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Assembly California Legislature



TOM LACKEY
ASSEMBLYMAN, THIRTY-SIXTH DISTRICT

COMMITTEES
VICE CHAIR: PUBLIC SAFETY
ACCOUNTABILITY AND ADMINISTRATIVE
REVIEW
BUDGET
GOVERNMENTAL ORGANIZATION
LOCAL GOVERNMENT
JOINT LEGISLATIVE COMMITTEE ON
EMERGENCY MANAGEMENT

JUL - 2 2018

2018-123

July 2, 2018

The Honorable Al Muratsuchi
Chair, Joint Legislative Audit Committee
1020 N Street, Room 107
Sacramento, CA 95814

Dear Chair Muratsuchi,

I am writing to respectfully request that the Joint Legislative Audit Committee (JLAC) approve an audit of the enforcement capabilities of the Department of Industrial Relation's (DIR) Division of Worker's Compensation.

Given the number of Californians who rely on access to medical care through the worker's compensation system, it is important that state regulators have the proper policies and procedures to ensure accountability. I hear from constituents in my district who are frustrated with the current system and it's vital to ensure that individuals have timely access to care.

DIR's Audit and Enforcement Unit is a tool that regulators can utilize to maintain accountability in the worker's compensation system. However in recent years, this unit's targeted annual audits have been declining with no target audits of claims administrators being conducted in 2015 which is the most recent year that DIR makes available on their website.¹ This is down from 1 target audit in 2014, 2 in 2013 and 3 in 2012 respectively.²³⁴ Target audits are selected based on complaints on claims received by DIR and other factors. I believe that an audit of DIR's

¹ <https://www.dir.ca.gov/dwc/AuditReport2015/AuditReport.pdf>

² <https://www.dir.ca.gov/dwc/AuditReport2014/AuditReport.pdf>

³ <https://www.dir.ca.gov/dwc/AuditReport2013/AuditReport.pdf>

⁴ <https://www.dir.ca.gov/dwc/AuditReport2012/AuditReport.pdf>

enforcement capabilities could help explain this trend while also increasing transparency for workers, employers and claims administrators on DIR's enforcement procedures.

The DIR Audit and Enforcement Unit audits insurance companies, self-insured employers, and third-party administrators to ensure that they have met their obligations under the Labor Code and DIR regulations. According to the unit, when conducting an audit the unit's foremost priority is the payment of indemnity owed to injured workers while timeliness of all initial and subsequent payments and compliance with DIR's regulations are also performance factors. The unit routinely selects claims administrators for a profile audit review (PAR) which look at all California entities at least once every five years. As mentioned previously, the unit can also select entities for a targeted audit based on complaints the unit receives from the public and other factors.⁵

I respectfully request that the Joint Legislative Audit Committee approve an audit to include the following determinations:

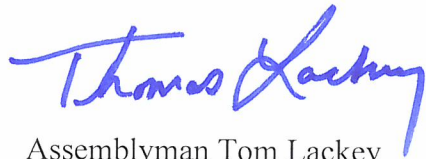
- 1- Does DIR's Audit and Enforcement Unit follow best practices and auditing standards?
- 2- How effective is the unit at determining whether entities are meeting their legal obligations? Is it able to detect entities that are using inappropriate incentives to withhold payments or care or delay their timeliness?
- 3- What are the Audit and Enforcement Unit's policies and procedures for selecting target audits based on complaints submitted by the public to the unit? When conducting a routine audit of a claims administrator, does the Audit Unit investigate complaints that have been previously filed with the unit against that particular claims administrator?
- 4- What is the Audit and Enforcement Unit's process for tracking complaints submitted by the public? How many complaints has it received since 2012?
- 5- Does the Audit and Enforcement Unit need to do a better job of advertising its services to the public? Could improvements be made to its processes to make it easier for the public to provide information to the unit?
- 6- How often are the results of an initial audit of claims administered by the Audit Unit later overturned on appeal?

It's critical that California ensures that our worker's compensation system is meeting the needs of injured workers while also operating in a transparent way. This audit could help the state ensure that its meeting these goals.

Please contact Tim Townsend in Assemblyman Lackey's at 913-319-2036 for any questions about this request.

⁵ <https://www.dir.ca.gov/dwc/AuditUnit/AuditProgramDescription.pdf>

Sincerely,

A handwritten signature in blue ink that reads "Thomas Lackey". The signature is written in a cursive style with a large, stylized 'T' and a long, sweeping underline.

Assemblyman Tom Lackey
36th District