

**Department of Labor and Economic Opportunity
Office of Employment and Training
Bureau of Services for Blind Persons
Administrative Services Division Business Enterprise Program**

1. Rule(s) to be **processed** between July 1, 2024, and June 30, 2025. [Give a brief description.]

Bureau of Services for Blind Persons – Vending Facility Program (ORR# not assigned)

Revision to R393.1 to R393.56, as authorized by MCL 393.1 et seq and in compliance with 34 CFR 395.1 et seq.

The Bureau of Services for Blind Persons is the State Licensing Agency for the Randolph Sheppard Act, authorizing the placement of food service establishments on state and federal properties to be operated by blind licensees.

In keeping with the mandate of the Randolph-Sheppard Act, the Program continues to actively seek the participation of the Elected Operator's Committee to shape the Program's rules and policy. Meetings regarding the update to the rule set are on-going. This rule set was last revised in 2004 and the department housing the SLA has changed, and the altering business model of the program require a full rule set revision.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2024, and June 30, 2025. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

BSBP/BEP: identified many rules that are obsolete and can be rescinded. The following rules, at a minimum, are obsolete and can be rescinded:

Proposed rescission of subrules (c), (d), (e), and (f) in R 393.9 on Candidate referral packet of the Vending Facility Program rules.

Proposed rescission of R 393.45 Vending facility training for existing cafeteria licensees.

Proposed rescission of sub rules (4) and (5) and Rule 393.46 Cafeteria training for licensees.

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

No

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

R393.7 to R393.16 outline the process for becoming licensed and the revocation of a license where appropriate. R393.54 to R393.56 outline the dispute resolution process for licensees. All rules should be considered for revision to find more efficient methods for resolving problems arising from the implementation of the program.

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A. Describe whether there is a continued need for the rules.

The rules are a requirement outlined in federal regulations, 34 CFR 395.1, and are necessary for the continued implementation of the Randolph Sheppard act and PA 260 of 1978.

B. Provide a summary of any complaints or comments received from the public concerning the rules.

The Elected Operator Committee, a group of operators licensed in the program, have made numerous requests to review and revise the rules to allow for greater opportunities within the program. These opportunities include development of unmanned locations to allow greater hours of operations and more flexibility for items to be sold.

C. Describe the complexity of complying with the rules.

BSBP/BEP: Compliance with current rules requires coordination with multiple stakeholders and can cause delays in providing services prescribed by these rules. Changes to the existing rule, based on the Program's current structure, are not complex, and in fact should reduce the Program's cost in responding to licensee grievances. Additional changes will allow for the implementation of new business technologies. Finally, these rules ensure that fiscal actions comply with federal requirements.

D. Describe whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

BSBP/BEP: The rules do not conflict with, or duplicate similar rules or regulations adopted by the federal government. The rules have no impact on local units of government.

E. Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

This rule set was last revised in 2004. Since that time, technology has provided real time monitoring of vending sales, micro market kiosks that allow for the retail sale of products without staff present, and the development of a process to receive licensee fiscal data via a web portal. All these updates to the business model have improved efficiency and reduced costs, however, none appear within the rule set.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

BSBP/BEP: [LEO - Legal Authority \(michigan.gov\)](#) Scroll down to BEP State Rules (a MS Word Document link)

6. Please provide a list of the items identified for action in the 2024 ARP that have been completed and those that remain outstanding.

BSBP/BEP: All activities identified for action are on-going. The BEP is required to actively participate with the Elected Operator Committee in any revisions to the rules and this committee was not able to meet as frequently as required to participate in the revision of the rules during the Covid health emergency, however, is currently meeting bi-monthly to make recommendations for updates.

**Department of Labor and Economic Opportunity
Michigan Occupational Safety and Health Administration**

1. Rule(s) to be processed between July 1, 2024, and June 30, 2025.

MOAHR # 2023-45 LE, Administrative Standard - Part 4 - Procedures Board of Appeal – By authority conferred on the board of health and safety compliance and appeals by section 46 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1046 section 33 of the administrative procedures act of 1969, 1969 PA 306, and MCL 24.233, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. MIOSHA Safety and Health Standard Part 4, Procedures. This amendment will provide clarification to employers and employees on governing proceedings in contested cases before the Board of Health and Safety Compliance and Appeals.

MOAHR # Not Assigned, Construction Safety and Health Standard – Part 12 – Scaffolds and Scaffold Platforms - By authority conferred on the director of the department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030 and 125.1998. The current rules are being amended to remove the reference to 29 CFR 1926.453, “Aerial lifts.” This amendment would provide clarification to be at least as effective as OSHA.

MOAHR # Not Assigned, Administrative Standard – Part 13 – Inspections and Investigations, Citations, and Proposed Penalties - By authority conferred on the department of labor and economic opportunity by section 33 of the Michigan occupational safety and health Act, 1974 PA 154, MCL 408.1033, and section 33 of the administrative procedures Act, 1969 PA 306, and MCL 24.233, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, and MCL 408.1069, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. This amendment will remove duplicative and conflicting language with Construction Safety and Health Standard, Part 21, Guarding of Walking and Working Areas.

MOAHR # Not Assigned, - Radiation Safety Standard - Ionizing Radiation Rules Governing the Use of Radiation Machines- Part 14 - Mammography- By authority conferred on the director of the department of labor and economic opportunity by sections 13515, 13521, 13522, and 13527 of the public health code, 1978 PA 368, MCL 333.13515, 333.13521, 333.13522, and 333.13527 and Executive Reorganization Order Nos. 1996.-1, 1996-2, 2003-1, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2030, and 125.1998. The current rules are being amended to be at least as effective as OSHA.

MOAHR # Not Assigned, Construction Safety and Health Standard – Part 19 – Tools - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, 408.1019, and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. This amendment would provide clarification and to be at least as effective as OSHA.

MOAHR # Not Assigned, Construction Safety and Health Standard – Part 21 – Guarding of Walking and Working Areas - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to be at least as effective as OSHA.

MOAHR # Not Assigned, Construction Safety and Health Standard - Part 25 - Concrete Construction - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1019 and 408.1021, and executive reorganization order nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. This amendment will provide clarification on requirements for the protection of employees associated with the use of reinforcing steel assemblies used in the construction of concrete and masonry structures including post-tensioning operations.

MOAHR # 2024-20 LE, Construction Safety and Health Standard - Part 26 - Steel Erection - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. These rules are being amended to be at least as effective as OSHA and adopt by reference, “Hoisting and rigging,” and “Special Training.”

