

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 240 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Frederick Dillingham

Committee: Human Resources and Senior Citizens

Date Completed: 3-7-90

**RATIONALE**

Public Act 104 of 1989 amended the Worker's Disability Compensation Act to specify that certain records retained by the Bureau of Workers' Disability Compensation are confidential and exempt from disclosure under the Freedom of Information Act. The exemption applies to all forms, records, and reports concerning the injury of, and benefits paid to, an individual worker, and is considered necessary by some to assure self-insured companies that sensitive information about their finances will not be disclosed to competitor companies. Further, some feel that the exemption helps protect workers from discrimination in employment by denying prospective employers access to records concerning an employee's compensation claims and injuries.

The exemption from disclosure provision, however, has caused an administrative problem for Blue Cross and Blue Shield of Michigan (BCBSM) when it attempts to recover from workers' compensation carriers benefits it has paid to injured workers. Before Public Act 104 was enacted, for example, BCBSM had access to the basic injury reports (Form 100) that employers are required to file with the Department of Labor for all injuries and diseases that arise out of and in the course of the employment and cause death, specific losses, or disability. The form includes the name and occupation of the injured worker, the name of the worker's employer, and information on the type of injury sustained and how and where it happened. The form also

specifies the name and identification number of the employer's insurance carrier. This information is helpful to BCBSM in determining whether an injury or disease is work-related. If so, the employer's workers' compensation insurance carrier, by law, is required to cover any health and medical benefits related to the injury or disease, and BCBSM may seek reimbursement from the carrier for any benefits the Blues paid. Apparently, however, the confidentiality provisions of Public Act 104 have made it very difficult for BCBSM to obtain the information needed to determine whether an injury or disease is work-related. It has been suggested, therefore, that BCBSM once again be allowed access to the Form 100 injury reports to determine who should be financially liable for medical benefits paid by the Blues.

Further, some have recommended that if there is a dispute between a workers' compensation insurance carrier and BCBSM over who should pay benefits on a particular workers' compensation claim, the Blues specifically should be made responsible for making the payments until the dispute is settled. They believe that this would help protect workers from a gap in workers' compensation coverage while the workers' compensation carrier and the Blues attempt to determine who is the primary insurer.

**CONTENT**

The bill would amend the Worker's Disability

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Compensation Act to allow the Bureau of Workers' Disability Compensation to release individual records to a nonprofit health care corporation for the sole purpose of determining financial liability for the payment of benefits provided by the corporation. Any information provided to the corporation would have to be kept confidential as required by the Nonprofit Health Care Corporation Reform Act. The bill further specifies that in a dispute over who would assume liability for payment of benefits for a particular claim, the corporation would have to initiate payment pending resolution of the dispute.

MCL 418.230

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

### **ARGUMENTS**

#### **Supporting Argument**

Allowing Blue Cross and Blue Shield of Michigan access to certain confidential records on workers' compensation claims would make it much easier for the Blues to determine whether an injury or disease is work-related and more properly should be covered by a company's workers' compensation insurance carrier, and to obtain reimbursement from the carrier for benefits paid by the Blues. The Blues would be required to keep these records confidential as specified in the Nonprofit Health Care Corporation Reform Act.

#### **Supporting Argument**

The bill would help protect workers by making it clear that BCBSM would be responsible for paying workers' compensation claims in the event of a dispute until it has been resolved.

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