

Michigan

Michigan Insurance Bureau
PO Box 30220
Lansing, MI 48909-7720
(517) 335-2069

Summary of Important Regulations

MEWA Regulations	Yes
TPA Regulations	Yes
Stop-Loss Regulations	No
UR Regulations	No

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	Mich. Comp. Laws. §§ 500.701 to 500.737	None
Comprehensive Health Ins. Cost Containment Model Act	None	None
Standardized Health Claims Form Model Regulation	None	None
Small Employer Health Insurance Availability Model Law	None	None
Model Regulation To Eliminate Unfair Sex Discrimination	None	Mich. Comp. Laws. § 500.2027
Health Information Privacy Model Law	None	None
Preferred Provider Arrangements Model Law	None	Mich. Comp. Laws. §§ 500.3405, 500.3631, 500.3709
Utilization Review Model Law	None	None
Managed Care Plan Network Adequacy Model Law	None	None
Third Party Administrator Law	None	Mich Comp. Laws. §§ 550.901 to 550.962
Stop-loss Insurance Model Law	None	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Jurisdiction of Health Care Providers Model Law	None	Ins. Bureau Bulletin 79-19
Standard Group Health Model Law	None	Mich. Comp. Laws. §§ 500.3600 to 500.3650
Group Health Insurance Mandatory Conversion Law	None	None
Group Coverage Discontinuance/ Replacement Model Regulation	None	None
Premium Rates and Renewability of Coverage-Small Groups	None	None
Group Coordination of Benefits Model Law	Mich. Comp. Laws §§ 550.251 to 550.255	None
Model Regulation for Certification of Health Plans	None	None
Off-Label Drug Use Model Law	None	None
Group Health Mandatory Drug/ Alcohol Dependency Law	None	Mich. Comp. Laws § 500.3425; § 550.1414 to 550.1414a
Model Newborn Children's Law	Mich. Comp. Laws § 500.3403	None
Health Examination Benefits Availability Law	None	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Accident and Sickness Insurance Minimum Standards Model Law	None	None
Agents and Brokers Licensing Model Law	None	Mich Comp. Laws. § 500.1200 to 500.1244
MEWA Licensing Model Law	None	Bulletin 79-19
Managing General Agents Law	Mich. Comp. Laws §§ 500.1401 to 500.1419	None
Health Maintenance Organization Model Law	None	Mich. Comp. Laws §§ 333.21001 to 333.21098
Insurance Information and Privacy Protection Law	None	None
Unfair Trade Practices Law	Mich comp. Laws §§ 500.2001 to 500.0293	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	None	Mich Comp. Laws. § 500.2027
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Total or Partial Blindness	None	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law	None	Mich. Comp. Laws §§ 333.21072; 500.2246; 500.3406j; 550.1401
Unfair Claims Settlement Practices Law	Mich. Comp. Laws § 500.2026	None
Improper Termination Practices Law	None	Mich. Admin. Code R 500.1514
Employee Leasing Registration Model Law	None	None
Private Employer Workers' Compensation Group Self- Insurance Model Law	None	None
Public Employee Workers' Compensation Group Self- Insurance Model Law	None	None
Twenty Four Hour Coverage Pilot Project Model Law	None	None

State-Mandates

Benefits That Must Be Covered

- Alcoholism treatment
- Breast reconstruction
- Diabetic supplies, education
- Drug abuse treatment
- Emergency services (only HMOs and Blue Cross & Blue Shield)
- Minimum maternity stays

Benefits That Must Be Offered

- Mammography screening
- Orthotics or prosthetics

Persons Who Must Be Offered Coverage

- Conversion to non-group (some exceptions apply)
- Handicapped dependents (only HMOs and Blue Cross & Blue Shield)
- Newborns

Providers Who Must Be Covered

- Chiropractors
- Dentists
- Optometrists
- Physician Assistants
- Podiatrist
- Psychologists

Coordination of Benefits

- | | |
|----------------------------|-----|
| • Birthday Rule? | Yes |
| • Divorced/Separated Rule? | Yes |
| • Joint Custody Rule? | No |
| • Active v. Inactive Rule? | Yes |
| • Longer v. Shorter Rule? | Yes |
| • Managed Care Rule? | No |
| • COBRA Rule? | No |
| • Preservation Rule? | Yes |

