee or~~ worker's compensation magistrate, ~~as~~
20 ~~applicable,~~ an arbitrator, the board, the appellate commission,
21 or a court, interest on the compensation shall be paid at the
22 rate of 10% per annum from the date each payment was due, until
23 paid.

24 Sec. 835. (1) After 6 months' time has elapsed from the
25 date of a personal injury, any liability resulting from the per-
26 sonal injury may be redeemed by the payment of a lump sum by
27 agreement of the parties, subject to the approval of a ~~hearing~~

1 ~~referee or~~ worker's compensation magistrate. ~~, as applicable.~~
2 If special circumstances are found which in the judgment of the
3 ~~hearing referee or~~ worker's compensation magistrate ~~, as~~
4 ~~applicable,~~ require the payment of a lump sum, the ~~hearing ref-~~
5 ~~eree or~~ worker's compensation magistrate ~~, as applicable,~~ may
6 direct at any time in any case that the deferred payments due
7 under this act be commuted on the present worth at 10% per annum
8 to 1 or more lump sum payments and that the lump sum payments
9 shall be made by the employer or carrier. When a proposed
10 redemption agreement is filed, it may be treated as a lump sum
11 application, within the discretion of a ~~hearing referee or~~
12 worker's compensation magistrate. ~~, as applicable.~~ The filing
13 of a proposed redemption agreement or lump sum application shall
14 not be considered an admission of liability and if the ~~hearing~~
15 ~~referee or~~ worker's compensation magistrate ~~, as applicable,~~
16 treats a proposed redemption agreement as a lump sum application
17 under this section, the employer shall be entitled to a hearing
18 on the question of liability.

19 (2) The carrier shall notify the employer in writing of the
20 proposed redemption agreement not less than 10 business days
21 before a hearing on the proposed redemption agreement is held.
22 The notice shall include all of the following:

23 (a) The amount and conditions of the proposed redemption
24 agreement.

25 (b) The procedure available for requesting a private infor-
26 mal managerial level conference.

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

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

6 (3) The ~~hearing referee or~~ worker's compensation magis-
7 trate ~~, as applicable,~~ may waive the requirements of subsection
8 (2) if the carrier provides evidence that a good faith effort has
9 been made to provide the required notice or if the employer has
10 consented in writing to the proposed redemption.

11 (4) For all proposed redemption agreements filed after
12 December 31, 1983, each party to the agreement shall be liable
13 for a fee of \$100.00 to be used to defray costs incurred by the
14 bureau, the worker's compensation board of magistrates, ~~the~~
15 ~~appeal board,~~ and the worker's compensation appellate commission
16 administering this act, except that in the case of multiple
17 defendants the fee for the party defendant shall be \$100.00 to be
18 paid by the carrier covering the most recent date of injury. The
19 bureau shall develop a system to provide for the collection of
20 the fee provided for by this subsection.

21 (5) The fees collected pursuant to subsection (4) shall be
22 placed in the worker's compensation administrative revolving fund
23 under section 835a and shall only be used to supplement and not
24 replace appropriations for financing the bureau, the worker's
25 compensation board of magistrates, ~~the appeal board,~~ and the
26 worker's compensation appellate commission. Money in the
27 worker's compensation administrative revolving fund shall only be

1 used to pay for costs in regard to the following specific
2 purposes of the bureau, the worker's compensation board of magis-
3 trates, ~~the appeal board,~~ and the worker's compensation appel-
4 late commission as applicable:

5 (a) Education and training.

6 (b) Case management.

7 (c) Hearings and claims for review.

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

10 Sec. 836. (1) A redemption agreement shall only be approved
11 by a ~~hearing referee or~~ worker's compensation magistrate ~~, as~~
12 ~~applicable,~~ if the ~~hearing referee or~~ worker's compensation
13 magistrate ~~, as applicable,~~ finds all of the following:

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

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

21 (c) That if an application has been filed pursuant to sec-
22 tion 847 it alleges a compensable cause of action under this
23 act.