MOAHR # Not Assigned, Construction Safety and Health Standard – Part 42 – Hazard Communication – By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. These rules are being amended to be at least as effective as OSHA.

MOAHR # Not Assigned, General Industry Standard – Part 57 – Oil and Gas Drilling and Servicing Operations - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 16 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1016 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to address Rule 5740 (6), When working on a power tong head, the power input pressure line shall be disconnected as prescribed in rule 32 of Part 1. General Rules, being R 408.10032 of the Michigan Administrative Code. This rule refers to Part 1, General Provisions Rule 408.10032 which was rescinded.

MOAHR # Not Assigned, General Industry Standard – Part 73 – Fire Brigades - By authority conferred on the director of the department of labor and economic opportunity by sections 14r, 16, and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014r, 408.1016, and 408.1021, and Executive Reorganization Order Nos. 1996 2, 2003 1, 2008 4, 2011 4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to be at least as effective as OSHA. No action will be taken until federally promulgated by OSHA.

MOAHR # Not Assigned, General Industry Standard– Part 74 – Fire Fighting - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14r, 16, and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014r, 408.1016, and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to be at least as effective as OSHA. No action will be taken until federally promulgated by OSHA.

MOAHR # Not Assigned, General Industry Standard – Part 92 – Hazard Communication – By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, MCL 408.1016 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030 and 125.1998. This amendment would provide clarification and to be at least as effective as OSHA.

MOAHR # Not Assigned, General Industry Standard – Part 430 – Hazard Communication – By authority conferred on the director of the department of licensing and regulatory affairs by sections 14 and 24 of 1974 PA 154, MCL 408.1016 and 408.1021, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030 and 125.1998. This amendment would provide clarification and to be at least as effective as OSHA.

MOAHR # Not Assigned, General Industry and Construction Safety and Health Standard – Part 505 – Coronavirus Disease 2019 (COVID-19) For Healthcare - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to be at least as effective as OSHA.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2024, and June 30, 2025. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

None that MIOSHA is aware of.

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

No

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

None

A. Describe whether there is a continued need for the rules.

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There is a continued need for the MIOSHA rules, which set standards to help protect the safety and health of Michigan workers.

- B.** Provide a summary of any complaints or comments received from the public concerning the rules.

MIOSHA is not aware of any complaints from the public concerning the rules.

- C.** Describe the complexity of complying with the rules.

The Williams-Steiger Occupational Safety and Health Act of 1970 requires MIOSHA to promulgate standards that are at least as effective as those promulgated under the Act. Consequently, any complexity in complying with the MIOSHA rules stems from the complexity of the federal OSHA standards that are adopted by reference in the MIOSHA rules.

- D.** Describe whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

These rules do not conflict with federal regulations. Many of these rules are adoptions of federal OSHA rules and regulations.

- E.** Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The MIOSHA rules are continually revised and updated in order to be as effective as the federal regulations.

- 5.** Please provide the URL link the department or bureau is currently using to display their administrative rules.

MIOSHA Rules: <https://www.michigan.gov/leo/bureaus-agencies/MIOSHA/Standards>
Radiation Safety Rules: <https://www.michigan.gov/leo/bureaus-agencies/miosha/divisions/technical-services-division/rad-safety/radiation-safety-rules2>

- 6.** Please provide a list of the items identified for action in the 2024 ARP that have been completed and those that remain outstanding.

Completed:

MOAHR # 2023-8 LE, Radiation Safety Standard - Part 5 - Operator Qualifications - By authority conferred on the director of the Michigan department of labor and economic opportunity by section 13521, 1978 PA 368, MCL 333.13521 and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2011-4, and 2019-3, being MCL 330.3101, 445.2001, 445.2011, and 445.2030, and 125.1998. The current rules will be amended in order to add additional operator qualification rules. **Effective date: March 13, 2024.**

MOAHR # 2023-39 LE, Construction Safety and Health Standard – Part 9 – Excavation, Trenching, and Shoring - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules will be revised to amend R 408.40945(3) to add the term “vertically” to the rule. This amendment would provide clarification and to match OSHA. **Effective date: January 3, 2024.**

MOAHR # 2023-42 LE, Construction Safety and Health Standard – Part 26 – Steel Erection - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3 MCL, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to remove subrule (3) from R 408.42616 “Slip Resistance of Skeletal Structural Steel” to match OSHA’s 29 CFR 1926.754(c) “Structural Steel Assembly.” **Effective date: January 3, 2024.**

MOAHR # 2022-44 LE, General Industry Safety and Health Standard – Part 73 – Fire Brigades - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 16 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules will be revised as a result of legislative changes, MIOSHA is required to promulgate new rules regarding use of PFAS containing foam in firefighting operations. MIOSHA is updating several consensus standards listed in the rules to reflect more current industry standards. **Effective date: October 23, 2023.**

Outstanding:

MOAHR # Not Assigned, Construction Safety and Health Standard – Part 12 – Scaffolds and Scaffold Platforms - By authority conferred on the director of the department of labor and economic opportunity by sections 14, 16, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1016, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030 and 125.1998. The current rules are being amended to remove the reference to 29 CFR 1926.453, “Aerial lifts.” This amendment would provide clarification to be at least as effective as OSHA.

MOAHR # Not Assigned, Construction Safety and Health Standard – Part 19 – Tools - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, 408.1019, and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. This amendment would provide clarification and to be at least as effective as OSHA.

MOAHR # Not Assigned, Construction Safety and Health Standard – Part 21 – Guarding of Walking and Working Areas - By authority conferred on the director of the department of labor and economic opportunity by sections 19 and 21 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1019 and 408.1021, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to expand language regarding impalement hazards.

MOAHR # Not Assigned, General Industry and Construction Safety and Health Standard – Part 505 – Coronavirus Disease 2019 (COVID-19) For Healthcare - By authority conferred on the director of the Michigan department of labor and economic opportunity by sections 14, 19, 21, and 24 of the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1014, 408.1019, 408.1021, and 408.1024, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, 2008-4, 2011-4, and 2019-3, MCL 330.3101, 445.2001, 445.2011, 445.2025, 445.2030, and 125.1998. The current rules are being amended to be at least as effective as OSHA.

**Department of Labor & Economic Opportunity
Unemployment Insurance Appeals Commission- Division**

1. Rule(s) to be **processed** between July 1, 2024 and June 30, 2025. [Give a brief description.]

The UIAC will process the following set of rules:

2020-110 LE, R792.11417 to 792.11433.

These rules govern appeals proceedings before the UIAC.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2024 and June 30, 2025. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

None.

