

By: Ford

To: Insurance;
Appropriations

HOUSE BILL NO. 337

1 AN ACT TO REENACT SECTIONS 7-5-301, 7-5-303, 7-5-305, 7-5-307
2 AND 7-5-309, MISSISSIPPI CODE OF 1972, WHICH CREATE THE INSURANCE
3 INTEGRITY ENFORCEMENT BUREAU AND PROVIDE FUNDING AND PRESCRIBE ITS
4 POWERS AND DUTIES AND PROVIDE PENALTIES FOR VIOLATION; TO AMEND
5 SECTION 7-5-311, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF
6 THE REPEALER FROM JULY 1, 2000, TO JULY 1, 2001; AND FOR RELATED
7 PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 SECTION 1. Section 7-5-301, Mississippi Code of 1972, is
10 reenacted as follows:[BD1]

11 7-5-301. There is created within the Office of the Attorney
12 General an Insurance Integrity Enforcement Bureau. The duty of
13 the bureau is to investigate and prosecute claims of insurance
14 abuses and crimes involving insurance. The Attorney General may
15 employ the necessary personnel to carry out the provisions of
16 Sections 7-5-301 through 7-5-311.

17 SECTION 2. Section 7-5-303, Mississippi Code of 1972, is
18 reenacted as follows:[BD2]

19 7-5-303. (1) As used in this section:

20 (a) "An insurance plan" means a plan or program that
21 provides health benefits whether directly through insurance or
22 otherwise and includes a policy of life or property and casualty
23 insurance, a contract of a service benefit organization, workers'
24 compensation insurance or any program or plan implemented in
25 accordance with state law or a membership agreement with a health
26 maintenance organization or other prepaid programs.

27 (b) "Insurance official" means:

28 (i) An administrator, officer, trustee, fiduciary,

29 custodian, counsel, agent or employee of any insurance plan;

30 (ii) An officer, counsel, agency or employee of an
31 organization, corporation, partnership, limited partnership or
32 other entity that provides, proposes to, or contracts to provide
33 services through any insurance plan; or

34 (iii) An official, employee or agent of a state or
35 federal agency having regulatory or administrative authority over
36 any insurance plan.

37 (2) A person or entity shall not, with the intent to
38 appropriate to himself or to another any benefit, knowingly
39 execute, collude or conspire to execute or attempt to execute a
40 scheme or artifice:

41 (a) To defraud any insurance plan in connection with
42 the delivery of, or payment for, insurance benefits, items,
43 services or claims; or

44 (b) To obtain by means of false or fraudulent pretense,
45 representation, statement or promise money, or anything of value,
46 in connection with the delivery of or payment for insurance claims
47 under any plan or program or state law, items or services which
48 are in whole or in part paid for, reimbursed, subsidized by, or
49 are a required benefit of, an insurance plan or an insurance
50 company or any other provider.

51 (3) A person or entity shall not directly or indirectly
52 give, offer or promise anything of value to an insurance official,
53 or offer or promise an insurance official to give anything of
54 value to another person, with intent to influence such official's
55 decision in carrying out any of his duties or laws or regulations.

56 (4) Except as otherwise allowed by law, a person or entity
57 shall not knowingly pay, offer, deliver, receive, solicit or
58 accept any remuneration, as an inducement for referring or for
59 refraining from referring a patient, client, customer or service
60 in connection with an insurance plan.

61 (5) A person or entity shall not, in any matter related to

62 any insurance plan, knowingly and willfully falsify, conceal or
63 omit by any trick, scheme, artifice or device a material fact,
64 make any false, fictitious or fraudulent statement or
65 representation or make or use any false writing or document,
66 knowing or having reason to know that the writing or document
67 contains any false or fraudulent statement or entry in connection
68 with the provision of insurance programs.

69 (6) A person or entity shall not fraudulently deny the
70 payment of an insurance claim.