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

1 (2) In making a determination under subsection (1), factors
2 to be considered by the ~~hearing referee or~~ worker's
3 compensation magistrate ~~, as applicable,~~ shall include, but not
4 be limited to, all of the following:

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

8 (b) The nature and extent of the injuries and disabilities
9 of the employee.

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

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

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

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

15 (g) Whether any other person may have any claim on the
16 redemption proceeds.

17 (h) The amount of the injured employee's average monthly
18 expenses.

19 (i) The intended use of the redemption proceeds by the
20 injured employee.

21 (3) The factors considered by the ~~hearing referee or~~
22 worker's compensation magistrate ~~, as applicable,~~ in making a
23 determination under this section and the responses of the injured
24 employee thereto shall be placed on the record.

25 (4) An employer shall be considered a party for purposes
26 under this section.

1 Sec. 837. (1) All redemption agreements and lump sum
2 applications filed under the provisions of section 835 shall be
3 approved or rejected by ~~the hearing referees or~~ A worker's com-
4 pensation ~~magistrates, as applicable~~ MAGISTRATE.

5 (2) The director may, or upon the request of any of the par-
6 ties to the action shall, review the order of the ~~hearing~~
7 ~~referee~~ WORKER'S COMPENSATION MAGISTRATE entered under subsec-
8 tion (1). In the event of review by the director and in accord-
9 ance with such rules as the director may prescribe and after
10 hearing, the director shall enter an order as the director
11 ~~deems~~ CONSIDERS just and proper. Any order of the director
12 under this subsection may be appealed to the ~~board or~~ appellate
13 commission ~~, as applicable,~~ within 15 days after the order is
14 mailed to the parties.

15 (3) Unless review is ordered or requested within 15 days
16 ~~of~~ AFTER the date the order of the ~~hearing referee or~~
17 worker's compensation magistrate ~~, as applicable,~~ is mailed to
18 the parties, the order shall be final.

19 Sec. 841. (1) Any dispute or controversy concerning compen-
20 sation or other benefits shall be submitted to the bureau and all
21 questions arising under this act shall be determined by the
22 bureau or a worker's compensation magistrate, as applicable. The
23 director may be an interested party in all worker's compensation
24 cases in questions of law.

25 (2) Any claim for which an application under section 847 is
26 filed after March 31, 1986 shall be referred to a small claims

1 division of the bureau if the claimant requests in writing that
2 it be referred and the claim is any of the following:

3 (a) For \$2,000.00 or less, concerns a definite period of
4 time, and the employee has returned to work.

5 (b) For \$2,000.00 or less and is for medical benefits only.

6 (c) For \$2,000.00 or less, as determined by the bureau, with
7 regard to any dispute or controversy.

8 (3) Upon a claim being referred to the small claims divi-
9 sion, the bureau shall notify the carrier and any other opposing
10 parties of that referral. A party opposing the claim, within 30
11 days of the notification being sent, may file with the bureau a
12 request in writing that the claim be removed from the small
13 claims division and be set for hearing under section 847. Upon
14 receipt of the written request, the claim shall be removed from
15 the small claims division and shall be set for hearing.

16 (4) A worker's compensation magistrate ~~or hearing referee,~~
17 ~~as applicable,~~ shall hear a matter referred to the small claims
18 division.

19 (5) The parties to a matter heard in the small claims divi-
20 sion may represent themselves or be represented by an authorized
21 agent but shall not be represented by an attorney. If a party is
22 represented by an attorney, the matter shall be removed from the
23 small claims division and shall be set for a hearing under
24 section 847.

25 (6) The rules of evidence as applied in a nonjury civil case
26 in circuit court shall be followed as far as practicable, but a
27 magistrate ~~or hearing referee, as applicable,~~ may admit and

1 give probative effect to evidence of a type commonly relied upon
2 by reasonably prudent persons in the conduct of their affairs.
3 Depositions shall not be allowed to be used as evidence. Medical
4 reports may be used as evidence.

5 (7) A record of a hearing shall not be made in the small
6 claims division.