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

No.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

None.

- A. Describe whether there is a continued need for the rules.

The rules are essential as they provide the procedures for appeals.

- B. Provide a summary of any complaints or comments received from the public concerning the rules.

None.

- C. Describe the complexity of complying with the rules.

The UIAC is unaware of any undue complexity.

- D. Describe whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

UIAC is unaware of any conflicting or duplicative rules. The set establishing UIAC procedures (Part 14 Subpart C), is integrated with Part 14 Subpart A – General Provisions, R 792.11401-11404.

- E. Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

UIAC began evaluating the rules in 2020. Beginning in 2020, UIAC made electronic filing available to the parties. UIAC expects to implement new e-filing technologies and revisions to the rules may be necessary to specify the designated technology and to specify acceptable forms of service on the parties.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/Executive2/Rules_for_Proceedings_before_the_Appeals_Commission.pdf

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6. Please provide a list of the items identified for action in the 2024 ARP that have been completed and those that remain outstanding.

The set of rules 2020-110 LE, R792.11417 to 792.11433 remains outstanding.
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Department of Labor and Economic Opportunity
Labor Division
Workers' Disability Compensation Agency

1. Rule(s) to be **processed** between July 1, 2024 and June 30, 2025. [Give a brief description.]

Workers' Disability Compensation Health Care Services Rules: (Authority conferred on the Workers' Disability Compensation Agency by Sections 205 and 315 of 1969 PA 317, Section 33 of 1969 PA 306, Executive Reorganization Order Nos. 1982-2, 1986-3, 1990-1, 1996-2, 2003-1, 2011-4, and 2019-13, MCL 418.205, 418.315, 24.233, 18.24, 418.1, 418.2, 445.2001, 445.2011, and 445.2030.) The Health Care Services rule set is reviewed and revised annually due to ongoing changes in the medical arena, as well as with Medicare. This rule set establishes schedules of maximum fees for a health facility or health care provider for treatment or attendance, service, device, apparatus, or medicine, as well as procedures by which a health care provider shall be paid, and source documents to be utilized.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2024 and June 30, 2025. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

None identified.

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

The Agency has not failed to promulgate any statutorily required rules or failed to utilize any statutorily required rules.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

The Workers' Disability Compensation Agency Health Care Services rule set is reviewed and revised annually due to ongoing changes in the medical arena, as well as with Medicare. The industry would like continual improvement with efficiency of processing new rules that allows us to keep pace with the rapidly changing medical arena. The Agency has not found a more efficient or cost-effective means of administering a reimbursement fee schedule in an equitable fashion across all parties.

- A. Describe whether there is a continued need for the rules.

There is a continued need for the Workers' Disability Compensation Health Care Services rule set. This rule set establishes schedules of maximum fees by a health facility or health care provider for such treatment or attendance, service, device, apparatus, or medicine, as well as procedures by which a health care provider shall be paid. The rules do regulate the administration of all major workers' disability compensation health care reimbursement processes and procedures, which does impact all involved parties, including businesses large and small across the state.

- B. Provide a summary of any complaints or comments received from the public concerning the rules.

Comments have been received regarding adequacy of Medicare based reimbursement.

- C. Describe the complexity of complying with the rules.

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Complying with the Health Care Rules can be complex. As noted above in Question #4, the Agency's Health Care Rules are tied directly to the Medicare fee schedules which are updated several times throughout a year. The rules are also directly tied to Current Procedural Terminology (CPT) codes, which are updated annually in January. The Agency's rule set is fixed on the effective date. It is sometimes difficult for the Agency's customers to understand that compliance is tied to the previous year's codes, simply because the rules promulgation process must go through the full rulemaking process.

- D.** Describe whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

The rules do not conflict with or duplicate other governmental rules, either local or federal.

- E.** Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The healthcare ruleset 2022-42 LE completed the promulgation process and became effective 10-12-23. These rules are directly linked to annual updates by Centers for Medicare and Medicaid Services (CMS) and the American Medical Association (AMA). As such, the rules should be updated annually to account for the latest information.

- 5.** Please provide the URL link the department or bureau is currently using to display their administrative rules.

<https://www.michigan.gov/leo/bureaus-agencies/wdca/healthcare/rules-fees/hcs-rules-manuals-fees/2023-rules-manual-and-fees>

- 6.** Please provide a list of the items identified for action in the 2024 ARP that have been completed and those that remain outstanding.

Workers' Compensation Health Care Services Rules (2022-42 LE) completed the promulgation process and became effective 10-12-23. There are no outstanding items from the 2024 ARP.

**Department of Labor and Economic Opportunity
Bureau of Employment Relations/Michigan Employment Relations Commission Division**

1. Rule(s) to be **processed** between July 1, 2024 and June 30, 2025. [Give brief description.]

Amend the Commission's General Rules and Act 312 Rules to authorize:

- a. **Mandatory electronic filing and service (via CMS, email, text etc) by parties on the MERC case types and documents as approved by MERC policy.**
- b. **Mandatory or discretionary electronic notification, distribution and service of agency issued communications, documents and materials sent to parties and representatives on all or designated case types;**
- c. **Waive requirement of parties submitting hard copy documents on e-filed cases and documents;**
- d. **Permit or require alternate service methods on filed cases and documents.**
- e. **Permit remote and virtual hearings, meetings, and other proceeding on MERC cases including remote court reporter participation as provided per MERC policy;**
- f. **Permit electronic recording and transcription of MERC case hearings, proceedings and other processes as permitted by the Commission or designee.**
- g. **Permit panel appointees to administer the oath or affirmation in case hearings.**
- h. **Clarify the definition and application of the term "Advocate" used in Act 312 and Fact-finding processes.**
- i. **Require panel chairs to make preliminary rulings (e.g., duration) that are included in the instructions for submitting last best offers in Act 312 proceedings.**
- j. **Codify several established election bars;**
- k. **Codify document content, filing, and service requirements on all case types;**
- l. **Expand MERC labor mediator role to include written recommendations**
- m. **Expand MERC Labor mediator role to provide voluntary mediation upon mutual consent of all parties in ULP, UC and R cases.**
- n. **Require party submitting filings to MERC to also serve all parties in all case types;**
- o. **Codify standards for disqualification, recusal and required disclosures by a Commissioner, ALJ, Panel appointee or other Commission designee or agent;**
- p. **Other related changes.**

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2024 and June 30, 2025. Also, please identify the rules or rule sets that are least important to the mission and function of the agency, or are otherwise strong candidates for rescission.

