

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 2390

By: Kannady

AS INTRODUCED

An Act relating to civil procedure; providing the method for determining the amount to be recovered against a party that received payment; providing the method for determining the amount to be recovered against a third-party payer; providing the method for determining the amount to be recovered when a payment is made by a payor that is less than the judgment or settlement amount; providing the method for determining the amount to be recovered when a payor's payment equals or exceeds the judgment or settlement amount; providing the method for determining the amount to be recovered when a payor incurs procurement costs because of opposition to its recovery; providing a recovery worksheet; providing the method to determine the amount to be recovered from a beneficiary; providing the method to determine the amount to be refunded; 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 reduces its recovery to

1 take account of the cost of procuring the judgment or settlement
2 from a third party, as provided in this section, if:

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

5 b. those costs are borne by the party against which the
6 payor seeks to recover.

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

10 B. Recovery against the third-party payer. If the payor seeks
11 recovery from the third-party payer, the recovery amount will be no
12 greater than the amount determined under subsection C, D or E of
13 this section.

14 C. Payments made by a payor that are less than the judgment or
15 settlement amount. If a payor's payments are less than the judgment
16 or settlement amount, the recovery is computed as follows:

17 1. Determine the ratio of the procurement costs to the total
18 judgment or settlement payment;

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

21 3. Subtract the payor's share of procurement costs from his or
22 her claimed payments. The remainder is the payor's recovery amount.

23 D. A payor's payments that equals or exceeds the judgment or
24 settlement amount. If payor's payments equal or exceed the judgment

1 or settlement amount, the recovery amount is the total judgment or
2 settlement payment minus the total procurement costs.

3 E. The payor incurs procurement costs because of opposition to
4 its recovery. If the payor must bring suit against the party that
5 received payment because that party opposes the recovery, the
6 recovery amount is the lower of the following:

- 7 1. The person or entity's payment; or
8 2. The total judgment or settlement amount, minus the party's
9 total procurement cost.

10 F. Recovery worksheet. The amount to be recovered from the
11 beneficiary is the amount payor paid, less a proportionate share of
12 the costs of procuring the judgment or settlement. The amount to be
13 refunded is determined as follows:

14 If the payor's payment is less than the amount of judgment or
15 settlement:

- 16 1. Determine the ratio of the payments to the total amount of
17 the judgment or settlement;
18 2. Apply this ratio to the costs of procuring the judgment or
19 settlement, including attorney fees; and
20 3. Subtract the payor's share of procurement costs from their
21 payments. The remainder is the amount of reimbursement to be
22 refunded to the payor seeking recovery of payments.

23 Step 1:

24 \$ _____ / \$ _____ = _____

Payor's Payment	Judgment/Settlement	Ratio
		Carry out 6 digits

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

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