71 SECTION 3. Section 7-5-305, Mississippi Code of 1972, is
72 reenacted as follows:[BD3]

73 7-5-305. (1) To fund the Insurance Integrity Enforcement
74 Bureau, the Workers' Compensation Commission may assess each
75 workers' compensation carrier and self-insurer, in the manner
76 provided in Section 71-3-99, an amount based upon the proportion
77 that the total gross claims for compensation and medical services
78 and supplies paid by such carrier or self-insurer during the
79 preceding one-year period bore to the total gross claims for
80 compensation and medical services and supplies paid by all
81 carriers and self-insurers during such period. The total amount
82 assessed and collected by the commission from all workers'
83 compensation carriers and self-insurers used to fund the Insurance
84 Integrity Enforcement Bureau during each fiscal year shall be
85 based upon the recommendation of the Insurance Integrity
86 Enforcement Bureau, but shall not exceed One Hundred Fifty
87 Thousand Dollars (\$150,000.00). The funds received from the
88 assessment in this subsection (1) shall be used primarily for the
89 purpose of investigating and prosecuting workers' compensation
90 fraud. Within thirty (30) days of receipt, the Workers'
91 Compensation Commission shall transfer such assessment from the
92 Administrative Expense Fund into a special fund of the Office of
93 the Attorney General created in the State Treasury and designated
94 as the "Insurance Integrity Enforcement Fund."

95 (2) In addition to the monies collected under the assessment
96 provided in this section to fund the Insurance Integrity
97 Enforcement Bureau, for fiscal year 1999 the sum of One Hundred
98 Fifty Thousand Dollars (\$150,000.00) shall be appropriated by the
99 Legislature to the Insurance Integrity Enforcement Fund from the
100 State General Fund. The funds received from the appropriation in
101 this subsection (2) shall be used primarily for the purpose of
102 investigating and prosecuting insurance fraud other than workers'
103 compensation fraud.

104 (3) The Insurance Integrity Enforcement Bureau may accept
105 gifts, grants and appropriations of state and federal funds for
106 deposit in the Insurance Integrity Enforcement Fund. The
107 Insurance Integrity Enforcement Fund shall be used solely to
108 defray the expenses of the Insurance Integrity Enforcement Bureau,
109 and any interest earned on monies in such fund shall be credited
110 to the fund. Expenditures from the Insurance Integrity
111 Enforcement Fund shall be made upon requisition by the Attorney
112 General and subject to appropriation by the Legislature.

113 SECTION 4. Section 7-5-307, Mississippi Code of 1972, is
114 reenacted as follows:[BD4]

115 7-5-307. (1) If any workers' compensation provider, health
116 insurance provider, employee of the Workers' Compensation
117 Commission or other person or entity has a belief or has any
118 information that a false or misleading statement or representation
119 or fraud or fraudulent denial has been made in connection with or
120 relating to a workers' compensation claim or in connection with or
121 relating to any insurance claim in relation to an insurance plan
122 as defined in Section 7-5-303, such person or entity may report
123 such belief to the Insurance Integrity Enforcement Bureau, furnish
124 any information which may be pertinent and cooperate in an
125 investigation conducted by the bureau. Investigators for the
126 Insurance Integrity Enforcement Bureau are authorized law
127 enforcement officers and they are authorized to investigate and

128 exercise such powers as are granted to other authorized law
129 enforcement officers; however, the Insurance Integrity Enforcement
130 Bureau and its investigators and personnel shall not have any
131 authority to impede, interfere with or control the operations and
132 functions of the Mississippi Workers' Compensation Commission.

133 (2) Prosecutions for violations under Sections 7-5-301
134 through 7-5-311 or for violations of any other criminal law
135 arising from cases of insurance fraud, may be instituted by the
136 Attorney General, his designee or the district attorney of the
137 district in which the violation occurred, and shall be conducted
138 in the name of the State of Mississippi. In the prosecution of
139 any criminal proceeding in accordance with this subsection by the
140 Attorney General, or his designee, and in any proceeding before a
141 grand jury in connection therewith, the Attorney General, or his
142 designee, shall exercise all the powers and perform all the duties
143 which the district attorney would otherwise be authorized or
144 required to exercise or perform. The Attorney General, or his
145 designee, shall have the authority to issue and serve subpoenas in
146 the investigation of any matter which may violate Sections 7-5-301
147 through 7-5-311 or any matter relating to insurance fraud which
148 may violate any criminal law.