None to be rescinded, as yet

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

No.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

(Items 1a-c) Without any change, General Rule 181, 191, 192, 192a, 193, 195, 196, 198 minimize MERC's ability to expedite the filing processes. Likewise, several other rules require the submission of hard copy filings that complicate or contravene the advantages of a party using any electronic filing method. Same for Rules 505 and 513 in Act 312.

(Items 1g & 1h) Changes are needed to avoid misinterpretation and erred application of certain key components in the Act 312 process.

A. Describe whether there is a continued need for the rules.

Yes

B. Provide a summary of any complaints or comments received from the public concerning the rules.

Various complaints that include: Need for MERC to mandate electronic filing (e-filed) and electronic service of case types for faster more efficient processing and fewer redundant filings; Eliminate hard copy original and extra copies with e-filed materials; lack of clarity in some of the 312 definitions and steps; Inability to readily use advancing technology regarding virtual/remote hearings and alternative methods for capturing the official record at MERC case hearings; codify standards for disqualification of Commissioners and designees, as well as clarify various missing or ambiguous rulings and practices.

C. Describe the complexity of complying with the rules.

All relate to comments listed above in 4B.

D. Describe whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

None that are known.

E. Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

Targeted Focus Group discussions began in 2021 and continued in 2022; Some evaluation was connected to the new case management system (MERC e-File) launched in Dec 2018 that allows public access to view and e-file case materials.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

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6. Please provide a list of the items identified for action in the 2024 ARP that have been completed and those that remain outstanding.

No changes occurred in the prior period. The following remain outstanding (partial list):

A. CHANGE GENERAL RULE 181 AND OTHERS TO ALLOW AGENCY, THROUGH MERC POLICY, TO MANDATE THE E-FILING AND E-SERVICE OF MERC CASE FILINGS AND DOCUMENTS:

Rule 181. (1) "Filing" of a document, pleading, or other paper with the commission is considered complete on the date it is delivered to any office of the commission and received and accepted by the commission, administrative law judge, or other agent designated to receive the document, with the intent to enter it in the record. Filing may be accomplished by hand delivery, registered, certified or regular mail, private delivery service, or any other means specifically authorized **or required** by the commission, or an administrative law judge designated by the commission.

(2) When LMA, PERA, or any of these rules require the filing of an original and extra copies of a document, filing is considered complete on the date a copy is filed, but the original and remaining copies shall be filed within 5 business days.

B. WAIVE THE REQUIREMENT OF FILING HARD COPY DOCUMENTS (Original and Extra Copies) WHEN CASE IS INITIATED BY E-FILE OR OTHER DOCUMENTS ARE E-FILED

(Impacts both General Rules and Act 312 Rules):

R 423.124 Strike elections “. . . A party shall file a signed original and 4 copies of the objections with the commission . . .”

R 423.132 Petitions; initiation by commission of fact finding (1) “. . . The petitioner shall file an original and 3 copies with the commission . . .”

R 423.134 Answers (3) “. . . The answer and 3 copies shall be filed with the commission . . .”

R 423.137 Fact finders' reports (2) “. . . The fact finder shall file the fact finding report and 2 copies with the commission . . .

R 423.141 Petitions for elections (1) “. . . An original and 4 copies of the petition shall be filed with the commission . . .”

R 423.149b Objections to elections; rerun and runoff elections (1) “. . . A signed original and 4 copies of the objections shall be filed with the commission, . . .”

R 423.151 Filing, contents, and service (ULP charge) (1) “. . . An original and 4 copies of the charge shall be filed with the commission. . . .

R 423.153 Amendments to charges (1) “. . . An original and 4 copies of the amended charge shall be filed with the commission . . . (2) If a request to amend a charge is made in writing, each party opposing the request shall file with the commission a signed original and 2 copies of its objection . . .”

R 423.155 Answers (1) “. . . Each respondent may file with the commission a signed original and 4 copies of an answer to the complaint and attached charge, . . .

R 423.156 Amendments to answers (2) “. . . An original and 4 copies of the amended answer shall be filed with the commission . . .”

R 423.161 General provisions (6) “. . . All pleadings to the administrative law judge shall include 1 original, and 1 copy, unless otherwise directed . . .”

R 423.173 Oral argument at hearing and briefs “. . . An original and 2 copies shall be submitted for any brief filed in a representation proceeding under part 4 of these rules, unless additional copies are requested. . . .”

R 423.176 Exceptions to administrative law judge's decision and recommended orders; cross exceptions and response; brief in support.

(2) An original and 4 copies of the exceptions and brief shall be filed with the commission, along with all of the following documents:

Two copies of each exhibit, if any, admitted, or offered and marked at hearing by either party.

Two copies of each party's post-hearing briefs.

Two copies of all of the following documents:

Any motion that resulted in a ruling by the administrative law judge dismissing or sustaining the unfair labor practice in whole or part.

Any brief in support of the motion.

The response to the motion filed by the opposing party or parties.

(8) Within 10 days after service of exceptions, a party may file 1 original and 4 copies of cross exceptions and briefs in support thereof, or 1 original and 4 copies of a brief or legal memorandum in support of the decision and recommended order.

(9) Within 10 days after service of cross exceptions, an opposing party may file 1 original and 4 copies of a brief or legal memorandum

R 423.177 Compliance and enforcement.

(1)(b) An original and 4 copies of the request shall be filed with the commission, . . .”

(4) Each respondent alleged in the request to have compliance obligations shall, within 10 days of service of the request, file an original and 4 copies of an answer with the commission, . . .”

R 423.191 Notice to commission; filing; service.

Rule 191. (4) Upon filing a written notice and affidavit with the commission, . . . An original and 4 copies of the notice and affidavit shall be filed with the commission, unless the notice and affidavit are filed electronically pursuant to commission policy.

* *

(7) The bargaining representative shall file an answer and any affirmative defenses with the commission within 7 days of service of notice of hearing and shall simultaneously serve the initiating party. An original and 4 copies of any answer and affirmative defenses shall be filed with the commission, unless the answer and affirmative defenses are filed electronically pursuant to commission policy.

R 423.192 Hearing on whether a strike occurred.

(13) At the discretion of the commission, parties may submit briefs at the close of the hearing. A party submitting a brief shall file the original and 4 copies with the commission, unless the brief is submitted electronically pursuant to commission policy.

R 423.192a Notice of names of employees presumed to have engaged in a strike.

(3) The public school employer or the superintendent of public instruction shall file with the commission an original and 2 copies of the notice and affidavit, unless the notice and affidavit are filed electronically pursuant to commission policy.