7 (8) If it is determined by the magistrate, ~~or hearing ref-~~
8 ~~eree, as applicable,~~ or the parties before a decision is
9 rendered, that the claim exceeds \$2,000.00, the matter shall be
10 removed from the small claims division and shall be set for a
11 hearing under section 847 unless the parties agree in writing
12 that the matter shall be heard in the small claims division.

13 (9) A worker's compensation magistrate's ~~or hearing~~
14 ~~referee's~~ decision as to any dispute or controversy in a matter
15 heard in the small claims division shall be final and nonappeal-
16 able in the absence of fraud as provided in section 28 of article
17 VI of the state constitution of 1963.

18 (10) The parties to a matter decided under subsections (2)
19 to (9) may request a hearing under section 847 with respect to
20 any other dispute or controversy for which there has not been a
21 worker's compensation magistrate's ~~or hearing referee's~~ deci-
22 sion in the small claims division.

23 Sec. 847. (1) Except as otherwise provided for under this
24 act, upon the filing with the bureau by any party in interest of
25 an application in writing stating the general nature of any claim
26 as to which any dispute or controversy may have arisen, the case
27 shall be set for mediation or hearing, as applicable. A ~~hearing~~

1 ~~referee or~~ worker's compensation magistrate ~~, as applicable,~~
2 shall hear a case that is set for hearing.

3 (2) For cases in which an application for a hearing under
4 this section is filed after March 31, 1986, the worker's compen-
5 sation magistrate, in addition to a written order, shall file a
6 concise written opinion stating his or her reasoning for the
7 order including any findings of fact and conclusions of law. The
8 order and opinion shall be part of the record of the hearing.

9 Sec. 851. The ~~hearing referee or~~ worker's compensation
10 magistrate ~~, as applicable,~~ at the hearing of the claim shall
11 make such inquiries and investigations as he or she ~~shall deem~~
12 CONSIDERS necessary. A claimant shall prove his or her entitle-
13 ment to compensation and benefits under this act by a preponder-
14 ance of the evidence. The hearing shall be held at the locality
15 where the injury occurred and the order of the ~~hearing referee~~
16 ~~or~~ worker's compensation magistrate ~~, as applicable,~~ shall be
17 filed with the bureau. If the parties stipulate within 30 days
18 to modify or correct errors in the decision issued, the magis-
19 trate shall modify or correct errors in the decision in accord-
20 ance with such stipulations. All such stipulations shall comply
21 with the provisions of this act. Unless a claim for review is
22 filed by a party within 30 days, the order shall stand as the
23 order of the bureau.

24 Sec. 853. Process and procedure under this act shall be as
25 summary as reasonably may be. The director, ~~hearing referees,~~
26 worker's compensation magistrates, arbitrators, and the board
27 shall have the power to administer oaths, subpoena witnesses, and

1 to examine such parts of the books and records of the parties to
2 a proceeding as relate to questions in dispute. Any witness who
3 refuses to obey a subpoena, who refuses to be sworn or testify,
4 or who fails to produce any papers, books, or documents touching
5 any matter under investigation or any witness, party, or attorney
6 who is guilty of any contempt while in attendance at any hearing
7 held under this act may be punished as for contempt of court. →
8 ~~for this purpose an~~ AN application FOR THIS PURPOSE may be made
9 to any circuit court within whose jurisdiction the offense is
10 committed and for which purpose the court is given jurisdiction.

11 Sec. 858. (1) The cost of a hearing, including the cost of
12 taking stenographic notes of the testimony presented at the hear-
13 ing, not exceeding the taxable costs allowed in actions at law in
14 the circuit courts of this state, shall be fixed by the
15 ~~director~~ BOARD OF MAGISTRATES and paid by the state as other
16 expenses of the state are paid. The PAYMENT OF fees ~~and payment~~
17 ~~thereof of~~ FOR all attorneys and physicians for services under
18 this act shall be subject to the approval of a ~~hearing referee~~
19 ~~or~~ worker's compensation magistrate. ~~, as applicable.~~ In the
20 event of disagreement as to such fees, an interested party may
21 apply to the bureau for a hearing. After an order by the
22 ~~hearing referee or~~ worker's compensation magistrate, ~~as~~
23 ~~applicable,~~ review may be had by the director if a request is
24 filed within 15 days. Thereafter the director's order may be
25 reviewed by the ~~appeal board or the~~ appellate commission ~~, as~~
26 ~~applicable,~~ on request of an interested party, if a request is
27 filed within 15 days.

