

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2396

By: Kannady

AS INTRODUCED

An Act relating to civil procedure; providing for recovery against a party that received payment; providing for a general rule; providing for a special rule; providing for recovery against a third-party payer; providing calculation for recovery under certain circumstances; creating recovery worksheet for calculations; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 994.3 of Title 12, unless there is created a duplication in numbering, reads as follows:

A. Recovery against the party that received payment.

1. General rule. Any payor of money benefits with recovery or reimbursement rights by contract or statute shall reduce its recovery to take account of the cost of procuring the judgment or settlement from a third party, as provided in this section, if:

a. procurement costs are incurred because the claim is disputed, and

1 b. those costs are borne by the party against which the
2 payor seeks to recover.

3 2. Special rule. If a payor must file suit because the party
4 that received payment opposes the payor's recovery, the recovery
5 amount is as set forth in subsection E of this section.

6 B. Recovery against the third-party payer. If the payor seeks
7 recovery from the third-party payer, the recovery amount will be no
8 greater than the amount determined under subsection C, D, or E of
9 this section.

10 C. Payments made by payor are less than the judgment or
11 settlement amount. If a payor's payments are less than the judgment
12 or settlement amount, the recovery is computed as follows:

13 1. Determine the ratio of the procurement costs to the total
14 judgment or settlement payment;

15 2. Apply the ratio to the person or entity's payment. The
16 product is the payor's share of procurement costs;

17 3. Subtract the payor's share of procurement costs from its
18 claimed payments. The remainder is the payor's recovery amount.

19 D. Payor's payments equal or exceed the judgment or settlement
20 amount. If the payor's payments equal or exceed the judgment or
21 settlement amount, the recovery amount is the total judgment or
22 settlement payment minus the total procurement costs.

23 E. Payor incurs procurement costs because of opposition to its
24 recovery. If the payor must bring suit against the party that

1 received payment because that party opposes the recovery, the
2 recovery amount is the lower of the following:

- 3 1. The person or entity's payment; or
4 2. The total judgment or settlement amount, minus the party's
5 total procurement cost.

6 F. Recovery worksheet. The amount to be recovered from the
7 beneficiary is the amount the payor paid, less a proportionate share
8 of the costs of procuring the judgment or settlement. The amount to
9 be refunded is determined as follows:

10 If the payor's payment is less than the amount of judgment or
11 settlement:

- 12 a. determine the ratio of the payments to the total amount
13 of the judgment or settlement,
14 b. apply this ratio to the costs of procuring the judgment
15 or settlement, including attorney fees, and
16 c. subtract the payor's share of procurement costs from its
17 payments. The remainder is the amount of
18 reimbursement to be refunded to the payor seeking
19 recovery of payments.

20 Step 1:

21 \$ _____ / \$ _____ = _____
22 Payor's Payment Judgment/Settlement Ratio
23 Carry out 6 digits

24 Step 2:

_____ X \$ _____ = _____

Ratio from Step 1 Procurement Costs Payor's Share of

Carry out 6 digits Procurement Cost

Step 3:

\$ _____ - \$ _____ = _____

Payor's Payment Payor's Share of Refund to Payor

Procurement Costs

G. If the payor's payments equal or exceed the amount of the judgment or settlement, subtract the total procurement costs from the judgment or settlement. The remainder is the amount of reimbursement to be refunded to the payor. The beneficiary will not be required to refund more than the liability insurance payment minus the procurement costs.

\$ _____ - \$ _____ = \$ _____

Judgment/Settlement Procurement Costs Refund

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

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