R 423.193. Challenge to presumption of participation in a strike.

(3) The public school employee shall file an original and 2 copies of the answer and affidavit with the commission, unless the answer and affidavit are filed electronically pursuant to commission policy.

R 423.195 Exceptions to decision and recommended order; cross exceptions and response; brief in support.

(2) An original and 4 copies of the exceptions and brief shall be filed with the commission, along with all of the following documents:

Two copies of the notice and affidavit identifying the employees presumed to have been engaged in a strike in violation of section 2 of PERA.

Two copies of the answer and affidavit of the employee presumed to have

been engaged in a strike in violation of section 2 of PERA.

Two copies of each exhibit, if any, admitted, or offered and marked at hearing by either party.

Two copies of each party's briefs.

* *

(3) . . . If the exceptions and the supporting documents listed in subrule (2) of this rule are filed electronically pursuant to commission policy, it is not necessary to file additional copies.

* *

(8) Within 10 days after service of exceptions, an opposing party may file 1 original and 4 copies of cross exceptions and briefs in support of the cross exceptions, or 1 original and 4 copies of a brief or legal memorandum in support of the decision and recommended order. If the cross exceptions and brief in support or the legal memorandum in support of the decision and recommended order are filed electronically pursuant to commission policy, it is not necessary to file additional copies.

(9) Within 10 days after service of cross exceptions, an opposing party may file 1 original and 4 copies of a brief or legal memorandum responding specifically to the issues raised in the cross exceptions that were not addressed in the exceptions. If the brief or legal memorandum responding to the cross exceptions is filed electronically pursuant to commission policy, it is not necessary to file additional copies.

R 423.196 Notice of conditions constituting a lockout.

(3) An original and 4 copies of the notice and affidavit shall be filed with the commission, unless the notice and affidavit are filed electronically pursuant to commission policy.

R 423.198 Hearing on whether a lockout occurred.

(12) At the discretion of the commission, parties may submit briefs at the close of the hearing. Any party submitting a brief shall file the original and 4 copies with the commission and serve a copy on each of the other parties no later than the close of business on the last day of the hearing. If the brief is filed electronically pursuant to commission policy, it is not necessary to file additional copies.

Act 312 Rules impacted by waiving the requirement of an original and extra hard copies on e-filed cases:

R 423.505 Petition to initiate compulsory arbitration. (1) “. . . 3 copies, along with a proof of service, shall be filed with the commission . . .”

R 423.513 Panel findings, opinion, and award. “. . . (4) The arbitrator shall serve a copy of the award on each party and send the original and 2 copies of the award, along with an electronic copy of the award, to the commission with the entire record.

C. Expand Mediator role:

- 1. Make written recommendations that are non-binding on the parties**
- 2. Provide voluntary mediation upon mutual consent of all parties in ULP, UC and R cases.**

D. ALLOW THE USE OF ELECTRONIC, REMOTE AND ALTERNATIVE METHODS FOR TO RECORD AND TRANSCRIBE CASE HEARINGS:

R 423.136 (8) No official record will be made unless the parties request one, in which case, the cost of a court reporter and any other costs associated with the preparation of the record shall fully be the responsibility of the parties pursuant to R423.138.

R 423.138 (3) A party may order a transcript of a deposition at its own expense. The party who requests a deposition shall pay the costs for the court reporter and for a copy of the transcript of the deposition for the fact finding hearing record.

R 423.171 (8) The record of any hearing or proceeding shall be taken pursuant to all of the following:

- (a) Certification. Only official court reporters certified in accordance with the state court administrative office (SCAO) may record or prepare transcripts of proceedings held by or on behalf of the commission pursuant to these rules. Official court reporters shall, at a minimum, be designated as a certified shorthand reporter (CSR), certified steno mask reporter (CSMR), or certified electronic recorder (CER) as defined by SCAO. The signature line on the certification shall be signed by the court reporter who physically appeared at the proceedings and shall contain a current certification number issued by the SCAO as assigned to that reporter.
- (b) Attendance at hearing. A court reporter satisfying the certification requirements specified in subrule (8)(a) of this rule shall attend all hearings conducted by or on behalf of the commission and take a verbatim record of the proceedings, including, but not limited to, opening statements, witness testimony, final arguments, and the reasons given by the administrative law judge for granting or refusing any motion made by a party during the course of hearing.
- (c) Furnishing transcript. The court reporter shall furnish within 10 business days, in verbatim record, a transcript of the proceedings or any part of the proceedings taken by him or her to any party on request. A party ordering the transcript shall make satisfactory arrangements with the court reporter for payment of the cost of the transcript.
- (d) Filing transcript. The court reporter shall file with the commission and the administrative law judge an original transcript of the record, in legible English, of any proceedings conducted by or on behalf of the commission. The transcript shall include a certification by the court reporter that the transcript is an original, verbatim transcript of the proceedings. The original transcript shall become part of the record in the case, and the commission shall maintain a copy of the transcript for the time period required under R 423.185.

R 423.192 (12) The court reporter shall prepare the transcript within 1 business day of each day's proceedings and provide it to the commission. A court reporter shall file with the commission an original transcript of the record, in legible English, of any proceedings conducted by or on behalf of the commission. The transcript shall include a certification by the court reporter that the transcript is an original, verbatim transcript of the proceedings. The original transcript shall maintain a copy of the transcript for the time period required under R 423.185. A party that orders a copy of the transcript shall make arrangements with the court reporter for payment of the cost of the copy.

R 423.194 (11) The court reporter shall prepare the transcript within 1 business day of each day's proceedings and provide it to the commission. A court reporter shall file with the commission an original transcript of the record, in legible English, of any proceedings conducted by or on behalf of the commission. The transcript shall include a certification by the court reporter that the transcript is an original, verbatim transcript of the proceedings. The original transcript shall maintain a copy of the transcript for the time period required under R 423.185. A party that orders a copy of the transcript shall make arrangements with the court reporter for payment of the cost of the copy.

R 423.198 (11) The transcript shall be prepared within 1 business day of each day's proceedings and provide it to the commission. The court reporter shall file with the commission an original transcript of the record, in legible English, of any proceedings conducted by or on behalf of the commission. The transcript shall include a certification by the court reporter that the transcript is an original, verbatim transcript of the proceedings. The original transcript shall become part of the record in the case, and the commission shall maintain a copy of the transcript for the time period required under R 423.185. A party that orders a copy of the transcript shall make arrangements with the court reporter for payment of the cost of the copy.

Act 312 Rules impacted by the court reporter requirement:

R 423.507 (10) Testimony shall be taken by a court reporter. . . .

