

**Saginaw Chippewa Indian Tribe of Michigan  
Workers' Compensation Ordinance  
Ordinance No. 23**

**Section 1. Definitions**

- 1.1 "Administrator" shall mean the Saginaw Tribe Workers' Compensation Administrator.
- 1.2 "Employee" shall mean any person who performs services for the employer under any appointment or contract for hire, express or implied, oral or written. A person who is designated as an independent contractor shall not be considered to be an employee.
- 1.3 "Employer" shall mean the Saginaw Chippewa Indian Tribe of Michigan and all business entities wholly owned by the Tribe.
- 1.4 "Independent Contractor" is one who renders service in the course of an occupation and:
- (a) has been and will continue to be free from specific control or direction over the performance of the services; and
  - (b) is engaged in an independently established trade, occupation, profession or business.
- 1.5 "Injury" shall mean a personal injury to an employee, or an employee's occupational disease, which arises out of and in the course of employment, and which is of a type for which the employee could be compensated under the substantive provisions of the State of Michigan Workers' Disability Compensation Act of 1969 (MCL § 418.101 *et seq.*) as amended to date and as it may be amended in the future.
- 1.6 "Ordinance" shall mean the Saginaw Chippewa Indian Tribe of Michigan Workers' Compensation Ordinance.
- 1.7 "Tribal Council" shall mean the Saginaw Chippewa Indian Tribal Council, which is the governing body of the Saginaw Chippewa Indian Tribe of Michigan.
- 1.8 "Tribal Court" shall mean the Saginaw Chippewa Tribal Court.
- 1.9 "Tribe" shall mean the Saginaw Chippewa Indian Tribe of Michigan.

**Section 2. Purpose and Scope**

- 2.1 The purpose of this Ordinance is to provide benefits to employees of the Tribe and its wholly owned business enterprises for injuries arising out of the employment relationship. The purpose further is to provide workers compensation benefits sufficient to satisfy the requirements of the Compact between the Saginaw Chippewa Indian Tribe of Michigan and the

State of Michigan Providing for the Conduct of Tribal Class III Gaming by the Saginaw Chippewa Indian Tribe of Michigan.

2.2 The system established by this Ordinance is a self-funded workers' compensation system operated solely for the benefit of the employees of the Tribe and its wholly owned business enterprises. This system is not a workers' compensation plan of any state government or any political subdivision of a state.

2.3 The right to benefits as provided by the Ordinance shall be the employee's exclusive remedy against the employer for injury or occupational disease.

2.4 Except as may be otherwise explicitly provided for, nothing in this Ordinance shall be construed as a waiver of the Tribe's sovereign immunity from suit.

2.5 The provisions of this Ordinance shall govern over any contradictory provisions of any other previously enacted ordinance, code or resolution.

### **Section 3. Effective Date**

3.1 This Ordinance shall take effect on November 3, 2004 and shall govern any compensable injury of an employee which occurs on or after that date. This Ordinance shall also govern any compensable injury prior to that date but only if a claim was made by the employee prior to the enactment of this Ordinance and only if such claim has not already been filed and accepted in the Michigan Worker's Compensation system and the employee files a claim with the Administrator within ninety (90) days of the effective date.

### **Section 4. Election of Remedies**

4.1 The right to recovery of benefits as provided under this Ordinance shall be the employee's exclusive remedy for personal injury or occupational disease. The only exception to this exclusive remedy shall be for "intentional tort" as that term is defined under the State of Michigan Workers' Disability Compensation Act of 1969 (MCL § 418.101 *et seq.*).

### **Section 5. Reporting Obligations**

5.1 An employee shall report any injury in writing, no matter how slight, to his/her supervisor as soon as possible after the injury is incurred. No benefits will be paid under this Ordinance if an employee does not report the injury within thirty calendar days after the injury occurs or within fourteen calendar days after the employee first receives medical treatment for the injury or first loses time from work due to the injury, whichever time period is shorter. If the injury incapacitates the employee, the time periods shall not begin to run until the incapacity ends. An injury may be reported by another on behalf of the employee.

5.2 A supervisor receiving a report or notice of an injury from the employee shall promptly report the claim to the Administrator on a First Report of Injury Form. In no event shall the

supervisor provide the First Report of Injury Form to the Administrator later than seventy-two hours after the supervisor receives the report of injury from the employee.

5.3 An employee who claims benefits for an injury shall make an initial claim for benefits within one year after the date of the claimed injury; no benefits shall be awarded under this Ordinance if such initial claim is not made within this time period.

