

Introduced by Senator Monning

February 20, 2014

An act to amend Section 1872.85 of the Insurance Code, relating to health insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1142, as amended, Monning. Health insurance fraud: annual special purpose assessments.

Existing law provides for the regulation of disability insurers by the Insurance Commissioner. Existing law requires every admitted disability insurer or other entity liable for any loss due to health insurance fraud doing business in California to pay an annual special purpose assessment that does not exceed \$0.20 per year for each insured under an individual or group insurance policy it issues in this state, in order to fund increased investigation and prosecution of fraudulent disability insurance claims. Existing law requires that 30% of those funds be distributed to the Fraud Division of the Department of Insurance for enhanced investigative efforts and that the other 70% be distributed to local district attorneys for the investigation and prosecution of disability insurance fraud cases, as specified.

This bill would instead require that the annual special purpose assessment be paid for each ~~insured who is a California resident~~ *person in this state covered* under an individual or group policy regardless of the situs of the contract or master group policyholder, *and regardless of whether the insured has been issued an individual certificate of coverage, and including blanket insurance. The bill would also require that the data supporting the special purpose assessment not be required*

to be submitted more often than once each calendar year, except that responses to questions from the commissioner and clarifying information regarding the data would not be considered as additional submissions of data. The bill would authorize, for group and blanket insurance contracts, insurers to rely on information requested from and provided by the group policyholder after a reasonable effort to obtain timely and accurate information.

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. Section 1872.85 of the Insurance Code is
 2 amended to read:
 3 1872.85. (a) Every admitted disability insurer or other entity
 4 liable for any loss due to health insurance fraud doing business in
 5 this state shall pay an annual special purpose assessment to be
 6 determined by the commissioner, but not to exceed twenty cents
 7 (\$0.20) annually for each ~~insured who is a California resident~~
 8 *person in this state covered under an individual or group insurance*
 9 *policy regardless of the situs of the contract or master group*
 10 *policyholder, and regardless of whether the insured has been*
 11 *issued an individual certificate of coverage, and including blanket*
 12 *insurance as defined in Section 10270.2, in order to fund increased*
 13 *investigation and prosecution of fraudulent disability insurance*
 14 *claims. The data supporting the special purpose assessment shall*
 15 *not be required to be submitted more often than once each calendar*
 16 *year, except that responses to questions from the commissioner*
 17 *and clarifying information regarding the data shall not be*
 18 *considered as additional submissions of data. For group and*
 19 *blanket insurance contracts, insurers may rely on information*
 20 *requested from and provided by the group policyholder after a*
 21 *reasonable effort to obtain timely and accurate information. After*
 22 *incidental expenses, 30 percent of those funds received from the*
 23 *assessment per insured shall be distributed to the Fraud Division*
 24 *of the Department of Insurance for enhanced investigative efforts,*
 25 *and 70 percent of the funds shall be distributed to local district*
 26 *attorneys, pursuant to subdivisions (b) and (c), for investigation*
 27 *and prosecution of disability insurance fraud cases. The funds*
 28 *received pursuant to this section shall be deposited into the*

1 Disability Insurance Fraud Account, which is hereby created in
2 the Insurance Fund, and shall be expended and distributed, when
3 appropriated by the Legislature, only for enhanced investigation
4 and prosecution of disability insurance fraud.

5 In the course of its investigation, the Fraud Division shall
6 aggressively pursue all reported incidents of probable fraud and,
7 in addition, shall forward to the appropriate disciplinary body the
8 names of any individuals licensed under the Business and
9 Professions Code who are convicted of engaging in fraudulent
10 activity along with all relevant supporting evidence.

11 (b) The commissioner shall distribute funds pursuant to
12 subdivision (a) to district attorneys who are able to show a likely
13 positive outcome that will enhance the prosecution of disability
14 insurance fraud in their jurisdiction based on specific criteria
15 promulgated by the commissioner. A district attorney desiring
16 funds pursuant to subdivision (a) shall submit to the commissioner
17 an application that includes, but is not limited to, all of the
18 following:

19 (1) The proposed use of the moneys and the anticipated outcome.

20 (2) A list of all prior cases or projects in the district attorney's
21 jurisdiction that have been funded under the provisions of this
22 section, and a copy of the final accounting for each case or project.
23 If a case or project is ongoing, the most recent accounting shall be
24 provided.

25 (3) A detailed budget for the moneys, including salaries and
26 general expenses, that specifically identifies the purchase or rental
27 cost of equipment or supplies.

28 (c) (1) A district attorney who receives moneys pursuant to this
29 section shall submit a final detailed accounting at the conclusion
30 of each case or project funded. For a case or project that continues
31 for longer than six months, an interim accounting shall be
32 submitted every six months, or as otherwise directed by the
33 commissioner.

34 (2) A district attorney who receives moneys pursuant to this
35 section shall submit a final report to the commissioner, which may
36 be made public, as to the success of each case or project funded
37 by this section. The report shall provide information and statistics
38 on the number of active investigations, arrests, indictments, and
39 convictions associated with a case or project. The applications for

1 moneys, the distribution of moneys, and the annual report required
2 by Section 1872.9 shall be public documents.

3 (3) Notwithstanding any other provision of this section,
4 information submitted to the commissioner pursuant to this section
5 concerning criminal investigations, whether active or inactive,
6 shall be confidential.

7 (4) The commissioner may conduct a fiscal audit of the programs
8 administered under this subdivision. The fiscal audit shall be
9 conducted by an internal audit unit of the department. The cost of
10 fiscal audits shall be paid from the Disability Insurance Fraud
11 Account, upon appropriation by the Legislature.

12 (5) If the commissioner determines that a district attorney is
13 unable or unwilling to investigate or prosecute a relevant disability
14 insurance fraud case, the commissioner may discontinue
15 distribution of moneys allocated for that matter pursuant to this
16 section, and may redistribute moneys to other eligible district
17 attorneys.

18 (d) Activities of the Fraud Division with regard to investigating
19 and prosecuting fraudulent disability insurance claims pursuant to
20 this section shall be included in the report required by Section
21 1872.9.

22 (e) This section shall not apply to policies issued by a reciprocal
23 or interinsurance exchange, as defined by Sections 1303 and 1350,
24 or coverage provided by or through a motor club, as defined by
25 Section 12142, affiliated with a reciprocal or interinsurance
26 exchange, if the annual premium charged for the coverage or the
27 annual cost to the insurer for providing that coverage does not
28 exceed one dollar (\$1) per insured.

29 (f) The commissioner shall adopt regulations to implement this
30 section in accordance with the rulemaking provisions of the
31 Administrative Procedure Act (Chapter 3.5 (commencing with
32 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
33 Code).