E. CREATE A RULE THAT ALLOWS COMMISSION TO PROMULGATE POLICY TO PERMIT OR MANDATE THE USE OF ALTERNATE SERVICE METHODS (i.e., EMAIL, SYSTEM OR ELECTRONIC SERVICE) ON ALL CASES AND DOCUMENTS FILED WITH THE AGENCY OR ISSUED BY THE COMMISSION OR ITS DESIGNEE.

F. PERMIT AN IMPARTIAL ARBITRATOR OR OTHER HEARING DESIGNEE TO ADMINISTER THE OATH OR AFFIRMATION IN ACT 312 AND OTHER CASE PROCEEDINGS:

R 423.508 **Witness examination.** A witness at the hearing shall be examined orally under oath or affirmation administered by the court reporter.

G. CLARIFY DEFINITION & APPLICATION OF "ADVOCATE" IN ACT 312 RULES:

R 423.501 (b) "Advocate" means an individual who has represented management or a union in collective bargaining or labor relations in the 5 years prior to his or her selection by the commission as a nominee for an impartial arbitrator or chair of an arbitration hearing panel pursuant to Section 5(1) of 1969 PA 312, MCL 423.235(1). Advocate also means an individual, including an attorney, who is associated with a firm or entity that has represented management or a union in collective bargaining or labor relations matters in the 5 years prior to his or her selection by the commission as a nominee for an impartial arbitrator or chair of an arbitration hearing panel pursuant to Section 5(1) of 1969 PA 312, MCL 423.235(1).

H. REINFORCE THE REQUIREMENT THAT THE 312 ARBITRATOR MAKE CERTAIN PRELIMINARY RULINGS DURING THE PREHEARING STAGE THAT ARE INCLUDED IN THE INSTRUCTIONS ON SUBMITTING THE LAST OFFERS OF SETTLEMENT:

R 423.507 (3) The arbitrator shall do all of the following:

- (a) Issue rulings on the economic issues in dispute and the duration of the collective bargaining agreement, and require each party to exchange and submit all of the following:
 - (i) A statement of the party's issues setting forth the specific changes in the collective bargaining agreement proposed by the party.
 - (ii) The party's position as to whether each issue is economic or non-economic.
 - (iii) The proposed duration of the collective bargaining agreement.

Department of Labor and Economic Opportunity
Michigan Rehabilitation Services Division

1. Rule(s) to be **processed** between July 1, 2024 and June 30, 2025. [Give a brief description.]

1. **R 395.75 Post-secondary education and vocational training financial needs test – update to remove financial maximums, possibly remove requirement off financial needs test, and include new college training guidance.**
2. **Formation of new rule(s) associated with vendor services including background checks, insurance requirements, record retention, and reporting of critical incidents.**
3. **R 395.53 Purpose; R 395.75 Post-secondary education and vocational training financial needs test; R 395.76 Rates of payment – Considering updates to align with federal regulations regarding spending allowability, including possible removal of the “least cost service that meets the rehab needs of the individual” language and replacing it with language aligned with the 2 CFR 200 spending allowability principles of reasonable and allocable.**
4. **R 395.76 Rates of payment – update to provide more details on how MRS maintains and adjusts standardized payment amounts.**
5. **Formation of new rule(s) prohibiting MRS from providing or authorizing for experimental and unproven physical and mental health practices.**
6. **Formation of new rule(s) to provide guidance on the provision of long-term health services based on the needs of customer pursuing an employment goal and the effectiveness of services.**
7. **Formation of new rule(s) associated with small business development.**

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2024 and June 30, 2025. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

N/A

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

No.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

R 395.76 Rates of payment

- A. Describe whether there is a continued need for the rules.

Yes, MRS requires there be a system for payment for vendors that promotes consistent and justifiable spending and adheres to the requirements of 34 CFR 361, 2 CFR 200, and guidance provided by the Rehabilitation Services Administration.

- B. Provide a summary of any complaints or comments received from the public concerning the rules.

N/A

- C. Describe the complexity of complying with the rules.

There is little complexity for vendors in complying with the rules. MRS authorizes payment under a standardized payment schedule for specific vocational rehabilitation services for MRS customers being referred to vendors. From a vendor's perspective, there are flat rates for specific vocational rehabilitation services and they are free to decide if providing those services at the established cost is in their interest. Exceptions to the standardized rates are granted on an individual basis.

Some service types fall outside of the standardized payment schedule and are paid for by traditional market exchange and negotiation between the vendor and MRS counselor.

MRS makes its schedule of standardized payments available to the public on our website and upon request.

- D. Describe whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.**

No, there is no conflict or duplication.

- E. Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.**

This rule was established during the 2023-2024 rulemaking period. MRS has since raised the rates of payment by contracting with Public Consulting Group to adjust the rates of payment in accordance with inflation and feedback from vendors. That rate adjustment study can be found here: <https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/MRS6-Publications/2024-PCG-Rate-Refresh-Memo-Final.pdf?rev=dd7dcd340960414690a7db913318ecd9&hash=5E99CD92BE1F19914414D8388E306B9>

- 5. Please provide the URL link the department or bureau is currently using to display their administrative rules.**

Page: <https://www.michigan.gov/leo/bureaus-agencies/mrs/facts-pubs>

Direct link to media asset: <https://www.michigan.gov/leo/-/media/Project/Websites/leo/Documents/MRS6-Publications/R-3951-to-R-39588-Current-MRS-Rules.pdf?rev=65bbfdaf7d164c8488efb8f0f207f87b&hash=BD9CF945391D873ECFDD6F600CD5694D>

- 6. Please provide a list of the items identified for action in the 2023-2024 ARP that have been completed and those that remain outstanding.**

COMPLETED

1. R 395.65 Individuals employed at intake – Updated to align with current guidance

REMAINING

1. R 395.75 Post-secondary education and vocational training financial needs test – updated remove requirement off financial needs test and include new college training guidance.
2. Formation of new rule(s) associated with Small Business Development
3. Formation of new rule(s) associated with Vendor Services including background checks.

ABANDONED

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1. R 395.55 Confidentiality – Updated to clarify and reflect all requirements
2. R 395.73 Comparable benefits and services in the IPE – Updated to align with current guidance
3. R 395.77 Case closure prior to eligibility, R 395.78 Case closure; severity of disability, R 395.79 Rehabilitated case closure, R 395.80 Individual not rehabilitated; case closure, R 395.81 Rehabilitation case closure; supported employment, and R 395.82 Notice of case closure. (this list will be updated by consolidating into a single case closure rule in alignment with policy)

**Department of Labor of Economic Opportunity
Michigan State Housing Development Authority**

1. Rule(s) to be processed between July 1, 2024, and June 30, 2025. [Give a brief description.]

Modified Rules:

125.103:

- Add definition of "HUD".
- Renumber to account for additional definition.

