

SPECIAL REPORT

WHAT IF MY EMPLOYEES TRAVEL TO OTHER STATES AND ARE INJURED -- DOES MY MICHIGAN WORKERS' COMPENSATION POLICY APPLY?

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This Special Report was written by Kenneth R. Hale, J.D., CPCU, AAI, LIC of Marsh & McLennan Agency LLC. Mr. Ken Hale can be contacted at 734-525-2412 or khale@mma-mi.com. More Special Reports are available at www.mma-mi.com.

Many employers have temporary and/or sporadic operations in other states. These could be outside sales people, consultants, accounting people, or contractors.

What happens if that employee is injured in the scope of their employment while working in another state, for example, in an automobile accident or by way of a slip-and-fall type injury.

The Michigan Workers' Compensation Act essentially indicates that if the injured employee is a resident of the State of Michigan, then Michigan law applies, even if the injury occurred elsewhere. The Act provides in relevant part, as follows:

Workers' Disability Compensation Act of 1969 (Excerpt) Act 317 of 1969

418.845 Out-of-state injuries; jurisdiction; benefits.

The Workers' Compensation agency shall have jurisdiction over all controversies arising out of injuries suffered outside this state if the injured employee is employed by an employer subject to this act and if either the employee is a resident of this state at the time of injury or the contract of hire was made in this state. The employee or his or her dependents shall be entitled to the compensation and other benefits provided by this act.

If the employee lives in another state, but the at-will contract of hire was in the state of Michigan, the Michigan law applies. Inasmuch as most employers do not have documents that set forth the at-will contract of hire state, the state that the employee lives in most likely would be the state that the employee is covered under for the purposes of Workers' Compensation. This creates a major coverage gap if that state has not been listed on the Michigan Employers Workers' Compensation policy as a covered state.

We suggest that a form be signed by the employee residing outside of Michigan acknowledging that Michigan is the at-will contract-of-hire state. This means that the Michigan benefits would apply.

We also suggest, at the same time, that the employee's home address, assuming it is outside the State of Michigan, be added to the employer's Workers' Compensation policy with payroll indicated as "if any." The employer would then include the estimated payroll for that employee under the Michigan schedule, instead.

SAMPLE FORM

ACKNOWLEDGEMENT OF MICHIGAN AS THE AT-WILL CONTRACT OF HIRE STATE

The activities of (insert employer's name) may require extensive travel, temporary work and related activities throughout the United States.

(insert employer's name) maintains Michigan Workers' Compensation insurance to cover employee injuries that occur in the course of employment.

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Sec. 845.

The Workers' Compensation agency shall have jurisdiction over all controversies arising out of injuries suffered outside this state if the injured employee is employed by an employer subject to this act and if either the employee is a resident of this state at the time of injury or the contract of hire was made in this state. The employee or his or her dependents shall be entitled to the compensation and other benefits provided by this act.

(insert employer's name) considers your at-will contract of hire to have been made in the State of Michigan. Your signature below acknowledges your agreement that the at-will contract of hire was and is the State of Michigan and that workers' compensation and other benefits provided by the Workers' Compensation Act shall be payable in accordance with the Michigan Workers' Compensation Disability Act of 1969.

Signature of Employee

Date

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