Patient's Bill of Rights Legislation

None

High Risk Health Pool

None

External Grievance System

Yes – all plans

Basis of Filing Grievance

Any denial

Status of Decision of Grievance Panel

Advisory only

Prompt Payment of Health Claim Requirement

Yes – 60 days

Regular payment – 45 days

Electronic payment – 25 days

Commentary

- Prosthetic devices to maintain or replace body parts of any individual who has undergone a mastectomy. The coverage must include the reasonable charges for medical care and attendance for reconstructive surgery following a mastectomy or the fitting of a prosthetic device. The individual's physician must certify the medical necessity or desirability of a proposed course of rehabilitative treatment.
- Breast cancer diagnostic services, outpatient treatment and rehabilitative services including one breast cancer screening mammography for a woman from 35 to 40 years of age and one screening mammography every calendar year for a woman age 40 or older. Diagnostic services may be delivered on an inpatient or outpatient basis, including, but not limited to, mammogram, mammography, surgical breast biopsy, and pathologic examinations and interpretation. Rehabilitative services include, but not limited to surgery, radiation therapy, chemotherapy, hormonal therapy, and related medical follow-up services.
- Federal Food and Drug Administration-approved drugs used in antineoplastic therapy and the reasonable cost of its administration.

MEWA Regulation

The state of Michigan enacted a MEWA statute in 1986.¹ The principal provision of the statute are as follows:

- MEWA is that defined in ERISA § 3(40).
- State impacts on an out-of-state MEWA with the same force as an in-state MEWA.
- Fully insured MEWAs are excluded from the statute.
- No MEWA shall do business in Michigan unless it is registered.

- To register a MEWA, an application must be submitted to the Michigan Insurance Department and approved by it. The items to be submitted are these:
 1. Bylaws, trust agreements, documents, etc.
 2. MEWA's financials.
 3. Proof of fidelity bonding.
 4. Business and marketing plans of the MEWA.
- The Michigan Insurance Department will issue the MEWA a certificate of authority only after the commissioner is satisfied that:
 1. There is a commonwealth of business and industry with five or more businesses.
 2. The association has a purpose other than to offer a MEWA plan.
 3. The association has been in business for at least two years
 4. The MEWA is controlled by the employers or employee members, or both, and not by any entrepreneur.
 5. The TPA is authorized to provide its services and has both the facilities and personnel to do a proper job of administration. The TPA must provide the MEWA with a fidelity bond; also, the TPA shall provide the MEWA with adequate stop-loss coverage. The claims procedures of the TPA shall be acceptable to the Michigan Insurance Department and there shall be adequate provision for the handling of runout claims.
- The Michigan Insurance Department assesses filing fees: (\$200 for original certificate of authority; \$25 to renew such certificate annually, and a \$25 annual statement fee). The MEWA must have a state agent for legal service of process. The MEWA's financial records are open to inspection. There are certain financial and organizational requirements which must be met:
 1. The MEWA must have minimum cash reserves for contingent premiums.
 2. The MEWA must have formal substance; i.e., to sue or be sued.
 3. It must be structured with proper officers, trustees, etc.
 4. Audited financials are annually required with an actuarial opinion as regards reserves or contingent premiums.
 5. The MEWA must certify that appropriate stop-loss coverage is in place.
 6. Claim reserves of not less than 35% of previous years' claims are needed.
- The Michigan-mandated benefits must be provided by the MEWA.
- MEWAs which are in violation will receive a cease and desist order.
- The MEWA must have the right to assess the subscribing employers, should the MEWA become financially endangered.
- The stop-loss coverage maintained by a MEWA must provide at least 30 days' notice of cancellation to the insurance commissioner upon cancellation. The stop-loss agreement should provide for an individual deductible of no more than \$50,000.²

TPA Regulations

Michigan adopted an administrator law in 1985.³ The Michigan TPA law goes considerably beyond the model law and is, therefore, dealt with in some detail.

- Taxes and fees – certificates \$200; annual filing approximately \$75
- Forms – TPA authority application, TPA consent to Michigan service for legal process, applicant's statement, application for administrative service license

- Records – follow ERISA rules,⁴ these are six-year and not usual five-year requirements.
- Bond – not required
- Application – these items must accompany application:
 1. All organizational documents
 2. Resumes on key persons
 3. Description of TPA, personnel, services, facilities
 4. Power of attorney giving insurance commissioner right as agent of legal service of process
 5. Recent financials

The Insurance Commissioner may revoke or suspend the TPA’s license for violations, as well as fine the TPA.

	<u>No TPA Knowledge</u>	<u>With TPA Knowledge</u>
Each violation	\$ 500	\$ 2,000
Aggregate maximum	\$5,000	\$25,000

There are numerous significant differences with the Michigan statute that deserve scrutiny.

Definitions. Michigan uses the trade expression TPA, where most statutes refer only to *administrator*. ERISA is brought in because of the references thereto. Michigan defines a TPA to “not include a carrier or employer sponsoring a plan.”

Affected TPAs. To be subject to the Michigan law, the TPA must (a) be domiciled in the state, (b) have its principal offices in the state, (c) be an out-of–state TPA with a client whose main offices are in the state, and (d) provide substantial administration services to an insurer for the carrier’s business in this state. The TPA must do business under its own name.