1 (2) The director, by rule, may prescribe maximum attorney
2 fees and the manner in which the amount may be determined or paid
3 by the employee; but the maximum attorney fees prescribed by the
4 director shall not be based upon a weekly benefit amount after
5 coordination which is higher than $2/3$ of the state average weekly
6 wage at the time of the injury. For claims in which an applica-
7 tion under section 847 is filed after March 31, 1986, the maximum
8 attorney fee shall be based upon the coordinated worker's compen-
9 sation benefit amount according to a contingency fee schedule, as
10 provided for under rules promulgated pursuant to this act, but if
11 this would result in a fee of less than \$500.00, the claimant may
12 agree to pay a sum, as specified in a written agreement between
13 the claimant and the attorney prior to the filing of an applica-
14 tion for hearing, so that the total fee received by the attorney
15 would be not more than \$500.00. When fees are requested in
16 excess of that provided by rule, the director may award the fees
17 by special order. In the computation of attorney fees for a case
18 in which an application under section 847 is filed after
19 March 31, 1986 and decided by the worker's compensation appellate
20 commission, the fees shall be assessed on not more than 104 weeks
21 of the period the matter was pending before the commission. This
22 limitation on fees applies only to weekly compensation and does
23 not apply to the period of time the matter was pending review
24 before the court of appeals or supreme court.

25 (3) The director is authorized to promulgate rules calling
26 for reductions in attorney fees in cases where applications for
27 hearing have been dismissed, or where, in the discretion of the

1 ~~hearing referee or~~ worker's compensation magistrate, ~~as~~
2 ~~applicable,~~ such action is appropriate.

3 Sec. 859a. (1) Except as otherwise provided for in this
4 act, a claim for review of a case for which an application under
5 section 847 is filed after March 31, 1986 shall be filed with the
6 appellate commission. A claim for review TOGETHER WITH A FILING
7 FEE OF \$200.00 shall be filed with the commission not more than
8 30 days after the date the order of the worker's compensation
9 magistrate or director is sent to the parties. THE FILING FEE IS
10 REFUNDABLE IF THE APPEALING PARTY PREVAILS ON ANY ISSUE RAISED
11 UPON APPEAL. For sufficient cause shown, the commission may grant
12 further time in which to claim a review.

13 (2) If the employer or carrier files a claim for review to
14 the appellate commission, or appeals to the court of appeals, or
15 the supreme court, a copy of the testimony, depositions, and
16 other documents necessary for the appeal shall be furnished by
17 the employer or carrier to the employee or the employee's
18 attorney.

19 Sec. 861a. (1) Any matter for which a claim for review
20 under section 859a has been filed shall be heard and decided by
21 the appellate commission.

22 (2) Until October 1, 1986 findings of fact made by a
23 worker's compensation magistrate shall be considered conclusive
24 by the commission if supported by competent, material, and a pre-
25 ponderance of the evidence on the whole record.

26 (3) Beginning October 1, 1986 findings of fact made by a
27 worker's compensation magistrate shall be considered conclusive

1 by the commission if supported by competent, material, and
2 substantial evidence on the whole record. As used in this sub-
3 section, "substantial evidence" means such evidence, considering
4 the whole record, as a reasonable mind will accept as adequate to
5 justify the conclusion.

6 (4) As used in subsections (2) and (3), "whole record" means
7 the entire record of the hearing including all of the evidence in
8 favor and all the evidence against a certain determination.

