

MICHIGAN EMPLOYMENT SECURITY ACT (EXCERPT)
Act 1 of 1936 (Ex. Sess.)

421.5a Advocacy assistance services; program.

Sec. 5a. (1) The unemployment insurance agency shall develop and implement a program to provide, on request, claimant and employer advocacy assistance or consultation. The purpose of the program is to provide information, consultation, and representation to claimants and employers in proceedings conducted by the Michigan office of administrative hearings and rules, the unemployment insurance appeals commission, or both.

(2) The program must be funded from the penalty and interest account in the contingent fund. If the program does not operate or the legislature does not approve a yearly appropriation for the program in an amount at least equal to the maximum yearly expenditure for the program as provided in this subsection, then the provision of section 19(a)(5) reducing the maximum nonchargeable benefits component from 1% to 1/2 of 1% is not effective for a tax year for which the appropriation is not made or in which the program does not operate. The maximum amount of the expenditure for the program each year must not exceed \$1,500,000.00.

(3) The appropriations must be used to finance all costs connected with the program. Costs related to the representation of claimants must not exceed 60% of the maximum expenditure allowed in each fiscal year, and costs related to the representation of employers must not exceed 40% of the maximum expenditure allowed in each fiscal year.

(4) Before an individual provides advocacy assistance services under this section, the individual must apply to the unemployment insurance agency for approval. The unemployment insurance agency shall develop standards for individuals who provide advocacy assistance services including standards relating to knowledge of this act and the practices and procedures of the Michigan office of administrative hearings and rules and the unemployment insurance appeals commission. An individual who is not an attorney may provide advocacy assistance services. The unemployment insurance agency shall develop a schedule for payment of individuals providing advocacy assistance services. Active unemployment insurance agency or state employees shall not provide advocacy assistance services. The only active state or unemployment insurance agency employees involved in the program are those supervising or coordinating the program.

(5) The unemployment insurance agency may include in the program standards regarding the provision of advocacy assistance services in precedent setting cases, multclaimant cases, cases without merit, or regarding other cases or factors as determined by the unemployment insurance agency. However, to the extent that funding is available from the appropriation under subsection (2), the unemployment insurance agency shall not withhold advocacy assistance services in cases involving fraud under section 54. If the unemployment insurance agency makes a final determination or final redetermination or an administrative law judge, the unemployment insurance appeals commission, or a court makes a final order that an employer or claimant who received advocacy assistance services committed fraud under section 54, the unemployment insurance agency shall make an effort to recover from the employer or claimant, respectively, an amount equal to the representation fees associated with the advocacy assistance services provided to the employer or claimant, respectively.

(6) Individuals who are approved by the unemployment insurance agency to provide advocacy assistance services must enter into a contract with the unemployment insurance agency that states that the payments made based on the schedule established by the unemployment insurance agency are payment in full for all services rendered and expenses incurred and that the claimant or employer who has received the benefit of the services will not be billed for and is not liable for the cost of the services or representation provided. An individual approved by the unemployment insurance agency to provide advocacy assistance services must accept only the fee approved by the unemployment insurance agency for the services and must not accept any other fee for the services from the claimant or the employer.

(7) If a claimant or an employer receives advocacy assistance services beyond an initial consultation, the other party in the case must be immediately notified. The unemployment insurance agency shall include in the program provisions to determine the method and the timeliness by which immediate notice must be provided. The unemployment insurance agency shall not approve the same individual to provide advocacy assistance services for both claimants and employers. The unemployment insurance agency shall clearly designate each individual approved to provide services under this section as representing either claimants or employers. An individual approved by the unemployment insurance agency to provide advocacy assistance services is not entitled to payment under this section for representing the individual's own personal interests. An active state employee shall not represent a claimant or an employer under this program at a hearing conducted by the Michigan office of administrative hearings and rules or the unemployment insurance appeals commission. However, this subsection does not prohibit an employee of the unemployment insurance agency from

participating in a case in which the unemployment insurance agency is an interested party or from representing the unemployment insurance agency's interest when acting as an administrator for a federal program as required by federal law.

(8) The unemployment insurance agency shall make an annual report to the legislature on the operation of the program. The first report under this subsection is due within 60 days after the first anniversary date of the beginning of the program. Each report under this subsection must include, but not be limited to, the following for the previous 12-month period:

- (a) Number and type of claimants served.
- (b) Number and type of employers served.
- (c) Costs to the program of the claimants served.
- (d) Costs to the program of the employers served.
- (e) An analysis of the impact of the services provided on the appeal system provided by this act.

History: Add. 1989, Act 226, Eff. Dec. 21, 1989;—Am. 1993, Act 311, Imd. Eff. Dec. 29, 1993;—Am. 2017, Act 227, Eff. July 1, 2018;—Am. 2024, Act 240, Eff. Apr. 2, 2025.

Compiler's note: For the abolishment of the Michigan compensation appellate commission and establishment of the new unemployment insurance appeals commission and the transfer of certain powers and duties of the Michigan compensation appellate commission to the unemployment insurance appeals commission, see E.R.O. No. 2019-3, compiled at MCL 125.1998.