STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0106
(916) 319-2086
FAX (916) 319-2186

Assembly
California Legislature

CHIEF CONSULTANT
MARK RAKICH
PRINCIPAL CONSULTANT
PAUL RICHES
COMMITTEE SECRETARY
TRACY AINSWORTH ELWELL

ASSEMBLY COMMITTEE ON INSURANCE

TOM DALY, CHAIR
ASSEMBLYMEMBER, SIXTY-NINTH DISTRICT

MAY 10 2016

May 2, 2016

Assemblymember Freddie Rodriquez, Chair
Joint Legislative Audit Committee
State Capitol, Room 107
Sacramento, CA 95814

Dear Chairman Rodriguez,

I am requesting an audit of the system of preventing, detecting, and prosecuting fraud in California's workers' compensation system. The financial cost of fraud to employers and the human cost to injured workers of unnecessary treatment is unacceptably high. The Legislature and the Governor have spent considerable time and resources in recent years to enact legislation designed to prevent or reduce unnecessary (or unnecessarily expensive) treatments for injured workers by direct restriction of activity (use of compounded medications restrictions and the filing of liens by providers) and to reduce some of the financial incentives for fraudulent treatment and over-treatment (implementing fee schedules and altering payment rules), and by giving payors additional tools to challenge unnecessary care (independent medical review and independent bill review).

Despite all these efforts, there is ample evidence that the system remains rife with fraud and waste in connection with providing care and related services to injured workers. Many times, discussions on workers' compensation have focused on individual cases where an injured person commits fraud. While that is something that should be pursued, the audit should focus on larger scale fraud schemes.

I believe turning our attention to improving direct anti-fraud efforts will be beneficial. Accordingly, the Legislature needs to get a better of understanding of how the existing anti-fraud system performs and suggestions on how to improve the system. There are many parties involved in detecting and prosecuting fraud in the workers' compensation system, including the Department of Insurance, Division of Workers' Compensation, Fraud Assessment Commission, local prosecutors, insurers, and self-insured entities. We need to understand how these, and other, entities are working independently - and collectively - to reduce fraud in the system, whether the fraud lies in unnecessary/phony medical treatment, billing, or self-referrals.

An audit should answer the following questions: how, and to what extent, do the different government agencies involved in anti-fraud efforts --

- Coordinate their anti-fraud efforts?

- Use performance metrics to assess their progress in reducing fraud in the workers' compensation system?

- Use data analysis or data mining approaches to identify organized, large scale fraud schemes to target for investigations and/or identify new strategies being used by commercial entities to defraud the system?

- Share data and expertise to support anti-fraud efforts?

- Coordinate and cooperate with insurers and self-insured employers to detect and prevent fraud?

- Evaluate strategies used in other states and other health care systems, such as Medicare and Medicaid, to prevent, detect, and prosecute fraud?

- Identify practices that, while not fraudulent, result in the wasteful or abusive provision of services to injured workers?

I also request that the audit provide a summary of discovered fraud by category – insurer, employer, medical provider, and attorney.

If you have any questions or concerns regarding this request, please contact Paul Riches at the Assembly Insurance Committee at (916) 319-2086. I look forward to hearing from your committee.

Sincerely,

Tom Daly

Tom Daly
Chair, Assembly Insurance Committee