9 (5) A party filing a claim for review under section 859a
10 shall file a copy of the transcript of the hearing within 60 days
11 of filing the claim for review and shall file its brief with the
12 commission and provide any opposing party with a copy of the
13 transcript and its brief not more than 30 days after filing the
14 transcript. For sufficient cause shown, the commission may grant
15 further time in which to file a transcript.

16 (6) Not more than 30 days after receiving a copy of the
17 transcript and brief of the appealing party, an opposing party
18 shall file its reply brief with the commission and provide a copy
19 of the brief to the appealing party. In addition to filing its
20 reply brief within the 30 days, the opposing party may file a
21 cross appeal and brief in support thereof specifying the findings
22 of fact and conclusions of law contained in the record that sup-
23 port the position of the party.

24 (7) A party responding to a cross appeal shall have 30 days
25 after receiving a copy of the brief in support of the cross
26 appeal to file its reply brief with the commission. The reply

1 brief shall specify the findings of facts and conclusions of law
2 in the record that support that party's position.

3 (8) A party filing a claim for review under section 859a
4 shall specify to the commission those portions of the record that
5 support that party's claim and any party opposing such claim
6 shall specify those portions of the record that support that
7 party's position.

8 (9) Not more than 15 days after all briefs have been filed
9 with the commission, the matter shall be referred for review and
10 decision to either a panel of the commission or the entire com-
11 mission as provided for under section 274.

12 (10) The commission or a panel of the commission, may adopt,
13 in whole or in part, the order and opinion of the worker's com-
14 pensation magistrate as the order and opinion of the commission.

15 (11) The commission or a panel of the commission shall
16 review only those specific findings of fact or conclusions of law
17 that the parties have requested be reviewed.

18 (12) The commission or a panel of the commission may remand
19 a matter to a worker's compensation magistrate for purposes of
20 supplying a complete record if it is determined that the record
21 is insufficient for purposes of review.

22 (13) A review of the evidence pursuant to this section shall
23 include both a qualitative and quantitative analysis of that evi-
24 dence ~~and~~ IN ORDER TO ensure a full, thorough, and fair review.
25 ~~thereof.~~

26 (14) The findings of fact made by the commission acting
27 within its powers, in the absence of fraud, shall be conclusive.

1 The court of appeals and the supreme court shall have the power
2 to review questions of law involved with any final order of the
3 commission, if application is made by the aggrieved party within
4 30 days after the order by any method permissible under the
5 Michigan court rules.

6 (15) IF THE PARTIES STIPULATE WITHIN 30 DAYS AFTER THE DECI-
7 SION IS RENDERED TO MODIFY OR CORRECT ERRORS IN THE DECISION, THE
8 COMMISSION SHALL MODIFY OR CORRECT ERRORS IN THE DECISION IN
9 ACCORDANCE WITH THE STIPULATIONS. STIPULATIONS SHALL OTHERWISE
10 COMPLY WITH THE PROVISIONS OF THIS ACT.

11 Sec. 862. (1) A claim for review filed pursuant to
12 ~~sections~~ SECTION 859, 859a, 860, 861, or 864(11) shall not
13 operate as a stay of payment to the claimant of 70% of the weekly
14 benefit required by the terms of the award of the ~~hearing~~
15 ~~referee,~~ worker's compensation magistrate ~~—~~ or arbitrator. ~~—~~
16 ~~as applicable.~~ Payment shall commence as of the date of the
17 ~~hearing referee's,~~ worker's compensation magistrate's ~~—~~ or
18 arbitrator's award, ~~as applicable,~~ and shall continue until
19 final determination of the appeal or for a shorter period if
20 specified in the award. Benefits accruing prior to the award
21 shall be withheld until final determination of the appeal. If
22 the weekly benefit is reduced or rescinded by a final determina-
23 tion, the carrier shall be entitled to reimbursement in a sum
24 equal to the compensation paid pending the appeal in excess of
25 the amount finally determined. Reimbursement shall be paid upon
26 audit and proper voucher from the second injury fund established
27 in chapter 5. If the award is affirmed by a final determination,

1 the carrier shall pay all compensation which has become due under
2 the provisions of the award, less any compensation already paid.
3 Interest shall not be paid on amounts paid pending final
4 determination. Payments made to the claimant during the appeal
5 period shall be considered as accrued compensation for purposes
6 of determining attorneys' fees under the rules of the bureau.

