

SENATE BILL No. 400

May 3, 1989, Introduced by Senators CHERRY, CONROY,
MILLER, O'BRIEN and GEO. HART and referred to
the Committee on Human Resources and Senior
Citizens.

A bill to amend the title and sections 251, 261, 266, and
835 of Act No. 317 of the Public Acts of 1969, entitled as
amended

"Worker's disability compensation act of 1969,"

sections 251, 261, and 835 as amended and section 266 as added by
Act No. 103 of the Public Acts of 1985, being sections 418.251,
418.261, 418.266, and 418.835 of the Michigan Compiled Laws; and
to repeal certain parts of the act on specific dates.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 251, 261, 266, and 835 of
2 Act No. 317 of the Public Acts of 1969, sections 251, 261, and
3 835 as amended and section 266 as added by Act No. 103 of the
4 Public Acts of 1985, being sections 418.251, 418.261, 418.266,
5 and 418.835 of the Michigan Compiled Laws, are amended to read as
6 follows:

TITLE

1
2 An act to revise and consolidate the laws relating to
3 worker's disability compensation; to increase the administrative
4 efficiency of the adjudicative processes of the worker's compen-
5 sation system; to improve the qualifications of the persons
6 having adjudicative functions within the worker's compensation
7 system; to prescribe certain powers and duties; to create the
8 board of worker's compensation magistrates and the worker's com-
9 pensation appellate commission; to provide certain procedures for
10 the resolution of claims, including mediation and arbitration; to
11 prescribe certain benefits for persons suffering a personal
12 injury under the act; to prescribe certain limitations on obtain-
13 ing benefits under the act; TO REPEAL CERTAIN PARTS OF THIS ACT.

14 ON SPECIFIC DATES; and to repeal certain acts and parts of acts.

15 Sec. 251. (1) A worker's compensation appeal board is cre-
16 ated, referred to in this act as the board. Except as provided
17 for in subsection (2), the board shall consist of 15 members, a
18 majority of whom shall be attorneys at law who are members in
19 good standing of the state bar of Michigan. Except as provided
20 for in subsection (2), of the board members, 5 shall be represen-
21 tative of employee interests in the state, 5 members shall be
22 representative of employer interests of the state, and 5 members
23 shall be representative of the general public. A member of the
24 board shall devote his or her entire time to and personally per-
25 form the duties of the office and shall not engage in other busi-
26 ness or professional activity. The governor, with the advice and
27 consent of the senate, shall appoint the members for a term of 4

1 years, and until their successors are appointed and qualified. A
2 vacancy shall be filled for an unexpired term in the same manner
3 as the original appointment. The governor shall designate the
4 chairperson of the board from among the members to serve at the
5 pleasure of the governor. A member of the appeal board may be
6 removed by the governor for good cause. Good cause for removal
7 shall include, but not be limited to, lack of productivity or
8 other neglect of duties.

9 (2) Until July 1, ~~1989~~ 1992, the governor, with the advice
10 and consent of the senate, may appoint senior worker's compensa-
11 tion magistrates, senior hearing referees, former hearing refer-
12 ees, former worker's compensation magistrates, and other quali-
13 fied individuals to the appeal board in order to fill a vacancy
14 or to temporarily increase the number of members on the appeal
15 board to expedite decisions in cases before the board. All per-
16 sons appointed under this subsection shall be representatives of
17 the general public.

18 (3) This section is repealed as provided for in
19 section 266.

20 Sec. 261. (1) The chairperson of the board shall employ a
21 chief administrative officer for the board. The chairperson
22 shall have general supervisory control of and be in charge of the
23 assignment and reassignment of the work of the board and the
24 board's employees, including the scheduling of the docket; estab-
25 lishing office hours and procedures; setting productivity stan-
26 dards; and encouraging the use of arbitration, if appropriate.

