Senate Bill No. 1051

CHAPTER 556

An act to amend Sections 11721 and 11759.1 of the Insurance Code, and to amend Sections 62.7 and 135 of, and to add Section 6354.5 to, the Labor Code, relating to insurance.

[Approved by Governor October 4, 1995. Filed with Secretary of State October 4, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1051, Solis. Insurance: workers' compensation.

Existing law requires workers' compensation insurers to maintain or provide occupational safety and health loss control consultation services certified by the Director of Industrial Relations. The certification process is funded by insurer fees. These fees are deposited in a subaccount of the Cal-OSHA Targeted Inspection and Consultation Fund in the State Treasury.

This bill would instead create the Loss Control Certification Fund in the State Treasury to receive the insurer fees, and would repeal provisions creating the subaccount of the Cal-OSHA Targeted Inspection and Consultation Fund. The bill would authorize the director to grant exemptions, exceptions, and extensions from the certification requirements under specified circumstances.

Under existing law, commencing March 1, 1996, and no later that March 1 of every year thereafter, a rating organization is required to notify the Governor and the Legislature that a report containing an analysis of all losses and expenses for the prior year by all insurers who are members of the organization is available on request. The report is required to include, among other things, an analysis of amounts paid for vocational rehabilitation subcategorized by amounts paid for maintenance allowance, evaluation, education and training, and job placement, and of expenses of insurers categorized by loss adjustment, acquisition, general expenses, profit, and taxes, and separately identifying amounts spent for defense attorneys for both in-house and outside counsel.

This bill revises the notification date to June 1, 1996, and no later than June 1 every year thereafter.

This bill would delete the requirements that the report include an analysis that subcategorizes amounts paid for job placement and would delete the requirement that an analysis separately identify amounts spent for both in-house and outside counsel.

Existing law authorizes the Workers' Compensation Appeals Board to destroy or otherwise dispose of certain files after a period of 25

years, as specified, in accordance with rules of practice and procedure and with the approval of the Department of Finance.

This bill would delete the requirement to retain these files for 25 years.

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

SECTION 1. Section 11721 of the Insurance Code is amended to read:

11721. An insurer desiring to write workers' compensation insurance shall maintain or provide occupational safety and health loss control consultation services certified by the Director of Industrial Relations pursuant to Section 6354.5 of the Labor Code.

SEC. 2. Section 11759.1 of the Insurance Code is amended to read:

11759.1. A rating organization shall, no later than June 1 of each year, notify the Governor and the Legislature that a report containing an analysis of all losses and expenses for the prior year by all insurers who are members of the organization is available on request. The first report shall be due June 1, 1996. The report shall include, but not be limited to, the following:

(a) An analysis of all medical costs identifying separately the amounts paid for medical treatment to hospitals and physicians, and the amounts paid for medical-legal expenses. The amounts paid for medical treatment to physicians shall also identify the amounts paid for each specialty authorized to provide medical services pursuant to Sections 3209.3, 3209.5, and 3209.8 of the Labor Code. The amounts paid for medical-legal evaluations shall also be subcategorized by specialty and shall identify average costs paid per claim.

(b) An analysis of indemnity benefits paid for temporary disability, permanent total disability, permanent partial disability, life pensions, death benefits, and funeral expenses. The permanent partial disability benefits also shall be reported according to the degree of impairment in the following categories: .25 to 24.75 percent, 25 to 69.75 percent, and 70 to 99.75 percent.

(c) An analysis of amounts paid for vocational rehabilitation subcategorized by amounts paid for maintenance allowance, evaluation, education and training.

(d) An analysis of expenses of insurers categorized by loss adjustment, acquisition, general expenses, profit, and taxes. Amounts spent for defense attorneys' expense shall be separately identified.

(e) An analysis of attorney's fees paid to applicant attorneys.

(f) An analysis of workers' compensation costs by the type of injury or illness generally following the injury classification in the Annual Redesigned Occupational Safety and Health Statistical Program used by the Department of Industrial Relations in its annual report on California work injuries and illnesses.

