

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1791 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Mike Osburn

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

PROPOSED COMMITTEE
SUBSTITUTE
FOR
HOUSE BILL NO. 1791

By: Osburn

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 2021, Section 5051.1, which relates to recovery from tortfeasors of amounts paid for medical expenses of injured and diseased persons; clarifying the priority of medical costs over all other damages; prioritizing certain liens; allowing negotiation on certain liens; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2021, Section 5051.1, is amended to read as follows:

Section 5051.1 A. 1. The payment of medical expenses by the Oklahoma Health Care Authority for or on behalf of or the receipt of medical assistance by a person who has been injured, passed away, or who has suffered a disease as a result of the negligence or act of another person creates a debt to the Authority, subject to recovery by legal action pursuant to this section. Damages for medical costs are considered a priority over all other damages and ~~should~~ shall be

1 paid by the tortfeasor prior to all other damages being allocated or
2 paid.

3 2. The payment of medical expenses by the Authority for or on
4 behalf of a person who has been injured or who has suffered a
5 disease, and either has a claim or may have a claim against an
6 insurer, to the extent recoverable, creates a debt to the Authority
7 whether or not such person asserts or maintains a claim against an
8 insurer-:

- 9 a. such claim or possible claim cannot be assigned by the
10 person receiving medical care to any provider, and
11 b. no provider may require assignment of subrogation
12 rights against any possible liable third party as a
13 condition for providing medical care.

14 B. The Authority shall provide notice to all recipients of
15 medical assistance at the time of application for such assistance of
16 their obligation to report any claim or action, and any judgment,
17 settlement or compromise arising from the claim or action, for
18 injury or illness for which the Authority makes payments for medical
19 assistance.

20 C. The recipient of medical assistance from the Authority for
21 an injury or disease who asserts a claim or maintains an action
22 against another on account of the injury or disease, or the
23 recipient's legal representative, shall notify the Authority of the
24 claim or action and of any judgment, settlement or compromise

1 arising from the claim or action prior to the final judgment,
2 settlement or compromise.

3 D. If the injured or diseased person asserts or maintains a
4 claim against another person or tortfeasor on account of the injury
5 or disease, the Authority:

6 1. Shall have a lien upon payment of the medical assistance to
7 the extent of the total amount so paid upon that part going or
8 belonging to the injured or diseased person of any recovery or sum
9 had or collected or to be collected by the injured or diseased
10 person up to the amount of the damages for the total medical
11 expenses, or by the heirs, personal representative or next of kin in
12 case of the death of the person, whether by judgment or by
13 settlement or compromise. The lien authorized by this subsection
14 shall:

- 15 a. have priority over all other liens except any lien by
16 CMS/Medicare and be inferior only to a lien or claim
17 of the attorney or attorneys handling the claim on
18 behalf of the injured or diseased person, the heirs or
19 personal representative,
20 b. not be applied or considered valid against any
21 temporary or permanent disability award of the
22 claimant due under the Workers' Compensation Act,
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1 c. be applied and considered valid as against any insurer
2 adjudged responsible for medical expenses under the
3 Workers' Compensation Act, and

4 d. be applied and considered valid as to the entire
5 settlement, after the claim of the attorney or
6 attorneys for fees and costs, unless a more limited
7 allocation of damages to medical expenses is shown by
8 clear and convincing evidence;

9 2. A lien reduction pursuant to Section 994.2 of Title 12 of
10 the Oklahoma Statutes may be negotiated further by the Authority
11 provided that the injured person, the personal representative, or
12 attorney has made a good-faith effort to negotiate a reduction;

13 ~~2.~~ 3. May take any other legal action necessary to recover the
14 amount so paid or to be paid to the injured or diseased person or to
15 the heirs, personal representative or next of kin in case of the
16 death of the person; and

17 ~~3.~~ 4. Shall have the right to file a written notice of its lien
18 in any action commenced by the injured or diseased person.

19 E. The Authority, to secure and enforce the right of recovery
20 or reimbursement on behalf of the injured or diseased person, may
21 initiate and prosecute any action or proceeding against any other
22 person or tortfeasor who may be liable to the injured or diseased
23 person, if the injured or diseased person has not initiated any
24 legal proceedings against the other person or tortfeasor.

1 F. Any person or insurer that has been notified by the
2 Authority of a claim of lien authorized by this section and who,
3 directly or indirectly, pays to the recipient any money as a
4 settlement or compromise of the recipient's claim arising out of the
5 injury shall be liable to the Authority for the money value of the
6 medical assistance rendered by the Authority in an amount not in
7 excess of the amount to which the recipient was entitled to recover
8 from the tortfeasor or insurer because of the injury.

9 G. A Medicaid special needs trust for the purposes of
10 establishing or maintaining Medicaid eligibility shall not be
11 approved until such time as the Authority has been made whole and
12 paid in full for all paid medical claims which are associated with
13 the action.

14 H. A Medicaid recipient must notify the Authority prior to a
15 compromise or settlement against a third party in which the
16 Authority has provided or has become obligated to provide medical
17 assistance.

18 I. As used in this section:

19 1. "Medical expenses" includes the cost of hospital, medical,
20 surgical and dental services, care and treatment, rehabilitation,
21 and prostheses and medical appliances, and nursing and funeral
22 services;
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1 2. "Person" includes, in addition to an individual, the
2 guardian of an individual, and the administrator or executor of the
3 estate of an individual, and a corporation; and

4 3. "Insurer" means any insurance company that administers
5 accident and health policies or plans or that administers any other
6 type insurance policy containing medical provisions, and any
7 nonprofit hospital service and indemnity and medical service and
8 indemnity corporation, actually engaged in business in the state,
9 regardless of where the insurance contract is written, or plan is
10 administered or where such corporation is incorporated.

11 SECTION 2. This act shall become effective November 1, 2023.

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