1 The board may promulgate rules on administrative appellate
2 procedure.

3 (2) Except as otherwise provided for in this act, a matter
4 pending review before the appeal board shall be assigned to a
5 panel of 2 members of the board for disposition, with each panel
6 comprised of 1 member each from the employee and employer repre-
7 sentatives, the employee and general public representatives, the
8 employer and general public representatives, or 2 members repre-
9 sentative of the general public. The decision reached by the
10 assigned members of a panel shall be the final decision of the
11 board. If the members of a panel cannot reach a decision, the
12 chairperson of the board shall assign a third panel member to
13 review the matter. The third member shall be from a designated
14 representative group that is not already represented on the
15 panel, except for a panel of 2 members representative of the gen-
16 eral public in which case the third member shall be a representa-
17 tive of the general public. The decision of the third member
18 shall be controlling and shall be considered to be the final
19 decision of the board.

20 (3) In addition to other duties of the chairperson pre-
21 scribed in this section, he or she shall preliminarily review
22 matters before the appeal board to determine if those matters may
23 be disposed of by arbitration or in some expeditious manner by
24 the appeal board.

25 (4) The chairperson shall exercise his or her powers and
26 duties under this section for the purpose of disposing of the
27 cases to be heard by the appeal board not later than July 1,

1 ~~1989~~ 1992 and shall annually report to the governor and the
2 legislature regarding the disposition or lack thereof of these
3 cases.

4 (5) This section is repealed as provided for in section
5 266.

6 Sec. 266. (1) Sections 251, 255, 261, 265, 851a, and 859
7 are repealed as of July 1, ~~1989~~ 1992 or when there are no more
8 cases to be decided by the appeal board, whichever occurs first.

9 (2) If any cases are to be remanded to the appeal board by a
10 court after the board no longer exists, those cases shall be
11 remanded to and decided by the appellate commission established
12 under section 274.

13 (3) If any cases remain to be decided by the board on the
14 date that section 251 is repealed as provided for in subsection
15 (1), those cases shall be reviewed and decided by the appellate
16 commission.

17 (4) Any review of cases by the appellate commission pursuant
18 to subsection (2) or (3) shall be according to the law applicable
19 to reviews conducted by the appeal board.

20 Sec. 835. (1) After 6 months' time has elapsed from the
21 date of a personal injury, any liability resulting from the per-
22 sonal injury may be redeemed by the payment of a lump sum by
23 agreement of the parties, subject to the approval of a hearing
24 referee or worker's compensation magistrate, as applicable. If
25 special circumstances are found which in the judgment of the
26 hearing referee or worker's compensation magistrate, as
27 applicable, require the payment of a lump sum, the hearing

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

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

19 (a) The amount and conditions of the proposed redemption
20 agreement.

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

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

25 (d) The time and place of the hearing on the proposed
26 redemption agreement and the right of the employer to object to
27 it.

1 (3) The hearing referee or worker's compensation magistrate,
2 as applicable, may waive the requirements of subsection (2) if
3 the carrier provides evidence that a good faith effort has been
4 made to provide the required notice or if the employer has con-
5 sented in writing to the proposed redemption.

6 (4) For all proposed redemption agreements, ~~filed after~~
7 ~~December 31, 1983,~~ each party to the agreement shall be liable
8 for a fee ~~of \$100.00~~ to be used to defray costs incurred by the
9 bureau, the worker's compensation board of magistrates, the
10 appeal board, and the worker's compensation appellate commission
11 administering this act. ~~, except that in~~ FOR PROPOSED AGREE-
12 MENTS FILED BEFORE JULY 1, 1989, THE FEE SHALL BE \$100.00. FOR
13 PROPOSED AGREEMENTS FILED ON OR AFTER JULY 1, 1989, THE FEE SHALL
14 BE \$200.00. IN the case of multiple defendants the fee for the
15 party defendant shall be ~~\$100.00 to be~~ paid by the carrier cov-
16 ering the most recent date of injury. The bureau shall develop a
17 system to provide for the collection of the fee provided for by
18 this subsection.

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

1 magistrates, the appeal board, and the worker's compensation
2 appellate commission as applicable:

3 (a) Education and training.

4 (b) Case management.

5 (c) Hearings and claims for review.

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