125.111

- Add that agency staff may conduct public hearings.
- Add that authorized officers may issue final decision of the agency.
- Add that HUD administrative hearing rules supersede agency hearing rules when the subject matter of the hearing is the HUD housing choice voucher program.
- Update job title of "chief legal affairs officer".

125.115

- Change "shall" to "will" per Style Guide.

125.119

- Change "shall" to "will" per Style Guide.

125.122

- Change "shall" to "must" per Style Guide.
- Add that agency staff will review and approve organizational documents.

125.123

- Change "shall" to "will" per Style Guide.

125.132

- Raise maximum dollar figure of loans to \$350,000 to reflect inflation since the last iteration of this rule.
- Change "shall" to "may" per Style Guide.
- Add that agency staff will determine the possibility of additional agency funding.

125.133

- Change "shall" to "will" per Style Guide.
- Raise loan dollar figure to \$350,000 to reflect inflation since the last iteration of this rule.
- Add that agency staff will conduct underwriting analysis.

125.142

- Change "shall" to "will" per Style Guide.
- Add that applicants may be required to obtain appraisals, surveys, and analyses for agency staff to review.

125.143

- Change "shall" to "will" and "may" per Style Guide.
- Raise loan dollar figure to \$350,000 to reflect inflation since the last iteration of this rule.

125.144

- Correct typographical error in last sentence, removing errant letter "F".

125.146

- Add that agency staff will process applications.
- Change "shall" to "will" and "may" per Style Guide.
- Remove language requiring general contract to be a party to borrower's financing documents.
- Add "permanently affixed" to qualifying mobile homes.

125.152

- Raise grant dollar figure to \$350,000 to reflect inflation since the last iteration of this

- rule.
- Change "shall" to "will" per Style Guide.
125.153
- Raise grant dollar figure to \$350,000 to reflect inflation since the last iteration of this rule.
- Change "shall" to "will" per Style Guide.
125.171
- Add language from corresponding statute to avoid conflicting interpretation.
- Change "shall" to "will" and "must" per Style Guide.
125.172
- Change "shall" to "will" per Style Guide.
125.173
- Correct spacing issues.
125.181
- Change "shall" to "must" and "may" per Style Guide.
- Add executive director authority to grant extensions of time.
125.182
- Add that provisions of this rule apply only to Part 8: Property Improvement Loans.
- Change "shall" to "will" per Style Guide.
125.190
- Change "shall" to "will" per Style Guide.
- Add language clarifying eligible participants.
- Renumber bullet points for additional language.
125.191
- Add words "and project" to consistently treat eligibility language throughout.
- Add language about "downtown area" to encourage consistent eligibility language throughout.
- Delete definition of "HUD" and move it up to Rule 103.
- Delete reference to advisory committee that was abolished by statute.
- Delete errant "(iv)" bullet point as 191(t)(iv) applies generally to 191(t)(i) through (iii).
- Added definition of "Treasury".
- Renumber bullet points due to changes.
125.192
- Add language about income limits to encourage consistent eligibility language throughout.
- Minor grammar corrections.
- Changed reference from "HUD" to "federal agency" to include possible federal sources such as U.S. Treasury.
- Add language noted that agency staff will conduct compliance analysis.
125.193
- Add language that agency staff will process applications.
- Change "shall" to "will" per Style Guide.
125.194
- Clarify that the leveraging of funds criterion refers to non-program funds.
- Clarifying that the source of the percentage earmarks is the statute.
125.195
- Clarify roles of staff and agency board in biennial plan issuance.
- Change "shall" to "will" per Style Guide
125.196

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- Change "shall" to "must" or "will" per Style Guide.
- Clarify agency staff roles in reviewing grantee reporting.
- Raise annual compliance fee from \$75 to \$100.
- Eliminate non-statutory application review committee.
- 125.197
 - Change "shall" to "will" per Style Guide.
 - Clarify agency staff roles regarding public hearings.
 - Remove references that only duplicate APA requirements for public hearings.
- 125.198
 - Rule re-written to explain that Advisory Committee was eliminated by statute.
- 125.199
 - Change "shall" to "must" per Style Guide.
 - Add language clarifying additional grantee reporting requirements, e.g., replace "racial and ethnic groups" with "demographic groups".
- 125.201
 - Add comma for grammar.
- 125.203
 - Change "shall" to "must" per Style Guide
 - Clarify role of agency staff in vendor relationships.
- 125.211
 - Add that federal debarment proceedings may supersede agency debarment proceedings as to federal programs.
- 125.212
 - Add that agency "participants" includes persons receiving federal program funds via the agency.
- 125.214
 - Change "shall" to "will" per Style Guide.
 - Change "official" to "hearing officer" for internal consistency.
 - Note that final decisions are executed by an authorized officer.
- 125.216
 - Change "shall" to "will" and "may" per Style Guide.
- 125.217
 - Change "shall" to "may" per Style Guide.
 - Correct spacing issue.
- 125.218
 - Change "shall" to "will" per Style Guide.
- 125.219
 - Add federal debarment as a basis for agency suspension.
- 125.220
 - Add immediate suspension in the event of exigent circumstances, subject to subsequent hearing, moving this up from Rule 222.
 - Change "official" to "hearing officer" for internal consistency.
- 125.222
 - Add cross-reference to Rule 220.
 - Cut provision affording immediate suspension in exigent circumstances and moved to Rule 220.
 - Add that suspension begins upon issuance of notice and may continue until investigation and hearing process concludes.

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New Rules (given new inclusion of MSHDA in the Brownfields Act):

125.225:

- Clarifies roles of agency staff and board members in establishing brownfields proposal evaluation criteria and the application of those criteria.

125.227

- Clarifies role of agency executive director in ongoing joint guidance with other executive agencies.

2. Rules that are obsolete or superseded and can be **rescinded** between July 1, 2024, and June 30, 2025. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

None; no rules are strong candidates for rescission.

3. Has the agency failed to promulgate any statutorily required rules **or** failed to utilize any statutorily required rules? Please explain.

None.

4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

The Authority's rules do not impose any obligations on private industry whatsoever. The Authority rule set describes qualification criteria and processes for various non-federal loan and grant programs, participation in which is optional to industry and private citizens. The loan and grant parameters described are in accordance with private industry standards and federal and state guidelines.