SEC. 3. Section 62.7 of the Labor Code is amended to read:

62.7. (a) The Cal-OSHA Targeted Inspection and Consultation Fund is hereby created as a special account in the State Treasury. Proceeds of the fund may be expended by the department, upon appropriation by the Legislature, for the costs of the Cal-OSHA targeted inspection program provided by Section 6314.1 and the costs of the Cal-OSHA targeted consultation program provided by subdivision (a) of Section 6354, and for costs related to assessments levied and collected pursuant to Section 62.9.

(b) The fund shall consist of the assessments made pursuant to Section 62.9 and other moneys transferred to the fund.

SEC. 4. Section 135 of the Labor Code is amended to read:

135. In accordance with rules of practice and procedure that it may adopt, the appeals board may, with the approval of the Department of Finance, destroy or otherwise dispose of any file kept by it in connection with any proceeding under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with Section 6100).

SEC. 5. Section 6354.5 is added to the Labor Code, to read:

6354.5. (a) Any insurer desiring to write workers' compensation insurance shall maintain or provide occupational safety and health loss control consultation services certified by the Director of Industrial Relations. The director may fix and collect fees to recover the costs for certifying the loss control consultation services and receiving and reviewing the annual health and safety loss control plan for identifying employers with the greatest workers' compensation losses and the most significant and preventable health and safety hazards. All fees shall be deposited in the Loss Control Certification Fund, which is hereby created as a special account in the State Treasury. The moneys in the fund may be expended, upon appropriation by the Legislature, for the purpose of certifying loss control consultation services pursuant to this section. The insurer may employ qualified personnel to provide these services or provide the services through another entity that has been certified by the director as part of the insurer's annual plan.

(b) The program of an insurer for furnishing loss control consultation services shall be adequate to meet minimum standards prescribed by the director. The services shall include the conduct of workplace surveys to identify health and safety problems, review of employer injury records with appropriate personnel, and development of plans to improve employer health and safety loss records, including injury and prevention programs required pursuant to Section 6401.7. At the time that an insurance policy is issued and annually thereafter, the insurer shall provide each insured employer with a written description of the consultation services together with a notice that the services are available at no additional charge to the employer.

(c) The insurer shall not charge any fee in addition to the insurance premium for safety and health loss control consultation services.

(d) Each insurer shall submit to the director, in a form prescribed by the director, an annual health and safety loss control plan for identifying employers with the greatest workers' compensation losses and the most significant and preventable health and safety hazards. The plan shall include a budget and shall describe the insurer's methodology for selecting the number, type, and size of employers who have the greatest workers' compensation losses and the most significant and preventable health and safety hazards, but nothing in this section shall be construed to require the insurer to identify any employer by name. The plan shall be accompanied by a description of the insurer's safety and health loss control activities for the prior year, including, but not limited to, costs, the number, type, and size of businesses served, and any additional information required by the director. The information provided to the director under this subdivision shall remain confidential except for aggregate statistical data. The confidentiality of information provided to the director under this subdivision shall extend to prohibit the disclosure or release of any information provided to the director under this section to any unit or bureau within the division. The director shall develop guidelines to assist insurers in identifying the employers with the highest preventable health and safety hazards.

(e) Nothing in this section shall be construed to require insurers to provide loss control services to places of employment that do not pose significant preventable hazards to workers.

(f) An exemption, extension, or exception to the annual filing requirements specified in subdivision (b) may be granted by the director upon a showing by the insurer that one of the following applies:

(1) That no new filing is required because there are no material changes to the plan currently on file with the director.

(2) That the filing is limited to material changes to the plan on file with the director.

(3) That information necessary for the filing is not yet in the possession of the insurer and that an extension of time for the filing is necessary to enable the insurer to make a full and complete filing.

(4) That the insurer has no policyholders in California who meet the appropriate criteria for identification pursuant to the plan currently on file with the director.

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