



Elaine M. Howle *State Auditor*

CONTACT: Margarita Fernández | (916) 445-0255 x 343 | MargaritaF@auditor.ca.gov

Workers' Compensation Insurance

The State Needs to Strengthen Its Efforts to Reduce Fraud

Background

California's \$25 billion workers' compensation insurance system (workers' compensation) provides benefits to employees that are injured or disabled on the job. The Department of Industrial Relations (Industrial Relations) monitors the administration of workers' compensation claims, provides administrative and judicial services to assist in resolving disputes in its 24 districts and satellite offices throughout the State, and oversees employers' workers' compensation self-insurance within the State. The California Department of Insurance (CDI) regulates insurance by overseeing insurer solvency, licensing agents and brokers, resolving complaints, and investigating allegations of workers' compensation fraud. The amount of workers' compensation fraud in the State ranges from an estimated \$1 billion to \$3 billion annually. CDI, Industrial Relations, and county district attorneys' offices are all involved in preventing, detecting, and prosecuting this fraud.

Our Key Recommendations

The Legislature should require workers' compensation insurers to periodically provide explanation of benefits statements to injured employees to better insure payments to providers are valid.

CDI should do the following to better detect, investigate, and prosecute fraud:

- Consider referral rates when selecting insurers to audit and give priority to those insurers with high volumes of premiums and very low numbers of referrals.
- Develop a retention plan and ensure its recruiting plan includes recruiting and hiring retired local law enforcement officers.
- Develop a process to redirect its unspent funds to augment funding to district attorneys' offices.

Key Findings

- Although insurers must refer to CDI and district attorneys' offices any claims that show reasonable evidence of fraud, some insurers refer very few claims to CDI even though low referral rates could indicate that potential fraud is uninvestigated.
- While it has recently implemented a critical tool that may help detect provider fraud by examining large volumes of data and predicting possible fraud, Industrial Relations has not fully documented its procedures for using the tool.
- Insurers do not issue statements to injured employees that provide an explanation of benefits they received—these statements would allow the employees to review the services providers billed insurers and identify potentially fraudulent charges.
- Over the past four fiscal years, CDI closed about 40 percent of the workers' compensation referrals it received without investigating the cases in part due to the number of investigators.
 - » Its statewide vacancy rate for fraud investigators was 27 percent as of February 2017.
 - » CDI says it can only investigate 5 percent of the suspected fraudulent claims it receives annually across all types of insurance because of lack of resources.
 - » CDI did not include activities to recruit retired law enforcement officers in its recruitment plan and did not have a retention plan for addressing its high vacancy rate.
- The State missed an opportunity to increase the amount available for investigating and prosecuting workers' compensation fraud—it reduced collections from employers rather than redirecting unspent CDI funds to district attorneys' offices for investigating and prosecuting fraud.

CDI Closed 40 Percent of its Fraud Referrals Due to Insufficient Resources

