

Assembly Bill No. 1337

CHAPTER 851

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.

[Approved by Governor October 12, 2001. Filed
with Secretary of State October 13, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, 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.

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

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

CHAPTER 3. RIGHTS OF HEALTH BENEFITS TRUSTS

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

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

22891. As used in this chapter:



(a) “Health benefits trust” means the California Association of Highway Patrolman Health Benefits Trust, the Peace Officers Research Association of California Health Benefits Trust, or the California Correctional Peace Officer Association Health Benefits Trust.

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

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

22892. (a) A health benefits trust may assert a lien for health benefits paid on behalf of a participant against any settlement with, or arbitration award or judgment against, a third party. No lien asserted by a health benefits trust under this section may exceed the amount actually paid by the trust to any treating medical provider.

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

(1) The health benefits trust.

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

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

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

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

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



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

(g) The lien asserted by the health benefits trust shall be subject to pro rata reduction, commensurate with the participant's reasonable attorneys' fees and costs, in accordance with the common fund doctrine.

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

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

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

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

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

