

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 639

(Senator Astle)

Finance

Economic Matters

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Workers' Compensation Benefits - Fraud

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This bill requires the Workers' Compensation Commission (WCC) to refer any case in which a preponderance of the evidence establishes that a person knowingly affected or knowingly attempted to affect the payment of compensation, fees, or expenses by means of a fraudulent representation to the Insurance Fraud Division of the Maryland Insurance Administration (MIA).

The bill is effective July 1, 2004.

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Fiscal Summary

**State Effect:** The bill could be handled with existing budgeted resources. If fraud cases forwarded from WCC to MIA increase dramatically, additional resources could be required in MIA.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** MIA is required to notify WCC of suspected cases of insurance fraud referred to the Office of the Attorney General or the appropriate local State's Attorney that involve the payment of compensation, fees, or expenses under State workers' compensation law.

WCC is required to include in its annual report the number of cases referred to MIA. MIA's annual report must include the number of cases received from WCC and the

resolution of the cases. WCC is also required, in consultation with MIA, to study how to prevent, identify, and deter workers' compensation fraud. WCC is required to consider (1) workers' compensation fraud committed by employers, employees, health care providers, and any other person or entity; (2) the cost associated with each type of identified fraud; and (3) methods of preventing, identifying, and deterring fraud. WCC and MIA must collaborate on the report with (1) self-insured employers; (2) government group self-insurers; (3) property and casualty insurers; (4) labor; and (5) any other persons or organizations, as determined by WCC. WCC's report, including any findings and recommendations, must be submitted to the Governor and the General Assembly by December 31, 2004.

**Current Law:** WCC is required to order an individual who knowingly obtained benefits to which they were not entitled to reimburse the insurer, self-insured employer, Injured Workers' Insurance Fund, Uninsured Employers Fund, or the Subsequent Injury Fund for the amount of all benefits that the person knowingly obtained, and to which the person was not entitled. Order of reimbursement must include 1.5% interest on the ordered reimbursement. This provision is a civil penalty.

Current law also provides that it is a criminal offense to knowingly affect, or knowingly attempt to affect, the payment of workers' compensation and related fees, or expenses by means of a fraudulent representation.

**State Fiscal Effect:** WCC advises that it has at least one case each day that contains overpayment of benefits, resulting in approximately 250 – 300 cases per year. WCC cannot estimate how many of those cases would result in a preponderance of the evidence suggesting that an individual knowingly affected or attempted to affect the payment of compensation, fees, or expenses. MIA estimates that it would require one half-time insurance officer to handle an increased caseload of 50 fraud cases due to this bill. For that threshold to be met, approximately 16% – 20% of cases would require a preponderance of evidence to show that fraud had occurred.

The Department of Legislative Services advises that it is reasonable to assume that the additional workload could be handled with existing resources. If caseload increases dramatically, additional resources may be necessary in future years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 837 (Delegate Feldman) – Economic Matters.

**Information Source(s):** Workers' Compensation Commission, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - February 27, 2004  
mh/mdr Revised - Senate Third Reader - April 7, 2004

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Analysis by: Daniel P. Tompkins

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510