

AMENDED IN SENATE SEPTEMBER 7, 2001
AMENDED IN SENATE SEPTEMBER 4, 2001
AMENDED IN SENATE AUGUST 23, 2001
AMENDED IN SENATE AUGUST 20, 2001
AMENDED IN SENATE JULY 9, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1337

Introduced by Assembly Member Cohn

February 23, 2001

An act to add Chapter 3 (commencing with Section 22890) to Part 5 of Division 5 of Title 2 of the Government Code, relating to public employee health benefits trusts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, as amended, Cohn. Health benefits trusts: recovery of medical costs.

Existing law establishes lien rights and procedures for the recovery by health care service plans and disability insurers of medical costs paid on behalf of an enrollee or insured for injuries caused by a 3rd party when the enrollee or insured obtains a settlement, award, or judgment against the 3rd party.

This bill would establish lien rights and procedures for the recovery by specified health benefits trusts of medical costs paid on behalf of participants, as defined, for injuries caused by a 3rd party when the

participant obtains a settlement, award, or judgment against the 3rd party, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3 (commencing with Section 22890) is
2 added to Part 5 of Division 5 of Title 2 of the Government Code,
3 to read:

4
5 CHAPTER 3. RIGHTS OF HEALTH BENEFITS TRUSTS
6

7 22890. (a) The purpose of this chapter is to establish the
8 rights of the California Association of Highway Patrolman Health
9 Benefits Trust, the Peace Officers Research Association of
10 California Health Benefits Trust, and the California Correctional
11 Peace Officer Association Health Benefits Trust to recover
12 medical costs paid to a participant for injuries, including injuries
13 that result in death, caused by or allegedly caused by a third party.

14 (b) This chapter does not apply if the participant is injured in
15 the course and scope of his or her employment. In those cases,
16 Chapter 5 (commencing with Section 3850) of Part 1 of Division
17 4 of the Labor Code shall govern.

18 22891. As used in this chapter:

19 (a) "Health benefits trust" means the California Association of
20 Highway Patrolman Health Benefits Trust, the Peace Officers
21 Research Association of California Health Benefits Trust, or the
22 California Correctional Peace Officer Association Health Benefits
23 Trust.

24 (b) "Participant" means an employee, annuitant, or family
25 member who is a member of a health benefits trust and who is
26 injured by or due to the actions or inactions of a third person, and
27 includes any other person to whom a claim accrues by reason of
28 the injury or death of the employee, annuitant or family member.

29 (c) "Third party" means any tortfeasor or alleged tortfeasor
30 against whom the participant asserts a claim for injury or death.

31 22892. (a) A health benefits trust may assert a lien for health
32 benefits paid on behalf of a participant against any settlement with,
33 or arbitration award or judgment against, a third party. No lien



1 asserted by a health benefits trust under this section may exceed the
2 amount actually paid by the trust to any treating medical provider.

3 ~~(b) The participant or participant's attorney shall immediately~~
4 ~~serve the health benefits trust, in writing and by certified mail,~~
5 ~~notice of the existence of any claim or action against a third party.~~

6 *(b) The participant, if not represented by an attorney, or the*
7 *participant's attorney shall immediately send, by certified mail,*
8 *written notice of the existence of any claim or action against a third*
9 *party, to the following:*

10 *(1) The health benefits trust.*

11 *(2) A hospital or any hospital affiliated health facility, as*
12 *defined in Section 1250 of the Health and Safety Code, that is*
13 *known to have provided health care services to the participant.*

14 (c) If medical costs are paid by the health benefits trust,
15 contract providers may not assert an independent lien against the
16 participant and contract providers who agree, by contract, to a
17 specified rate may not seek to recover an amount that exceeds the
18 contracted rate against the participant.

19 This subdivision is not applicable to a lien for hospital services
20 pursuant to Chapter 4 (commencing with Section 3045.1) of Title
21 14 of Part 4 of Division 3 of the Civil Code.

22 (d) If the participant engaged an attorney, the lien for health
23 services asserted by a health benefits trust under subdivision (a)
24 may not exceed the lesser of the actual amount paid by the trust or
25 one-third of the moneys due to the participant under any final
26 judgment, compromise, arbitration, or settlement agreement.

27 (e) If the participant did not engage an attorney, the lien for
28 health services asserted by the health benefits trust under
29 subdivision (a) may not exceed the lesser of the actual amount paid
30 by the trust or one-half of the moneys due to the participant under
31 any final judgment, compromise, arbitration, or settlement
32 agreement.

33 (f) If a final judgment includes a special finding by a judge,
34 jury, or arbitrator that the participant was partially at fault, the lien
35 asserted by the health benefits trust shall be reduced by the same
36 comparative fault percentage by which the participant's recovery
37 was reduced.

38 (g) The lien asserted by the health benefits trust shall be subject
39 to pro rata reduction, commensurate with the participant's



1 reasonable attorneys' fees and costs, in accordance with the
2 common fund doctrine.

3 (h) The court or arbitrator may also take into account the
4 obligation, if any, of the health benefits trust to make future
5 medical payments on behalf of the participant for the medical
6 condition that gave rise to the claim against the third party.

7 (i) The provisions of this section may not be admitted into
8 evidence nor given in any instruction in any civil action or
9 proceeding between a participant and a third party.

10 22893. (a) A court or arbitrator having jurisdiction over a
11 claim by a participant against a third party shall additionally have
12 jurisdiction over apportionment of any recovery on the claim, if
13 the participant and the health benefits trust or any other party
14 asserting a lien cannot agree on an allocation.

15 (b) In the event of a settlement between the participant and the
16 third party where there is no agreement on proper apportionment
17 of the settlement between the participant and the health benefits
18 trust or any other party asserting a lien, the participant may petition
19 the court for a determination in accordance with this section. The
20 parties may introduce evidence with respect to the issue of
21 apportionment in any manner authorized by the Evidence Code,
22 including, but not limited to, introduction by sworn declaration or
23 by relevant discovery responses. The participant shall make
24 available to the health benefits trust all relevant discovery in a
25 reasonable and timely manner. The use of witness testimony shall
26 be discouraged and shall be allowed only by stipulation of the
27 parties.

28 (c) In the event of a judgment where there is no agreement on
29 proper apportionment of the judgment between the participant and
30 the health benefits trust or any other party asserting a lien, the
31 participant may file a post-trial motion asking the court to
32 apportion the judgment in accordance with this section.