Required Information. Resumes on person owning over 10% stock are needed; financial viability of TPA must be established.

Insurance of Certificate. In addition to usual justification, the TPA must have adequate facilities, personnel and manager, and at least one administrative service manager who is licensed as herein required and who is responsible for daily operation of the TPA. If the TPA loses an administrative officer by death, disability, discharge, etc. the TPA has 30 day to replace such officer or a reasonable extension of time thereafter.

Administrative Service Manager. To act as such, a person must be properly licensed. To gain a license, there is a written examination; also, the applicant must be honest, trustworthy, and of good moral character. If indicated, the administrative service manager may be reexamined.

The Department of Insurance contracts out the development and administration of licensing examinations to a testing firm. This means that the administrative service manager of the TPA firm who actually takes the written examination must call such testing service firm directly. However, the registration of the TPA firm and the other paperwork which is required for the TPA to be licensed is still administered by the Insurance Commission. Further, TPAs should be prepared for changes to the actual written examination from time to time.

TPA Advisory Board. Seven members (four of whom are employed by TPAs) shall serve without compensation. This board shall advise the Insurance Commissioner on such topics as:

- Licensing procedures
- Format of examinations
- Implementation of the act
- Stop-loss requirements

The board serves for a three-year term; the board is to issue a report at the end of its three-year period dated from passage of act (1/1/85).

Authority of Commissioners. The authority of the Insurance Commissioner over TPAs is essentially like that of the Commissioner has over agents and brokers.

Records Retention. Unless reduced for a good and valid reason, the retention period is ten years.

Administrative Agreement. The TPA may provide services only pursuant to a written administrative agreement.

TPA to Provide Certain Services. The TPA shall be certain to plan participants are furnished the following information:

- Benefits provided
- Changes of such benefits
- Funding method of plan
- Benefits which may be lost if employer is unable to pay
- That the TPA is an administrator only, not an insurer
- ERISA – required summary plan descriptions.

Stop-Loss. Any plan administered by a TPA with less than 500 lives must have stop-loss coverage.

MEWA. This administrator act does not attempt to regulate a MEWA. See MEWA Statute, this section.

Other Plans. This administrator act does not in any way impact on collectively bargained plans or governmental or church plans.

Confidentiality. The act permits confidential information to be released for any of these reasons:

- Claims adjudication or verification
- Proper plan administration
- ERISA – related audit
- Stop-loss carrier
- Request by plan fiduciary
- Request by Insurance Commissioner
- As required by law

Financials. The financials of a TPA shall be furnished to the Commissioner under the Act.

Claims Activities Prohibited. There are several listed claims practices that the act declares to be prohibited.

These are:

- Misrepresenting a material fact
- Failure to make a good faith effort to process promptly
- Not reasonably and promptly investigating the claim
- Not properly communicating a claim denial
- Discriminating by age, sex, race, handicap, etc.
- Unreasonably low offers to induce refusal or litigation
- Coercing, delaying, and related tactics

Inducements, Forbidden Activities. Basically, this section forbids bad business practices, unprofessional activities, examples of which include:

- Discrimination
- Delay tactics
- Misrepresentation
- Fraudulent statements

Actions of Insurance Commissioner. Authority of the Insurance Commissioner is very broad; the TPA may

be put out of business by hearings and due process. Substantial fines may be levied; no criminal indictments are made part of the law, however.

Stop-Loss Regulation

None

Utilization Firm Regulations

None

Miscellaneous

State Premium Taxes

Commercial insurers are taxed on premiums, but they do pay a state business tax. There is not tax on Blue Cross or HMOs.

Small Group Reform

None

MSA Legislation⁵

Who May Establish	Individuals or employers
Tax Treatment	Individual by reducing state tax by 3.3% of amount contributed to an MSA.
Policy Deductible	\$1,000-\$2,000 minimax
Max. Annual Deposit	Individuals or families: \$3,000
Non-Medical Withdrawals	Withdrawals at end of plan year, no penalty; otherwise, 10%
Eligible Medical Expenses	Tracks IRS § 213

Continuation of Coverage and Conversion of Benefits

Michigan does not mandate these benefits.

Managed Care

Michigan requires insurers that offer PPO coverage to a group to offer a traditional coverage option as well.

Endnotes

- ¹ Mich. Comp. Laws § 500.3600. *et seq.*
 - ² Mich. Ins. Bureau Bulletin 87-05A (1987).
 - ³ Mich. Comp. Laws §§ 550.901 to 550.954.
 - ⁴ ERISA § 107.
 - ⁵ Mich. Comp. Laws. §§ 23.1126(1) to 23.1126(8).
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