

By: Kirby

To: Insurance;
Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2230

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 AN INSURANCE
3 INTEGRITY ENFORCEMENT BUREAU WITHIN THE OFFICE OF THE ATTORNEY
4 GENERAL; TO AMEND SECTION 7-5-311, MISSISSIPPI CODE OF 1972, TO
5 EXTEND THE REPEALER ON THE PROVISIONS WHICH CREATE THE INSURANCE
6 INTEGRITY ENFORCEMENT BUREAU; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 7-5-301, Mississippi Code of 1972, is
9 reenacted as follows:[JU1]

10 7-5-301. There is created within the Office of the Attorney
11 General an Insurance Integrity Enforcement Bureau. The duty of
12 the bureau is to investigate and prosecute claims of insurance
13 abuses and crimes involving insurance. The Attorney General may
14 employ the necessary personnel to carry out the provisions of
15 Sections 7-5-301 through 7-5-311.

16 SECTION 2. Section 7-5-303, Mississippi Code of 1972, is
17 reenacted as follows:[JU2]

18 7-5-303. (1) As used in this section:

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

26 (b) "Insurance official" means:

27 (i) An administrator, officer, trustee, fiduciary,
28 custodian, counsel, agent or employee of any insurance plan;

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

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

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

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

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

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

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

60 (5) A person or entity shall not, in any matter related to
61 any insurance plan, knowingly and willfully falsify, conceal or

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

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

70 SECTION 3. Section 7-5-305, Mississippi Code of 1972, is
71 reenacted as follows:[JU3]

72 7-5-305. (1) To fund the Insurance Integrity Enforcement
73 Bureau, the Workers' Compensation Commission may assess each
74 workers' compensation carrier and self-insurer, in the manner
75 provided in Section 71-3-99, an amount based upon the proportion
76 that the total gross claims for compensation and medical services
77 and supplies paid by such carrier or self-insurer during the
78 preceding one-year period bore to the total gross claims for
79 compensation and medical services and supplies paid by all
80 carriers and self-insurers during such period. The total amount
81 assessed and collected by the commission from all workers'
82 compensation carriers and self-insurers used to fund the Insurance
83 Integrity Enforcement Bureau during each fiscal year shall be
84 based upon the recommendation of the Insurance Integrity
85 Enforcement Bureau, but shall not exceed One Hundred Fifty
86 Thousand Dollars (\$150,000.00). The funds received from the
87 assessment in this subsection (1) shall be used primarily for the
88 purpose of investigating and prosecuting workers' compensation
89 fraud. Within thirty (30) days of receipt, the Workers'
90 Compensation Commission shall transfer such assessment from the
91 Administrative Expense Fund into a special fund of the Office of
92 the Attorney General created in the State Treasury and designated
93 as the "Insurance Integrity Enforcement Fund."

94 (2) In addition to the monies collected under the assessment

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

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

112 SECTION 4. Section 7-5-307, Mississippi Code of 1972, is
113 reenacted as follows:[JU4]

114 7-5-307. (1) If any workers' compensation provider, health
115 insurance provider, employee of the Workers' Compensation
116 Commission or other person or entity has a belief or has any
117 information that a false or misleading statement or representation
118 or fraud or fraudulent denial has been made in connection with or
119 relating to a workers' compensation claim or in connection with or
120 relating to any insurance claim in relation to an insurance plan
121 as defined in Section 7-5-303, such person or entity may report
122 such belief to the Insurance Integrity Enforcement Bureau, furnish
123 any information which may be pertinent and cooperate in an
124 investigation conducted by the bureau. Investigators for the
125 Insurance Integrity Enforcement Bureau are authorized law
126 enforcement officers and they are authorized to investigate and
127 exercise such powers as are granted to other authorized law

128 enforcement officers; however, the Insurance Integrity Enforcement
129 Bureau and its investigators and personnel shall not have any
130 authority to impede, interfere with or control the operations and
131 functions of the Mississippi Workers' Compensation Commission.

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

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

158 (4) On or before January 1 of each year, the Insurance
159 Integrity Enforcement Bureau shall file a report with the Senate
160 and House of Representatives Insurance Committees detailing its

161 work during the preceding calendar year and shall include the
162 following:

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

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

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

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

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

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

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

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

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

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

184 SECTION 5. Section 7-5-309, Mississippi Code of 1972, is
185 reenacted as follows:[JU5]

186 7-5-309. (1) A person who violates any provision of Section
187 7-5-303 shall be guilty of a felony and, upon conviction thereof,
188 shall be punished by imprisonment for not more than three (3)
189 years, or by a fine of not more than Five Thousand Dollars
190 (\$5,000.00) or double the value of the fraud, whichever is
191 greater, or both. Sentences imposed for convictions of separate
192 offenses under Sections 7-5-301 through 7-5-311 may run
193 consecutively.

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

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

219 SECTION 6. Section 7-5-311, Mississippi Code of 1972, is
220 amended as follows:[JU6]

221 7-5-311. Sections 7-5-301 through 7-5-309 shall stand
222 repealed on July 1, 2005.

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