- A. Describe whether there is a continued need for the rules.

There is a continued need for the rules as stewardship of the Authority's non-federal loan and grant funds requires qualification criteria and articulated loan-making and grant-making processes.

- B. Provide a summary of any complaints or comments received from the public concerning the rules.

No complaints nor comments received since the 2022-2023 rulemaking effort that resulted in the current rule set.

- C. Describe the complexity of complying with the rules.

The complexity of the loan-making and grant-making systems described in the Authority rules is equal to or lesser than similar loan-making and grant-making systems in private industry.

- D. Describe whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

The Authority's rules do not conflict with, nor duplicate, similar rules or regulations adopted by the federal government or local units of government.

- E. Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The Authority's current ruleset was adopted March 21, 2023, after two years of extensive review and updating. Two recent factors have changed the regulatory activity covered by

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the rules. One is the recent legislative funding of the Authority's Housing and Community Development Fund; the corresponding rules had not been updated in many years due to a lack of funding. The other is recent inclusion of the Authority in the Brownfield Redevelopment Financing Act, in which the Authority had not previously participated.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

[ARS Public - RFR Transaction \(state.mi.us\)](https://www.state.mi.us/ARS/Public-RFR-Transaction)

6. Please provide a list of the items identified for action in the 2024 ARP that have been completed and those that remain outstanding.

The Authority's prior 2023-2024 ARP identified the following for possible action in that rulemaking cycle:

Given legislation newly enacted in 2023, and currently pending legislation, the Authority may process new rules to address the following:

- a. In R 125.101, revise the definition of "adjusted household income" to match the definition used by the U.S. Dept. of Housing and Urban Development.
- b. In R 125.101, adding a definition of "countywide area median income" to comport with new and pending Payment in Lieu of Taxes legislation.
- c. In R 125.103, adding definitions of "missing middle household" and "missing middle households" consistent with the terms of the federal American Rescue Plan Act of 2021.
- d. In R 125.103, adding a definition of "reasonably affordable" to comport with new and pending Payment in Lieu of Taxes legislation.
- e. Additional rule amendments or additions as the Authority deems prudent.

All of these items remain outstanding, and many will be addressed in this cycle's rulemaking endeavor.

Department of Labor and Economic Opportunity
Wage and Hour Division

1. Rule(s) to be processed between July 1, 2024 and June 30, 2025. [Give brief description.]

- Permit use of electronic communication and service methods by the agency with parties, and between parties as approved by the WHD (e.g., R408.9019, R480.9030, etc.).
- Eliminate or minimize the requirement to submit, serve or file a hard copy document(s) where approved electronic communication and service methods have been used.
- 2023 PA 10: Promulgate a rule set related to the new Prevailing Wage Rate Act that will include contractor registration, submission of certified payroll and enforcement provisions.
- R 408.9002(2)(a)(i), (b)(i), and (2)(c) of the Payment of Wages and Fringe Benefits rules need to be revised because these provisions conflict with R 408.701(b), (f) and (i) of the Wage and Hour Division General Rules, which took effect on May 6, 2019.
- Proposed rule change 2019-133 LE and Proposed rule change 2019-127 LE are NO LONGER in process.
- R408.6203(g) of the Youth Employment Standards rules need to be revised because the current version gives rulemaking authority to the Michigan Department of Education, but the enforcement of the act was transferred by Executive Order 2019-13 to the Wage and Hour Division, currently located in the Department of Labor and Economic Opportunity. R408.6301 needs to be revised to define the term department from the Michigan Department of Education to the Department of Labor and Economic Opportunity. R408.6305(1) needs to be revised to remove the requirement that an employer be notified by mail whether a deviation has been approved or denied.
- NEW Youth Employment Standards rule to establish requirements and restrictions related to the issuing of a Performing Arts Authorization.
- NEW Act 10 of 2023 Prevailing Wage on State Funded Construction Projects Act ruleset to be promulgated.

2. Rules that are obsolete or superseded and can be rescinded between July 1, 2024 and June 30, 2025. Also, please identify the rules or rule sets that are least important to the mission and function of the agency or are otherwise strong candidates for rescission.

Wage Deviation Rules-- R408.771- R408.787 since the state Wage Deviation Board no longer exists; this agency no longer issues wage deviations since at least 2009; federal statute provides effective means for employers to seek wage deviations under FLSA, 29 CFR part 525.

3. Has the agency failed to promulgate any statutorily required rules or failed to utilize any statutorily required rules? Please explain.

Yes, the agency is drafting Prevailing Wage rules.

Yes, the agency must establish new Youth Employment Standards rule requirements and restrictions related to the issuance of a Performing Arts Authorization into the applicable ruleset.

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4. Please indicate the rules that are most problematic to industry and could be reviewed to determine the most business-friendly method of regulation.

Members of the agricultural industry have expressed a desire for the agency to incorporate piecework rates for harvested fruits and vegetables pursuant to R 408.711.

- A. Describe whether there is a continued need for the rules.

Yes, the agency is involved in regulatory as well as enforcement of specific acts requiring continued rule promulgation as well as the establishment of new rule promulgation.

- B. Provide a summary of any complaints or comments received from the public concerning the rules.

There appears to be different references within the definitions cited in state and federal rules leading to public confusion.

- C. Describe the complexity of complying with the rules.

The rules require physical mailing of correspondence and communication rather than providing for electronic communication filing and service methods to provide for more efficient processes and procedures. The rules should reflect changes in state and federal laws to reduce the potential of noncompliance by employers.

- D. Describe whether the rules conflict with or duplicate similar rules or regulations adopted by the federal government or local units of government.

The Overtime Exemption rules R 408.9002(2)(a), (b), and (c) conflict with the recently updated R 408.701(b), (f) and (i) of the Wage and Hour Division General Rules.

- E. Provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed regulatory activity covered by the rules.

The Wage and Hour Division General Rules were reviewed in 2019 and 2020. The Youth Employment Standards rules were reviewed in 2019 and 2020. The rules should allow the agency to use electronic communication filing and service methods for more efficient processes and procedures.

5. Please provide the URL link the department or bureau is currently using to display their administrative rules.

[ARS Public - MI Admin Code \(state.mi.us\) https://www.michigan.gov/lara/bureau-list/moahr/admin-rules](https://www.michigan.gov/lara/bureau-list/moahr/admin-rules)

6. Please provide a list of the items identified for action in the 2023 ARP that have been completed and those that remain outstanding.

No action taken under 2023 ARP.