7 (2) A claim for review filed pursuant to section 859a or
8 864(11) of a case for which an application under section 847 is
9 filed after March 31, 1986 shall not operate as a stay of provid-
10 ing medical benefits required by the terms of the award. Medical
11 benefits shall be provided as of the date of the award and shall
12 continue until final determination of the appeal or for a shorter
13 period if specified in the award. Benefits accruing prior to the
14 award shall be withheld until final determination of the appeal.
15 If the benefit amount is reduced or rescinded by a final determi-
16 nation, the carrier shall be reimbursed for THE amount of the
17 expenses incurred in providing the medical benefits pending the
18 appeal in excess of the amount finally determined. Reimbursement
19 shall be paid upon audit and proper voucher from the general fund
20 of the state. If the award is affirmed by a final determination,
21 the carrier shall provide all medical benefits which have become
22 due under the provisions of the award, less any benefits already
23 provided for. Interest shall not be paid on amounts paid pending
24 final determination.

25 Sec. 863. Any party may present a certified copy of an
26 order of a ~~hearing referee,~~ worker's compensation magistrate,
27 an arbitrator, the director, ~~the appeal board,~~ or the appellate

1 commission in any compensation proceeding to the circuit court
2 for the circuit in which the injury occurred, or to the circuit
3 court for the county of Ingham if the injury was sustained out-
4 side this state. The court, after 7 days' notice to the opposite
5 party or parties, shall render judgment in accordance with the
6 order unless proof of payment is made. The judgment shall have
7 the same effect as though rendered in an action tried and deter-
8 mined in the court and shall be entered and docketed with like
9 effect.

10 Sec. 931. (1) If an employee was employed under the provi-
11 sions of this chapter and a dispute or controversy arises as to
12 payment of compensation or the liability therefor, the employee
13 shall give notice to, and make claim upon, the employer as pro-
14 vided in chapters 3 and 4 and apply for a hearing. On motion
15 made in writing by the employer, the director, or the ~~hearing~~
16 ~~referee or~~ worker's compensation magistrate ~~as applicable,~~
17 to whom the case is assigned, shall join the fund as a party
18 defendant.

19 (2) The bureau within 5 days of the entry of an order join-
20 ing the fund as a party defendant shall give the fund written
21 notice thereof by first-class mail which notice shall be mailed
22 not less than 30 days before the date of hearing and shall
23 include the name of the employee and employer and the date of the
24 alleged personal injury or disability.

25 (3) The fund, named as a defendant pursuant to motion, shall
26 have 10 days after the date of mailing of notice of joinder to
27 file objection to being named a party defendant. On the date of

1 the hearing at which the liability of the parties is determined,
2 the ~~hearing referee or~~ worker's compensation magistrate ~~, as~~
3 ~~applicable,~~ first shall hear arguments and take evidence con-
4 cerning the joinder as party defendant. If the fund has filed a
5 timely objection, and if the argument and evidence warrant, the
6 ~~hearing referee or~~ worker's compensation magistrate ~~, as~~
7 ~~applicable,~~ shall grant a motion to dismiss.

8 (4) At the time of the hearing, the employer and the fund
9 may appear, cross-examine witnesses, give evidence, and defend
10 both on the issue of liability of the employer to the employee
11 and on the issue of the liability of the fund.

12 (5) The ~~hearing referee or~~ worker's compensation magis-
13 trate ~~, as applicable,~~ shall enter an order determining the
14 respective liability of the employer and the fund.

15 Section 2. Sections 266 and 860 of Act No. 317 of the
16 Public Acts of 1969, being sections 418.266 and 418.860 of the
17 Michigan Compiled Laws, are repealed.