## **Section 6. Benefits**

6.1. It shall be the obligation of the Tribe to pay the benefits for injuries as provided under the terms of this Ordinance upon proper claim of such benefits by the employee.

6.2 The benefits provided to an employee under this Ordinance shall be substantially identical to the benefits provided in similar circumstances under the State of Michigan Workers' Disability Compensation Act of 1969 (MCL § 418.101 *et seq.*) as amended to date and as it may be amended in the future. Issues relating to the entitlement to benefits, and the nature and extent of benefits, shall be resolved in accordance with the substantive provisions of such Act. In its interpretation and application, the provisions of this Ordinance shall be liberally construed in favor of the Tribe.

## **Section 7. Administrator**

7.1 The system established by this Ordinance shall be implemented and carried out by the Saginaw Tribe Workers' Compensation Administrator.

7.2 The Administrator shall be appointed by the Tribal Council and shall act on behalf of the Tribe in receiving, processing, and paying workers' compensation claims under the Ordinance. The Administrator shall, for purposes of implementing this Ordinance, and without limitation:

- A. Upon receipt of the First Report of Injury, investigate the circumstances of the injury and analyze available medical information
- B. Determine promptly whether to accept or deny a claim for benefits, and advise the employer and employee of its determination.
- C. Determine the reasonableness and necessity of medical care and charges therefor, determine the amounts payable under the Ordinance, and provide for benefits as appropriate.
- D. Determine the reasonableness of an employee's change of a primary physician, a referral to another physician, or a surgical procedure, and provide for benefits as appropriate.
- E. Provide for the payment of other benefits under this Ordinance as appropriate.
- F. Determine the length of time during which benefits are payable.

G. Advise the employer and employee in writing of any limitations on benefits payable under this Ordinance.

H. In its discretion, and with the advance affirmative approval of the Tribal Council, pursue any cause of action assigned to the employer under Section 4.

I. Promulgate such rules and procedures as are necessary to implement this Ordinance.

J. Keep all records necessary for the implementation of this Ordinance.

K. Make all determinations on employee benefits in writing, and provide such written determinations to the employee in a timely fashion.

L. Perform all other tasks necessary and proper for the administration of this Ordinance and for providing appropriate benefits under the Ordinance.

7.3 The Administrator may be an employee of the Tribe or may be an independent third party administrator under contract to the Tribe.

## **Section 8. Appeals**

8.1 A final decision of the Administrator concerning the provision of benefits under this Ordinance may be appealed to the Tribal Court by filing a Notice of Appeal with the Tribal Court and serving such Notice on the Administrator within five days after the filing. Any appeal under this Section shall be filed within thirty days after the Administrator has given the employee actual written notice of the final decision, or has mailed such written notice to the employee by United States mail.

8.2 The Tribal Court shall make its ruling on any appeal under this Section within one hundred and eighty (180) days after the filing of the Notice of Appeal.

8.3 The Tribal Court may consider evidence, hear witnesses, receive exhibits relating to the appeal, and may make such other determinations as generally are provided for in its rules.

8.4 The Tribal Court may affirm or reverse the decision of the Administrator, or may modify such decision as the Tribal Court in its sound discretion deems appropriate. The decision of the Administrator shall be affirmed unless it is arbitrary and capricious. The Tribal Court shall not award attorneys' fees, costs, or extraordinary or punitive damages against the employer.

8.5 The decision of the Tribal Court on an appeal under this Section shall be final and shall not be subject to appeal to the Saginaw Chippewa Tribe Appellate Court or any other court.

8.6 The sovereign immunity of the Tribe and the Administrator to suit in the Tribal Court is hereby waived for the limited purpose of appeals of final decisions of the Administrator under this Section and for the limited purpose of enforcing the Tribal Court's decision on such appeals.

**Section 9. Severability**

9.1 If any section, provision or portion of this Ordinance is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, then the remainder of this Ordinance will remain in full force and effect.

**Section 10. Fraud**

10.1 It is unlawful and a violation of this Ordinance for a person to obtain or assist in obtaining benefits to which the person is not entitled. As used in this section, "person" includes but is not limited to an employee, other beneficiary, supervisor or medical provider.

10.2 Benefits shall not be granted and may be terminated if obtained by fraud. The Tribe shall have a cause of action in Tribal Court for the termination of any benefits received under this Ordinance by fraudulent means.

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Legislative History

Enacted by Resolution No. 05-040 on November 3, 2004.