

CHAPTER 610

HOSPITAL SERVICES

§3411. Lien

Every individual, partnership, firm, association, corporation, institution or any governmental unit or combination or parts of a partnership, firm, association, corporation, institution or governmental unit maintaining and operating a hospital licensed in the State is entitled to a lien for the reasonable charges for hospital care, treatment and maintenance of an injured person upon any and all causes of action, suits, claims, counterclaims or demands accruing to the person to whom such care, treatment or maintenance was furnished, or to the legal representatives of such person, on account of injuries giving rise to such causes of action and which necessitated such hospital care, treatment and maintenance, except that no entitlement to such a lien may exist against the principal residence of any person in any 12-month period or periods during which that person is eligible for financial assistance under the catastrophic illness program, Title 22, section 3185. Such lien may not be applied or considered valid against anyone coming under the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992, and nothing enacted by this chapter may be construed so as to give such lien precedence over the claim or contract of an attorney for legal services rendered with respect to the claim of the injured party nor may this lien be applicable to any accident or health insurance policy, or the proceeds from the same, owned by or running to the benefit of the injured person. [PL 1995, c. 462, Pt. A, §25 (AMD).]

SECTION HISTORY

PL 1967, c. 373 (NEW). PL 1983, c. 824, §X1 (AMD). PL 1995, c. 462, §A25 (AMD).

§3412. Notice

No such lien shall be perfected unless a written notice containing the name and address of the injured person, as it shall appear on the records of the hospital, the date of the accident, the name and location of the hospital, and the name of the person or persons, firm or firms, corporation or corporations alleged to be liable to the injured party for the injuries received, shall be filed under the name of the patient and under the name of all persons, firms or corporations liable for damages arising from such injuries with the clerk of the municipality in which such hospital is located not later than 10 days after the patient has been discharged from the hospital and prior to the payment of any moneys to such injured person, his attorneys or legal representatives as compensation for such injuries; nor unless the hospital shall mail, registered mail, return receipt requested, a copy of such notice with a statement of the date of filing thereof to: [PL 1967, c. 373 (NEW).]

1. Persons alleged to be liable. The person or persons, firm or firms, corporation or corporations, alleged to be liable to the injured patient for the injuries sustained prior to the payment of any moneys to such injured person, his attorneys or legal representatives, as compensation for such injuries and; [PL 1967, c. 373 (NEW).]

2. Insurance carrier. To the home office, or district office handling the carrier's business within the State, of any insurance carrier which has insured such person, firm or corporation against such liability. The person or persons, firm or firms, corporation or corporations alleged to be liable to the injured patient shall upon written request of the hospital disclose the name of his or its insurance carrier which has insured such person, firm or corporation against such liability. [PL 1967, c. 373 (NEW).]

3. Hospital records available. For the purposes of determining the reasonableness of the hospital charges, the hospital shall, at the written request of the person alleged to be liable, or his insurance

carrier, make available any hospital records which may be pertinent to determining the reasonableness of the hospital charge, but in no event shall they disclose any other records which it may have; including but not limited to, records or reports with regard to the nature of the injury of the patient, the nature of his condition or the state of his recovery.

[PL 1967, c. 373 (NEW).]

SECTION HISTORY

PL 1967, c. 373 (NEW).

§3412-A. Limits on priority of hospital liens

1. Lien reduction; just and equitable basis. A hospital lien must be reduced by the patient's proportionate share of the patient's litigation or other recovery costs, including, but not limited to, reasonable attorney's fees. A hospital lien must be satisfied not on the basis of a priority lien but on a just and equitable basis, which means that any factors that diminish the potential value of the patient's claim against which the lien is asserted must likewise reduce the share in the claim by the hospital for reimbursement for services provided. Such factors include, but are not limited to:

A. Questions of liability and comparative negligence or other legal defenses; [PL 2019, c. 270, §1 (NEW).]

B. Exigencies of trial that reduce a settlement or award in order to resolve the claim; and [PL 2019, c. 270, §1 (NEW).]

C. Limits on the amount of applicable insurance coverage that reduce the claim to an amount recoverable by the insured. [PL 2019, c. 270, §1 (NEW).]

[PL 2019, c. 270, §1 (NEW).]

2. Dispute resolution. In the event of a dispute as to the application of this section or the amount available for payment to those claiming payment for services or reimbursement, that dispute must be determined, if the action is pending, before the court in which it is pending; or if no action is pending, by filing an action in any court for determination of the dispute.

[PL 2019, c. 270, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 270, §1 (NEW).

§3413. Duration

No release of such causes of action, or any of them, or of any judgment thereon shall be valid or effectual as against such lien unless such lien holder shall join therein, or execute a release of such lien and any person or persons, firm or firms, corporation or corporations, including an insurance carrier, making any payment to such patient or to his attorneys or heirs or legal representatives, or to any other person as compensation for the injuries sustained, after the filing and receipt of such notice, without paying to such hospital the amount of its lien or so much thereof as can be satisfied out of the moneys due under any final judgment or compromise or settlement agreement after paying the amount of any prior liens, shall for a period of one year from the date of payment to such patient or his heirs, attorneys or legal representatives, or other person, as provided, be and remain liable to such hospital for the amount which such hospital was entitled to receive; and any such association, corporation or other institution maintaining such hospital may, within such period, enforce its lien by a civil action against such person or persons, firm or firms, corporation or corporations making any such payment. The assertion, claim or filing of such a lien shall in no way be deemed an election on behalf of the hospital, and the hospital shall retain all its rights to collect from the patient or from any other person legally liable for care, treatment and maintenance of the injured party. [PL 1967, c. 373 (NEW).]

SECTION HISTORY

PL 1967, c. 373 (NEW).

§3414. Index

Every municipal clerk shall, at the expense of the municipality, provide a book or card filing system to be called the hospital lien docket in which, upon the filing of any lien claim under this chapter, he shall enter the name of the injured person, the name of the person, firm or corporation alleged to be liable for the injuries, the date of the accident and the name of the hospital or other institution making the claim. The clerk shall make a proper index of the same in the name of the injured person and such clerk shall be entitled to be paid a fee of \$5 by the lien claimant for such filing, which shall be prepaid. [PL 1977, c. 51 (AMD).]

SECTION HISTORY

PL 1967, c. 373 (NEW). PL 1977, c. 51 (AMD).

§3415. Application

This chapter shall apply only to such charges for medical or other services furnished to persons who were injured by reason of such accidents occurring on or after October 7, 1967. [PL 1973, c. 625, §57 (AMD).]

SECTION HISTORY

PL 1967, c. 373 (NEW). PL 1973, c. 625, §57 (AMD).

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