

PAYMENT OF WAGES AND FRINGE BENEFITS (EXCERPT)
Act 390 of 1978

408.481 Complaint; filing; form; notice to employer; investigation; informal resolution of dispute; notice to employer and employee; request for review; oaths and affirmations; subpoena; witnesses; evidence; parties to proceeding; appointment and duties of hearings officer; hearing; determination; judicial review; venue.

Sec. 11. (1) An employee who believes that his or her employer has violated this act may file a written complaint with the department within 12 months after the alleged violation. A complaint filed under section 13(2) shall be filed within 30 days after the alleged violation occurs. Bilingual complaint forms shall be provided by the department in those areas where substantial numbers of non-English speaking employees are employed.

(2) Within a reasonable time after a complaint is filed the department shall notify the employer and investigate the claim and shall attempt to informally resolve the dispute.

(3) If the department is unable to informally resolve the dispute, the department shall notify the employer and employee within 90 days after the complaint is filed. The notification shall include a determination of the merits of the complaint and shall cite the specific violation, if any, wages and fringe benefits due, and specific penalties assessed.

(4) The employer or employee may request a review of the department's determination within 14 days after notification is issued. If a request for a review by either the employer or employee is not received by the department within 14 days, in the absence of a showing of good cause for a late request, the department's determination is final.

(5) For the purpose of an investigation or proceeding under this act, the director of labor or an authorized representative of the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records or other documents which the department considers relevant or material to the inquiry.

(6) The employee, employer, and the department shall be parties to a proceeding before a hearings officer brought pursuant to this section.

(7) The director shall appoint hearings officers to make determinations in proceedings brought pursuant to this section. All proceedings in a hearing shall be conducted pursuant to the procedures applicable to the trial of contested cases under Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The hearings officer shall affirm, modify, or rescind the order of the department and may assess costs as provided in section 18(3).

(8) The hearings officer shall issue a determination which constitutes a final disposition of the proceedings to each party within 30 days after the conclusion of the hearing. The determination of the hearings officer shall become the final agency order upon receipt by the parties.

(9) A party to the proceeding may obtain judicial review of the determination of the hearings officer pursuant to Act No. 306 of the Public Acts of 1969, as amended. Venue for an appeal under this act shall only be in the circuit where the employee is a resident, where the employment occurred, or where the employer has a principal place of business.

History: 1978, Act 390, Imd. Eff. Aug. 1, 1978;—Am. 1978, Act 602, Imd. Eff. Jan. 4, 1979.

Compiler's note: For creation of bureau of worker's and unemployment compensation within department of consumer and industry services; transfer of powers and duties of bureau of worker's compensation and unemployment agency to bureau of worker's and unemployment compensation; transfer of powers and duties of director of bureau of worker's compensation and director of unemployment agency to director of bureau of worker's and unemployment compensation; and, transfer of powers and duties of wage and hour division of worker's compensation board of magistrates to bureau of worker's and unemployment compensation, see E.R.O. No. 2002-1, compiled at MCL 445.2004 of the Michigan Compiled Laws.

For creation of the new wage and hour division as a type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the former wage and hour division of the department of consumer and industry services, transferred to the bureau of worker's and unemployment compensation, to the new wage and hour division within the department of labor and economic growth by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For the transfer of powers and duties of the department of licensing and regulatory affairs to the department of labor and economic opportunity, see E.R.O. No. 2019-3, compiled at MCL 125.1998.