149 (3) The Attorney General, or his designee, shall notify the
150 Workers' Compensation Commission when the Insurance Integrity
151 Enforcement Bureau opens or closes or otherwise disposes of an
152 investigative file relating to workers' compensation fraud. Such
153 notification shall be confidential and shall not be subject to
154 release to any third party except as otherwise provided by law.
155 After such notification, it is solely within the discretion of the
156 Mississippi Workers' Compensation Commission whether to modify or
157 alter the proceedings in any such workers' compensation claims
158 from the normal course of proceedings.

159 (4) On or before January 1 of each year, the Insurance
160 Integrity Enforcement Bureau shall file a report with the Senate

161 and House of Representatives Insurance Committees detailing its
162 work during the preceding calendar year and shall include the
163 following:

164 (a) The number and types of cases or complaints
165 reported to the bureau;

166 (b) The number and types of cases assigned for
167 investigation;

168 (c) The number of criminal warrants issued and the
169 types of cases;

170 (d) The number and types of cases referred to a
171 district attorney for prosecution;

172 (e) The number and types of cases retained by the
173 Attorney General for prosecution;

174 (f) The number and types of cases closed without
175 prosecution;

176 (g) The number and types of cases closed by the
177 district attorney without prosecution;

178 (h) The number and types of cases pending; and

179 (i) The amount of actual expenses of the bureau during
180 the preceding year classified by the types of cases.

181 (5) The jurisdiction of the Insurance Integrity Enforcement
182 Bureau shall not infringe upon any matters under the jurisdiction
183 of the Medicaid Fraud Control Unit created in Section 43-13-201 et
184 seq.

185 SECTION 5. Section 7-5-309, Mississippi Code of 1972, is
186 reenacted as follows:[BD5]

187 7-5-309. (1) A person who violates any provision of Section
188 7-5-303 shall be guilty of a felony and, upon conviction thereof,
189 shall be punished by imprisonment for not more than three (3)
190 years, or by a fine of not more than Five Thousand Dollars
191 (\$5,000.00) or double the value of the fraud, whichever is
192 greater, or both. Sentences imposed for convictions of separate
193 offenses under Sections 7-5-301 through 7-5-311 may run

194 consecutively.

195 (2) If the defendant found to have violated any provisions
196 of Section 7-5-303 is an organization, then it shall be subject to
197 a fine of not more than One Hundred Fifty Thousand Dollars
198 (\$150,000.00) for each violation. "Organization" for purposes of
199 this subsection means a person other than an individual. The term
200 includes corporations, partnerships, associations, joint-stock
201 companies, unions, trusts, pension funds, unincorporated
202 organizations, governments and political subdivisions thereof and
203 nonprofit organizations.

204 (3) In a proceeding for violations under Section 7-5-303,
205 the court, in addition to the criminal penalties imposed under
206 this section, shall assess against the defendant convicted of such
207 violation double those reasonable costs that are expended by the
208 Insurance Integrity Enforcement Bureau of the Office of Attorney
209 General or the district attorney's office in the investigation of
210 such case, including, but not limited to, the cost of
211 investigators, process service, court reporters, expert witnesses
212 and attorney's fees. A monetary penalty assessed and levied under
213 this section shall be deposited to the credit of the State General
214 Fund, and the Attorney General may institute and maintain
215 proceedings in his name for enforcement of payment in the circuit
216 court of the county of residence of the defendant and, if the
217 defendant is a nonresident, such proceedings shall be in the
218 Circuit Court of the First Judicial District of Hinds County,
219 Mississippi.

220 SECTION 6. Section 7-5-311, Mississippi Code of 1972, is
221 amended as follows:[BD6]

222 7-5-311. Sections 7-5-301 through 7-5-309 shall stand
223 repealed on July 1, 2001.

224 SECTION 7. This act shall take effect and be in force from
225 and after July 1, 2000.