

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 729

By: Simpson

4
5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Health Care
8 Authority; amending 63 O.S. 2011, Section 5051.1,
9 which relates to liens; specifying superiority of
10 certain liens; and providing an effective date.

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

12 SECTION 1. AMENDATORY 63 O.S. 2011, Section 5051.1, is
13 amended to read as follows:

14 Section 5051.1. A. 1. The payment of medical expenses by the
15 Oklahoma Health Care Authority for or on behalf of or the receipt of
16 medical assistance by a person who has been injured or who has
17 suffered a disease as a result of the negligence or act of another
18 person creates a debt to the Authority, subject to recovery by legal
19 action pursuant to this section. Damages for medical costs are
20 considered a priority over all other damages and should be paid by
21 the tortfeasor prior to other damages being allocated or paid.

22 2. The payment of medical expenses by the Authority for or on
23 behalf of a person who has been injured or who has suffered a
24 disease, and either has a claim or may have a claim against an

1 insurer, to the extent recoverable, creates a debt to the Authority
2 whether or not such person asserts or maintains a claim against an
3 insurer.

4 B. The Authority shall provide notice to all recipients of
5 medical assistance at the time of application for such assistance of
6 their obligation to report any claim or action, and any judgment,
7 settlement or compromise arising from the claim or action, for
8 injury or illness for which the Authority makes payments for medical
9 assistance.

10 C. The recipient of medical assistance from the Authority for
11 an injury or disease who asserts a claim or maintains an action
12 against another on account of the injury or disease, or the
13 recipient's legal representative, shall notify the Authority of the
14 claim or action and of any judgment, settlement or compromise
15 arising from the claim or action prior to the final judgment,
16 settlement or compromise.

17 D. If the injured or diseased person asserts or maintains a
18 claim against another person or tortfeasor on account of the injury
19 or disease, the Authority:

20 1. Shall have a lien upon payment of the medical assistance to
21 the extent of the amount so paid upon that part going or belonging
22 to the injured or diseased person of any recovery or sum had or
23 collected or to be collected by the injured or diseased person up to
24 the amount of the damages for the total medical expenses, or by the

1 heirs, personal representative or next of kin in case of the death
2 of the person, whether by judgment or by settlement or compromise.

3 The lien authorized by this subsection shall:

4 a. be inferior only to a lien or claim of the attorney or
5 attorneys handling the claim on behalf of the injured
6 or diseased person, the heirs or personal
7 representative, but superior to any other lien or
8 subrogation of interest,

9 b. not be applied or considered valid against any
10 temporary or permanent disability award of the
11 claimant due under the Workers' Compensation Act,

12 c. be applied and considered valid as against any insurer
13 adjudged responsible for medical expenses under the
14 Workers' Compensation Act, and

15 d. be applied and considered valid as to the entire
16 settlement, after the claim of the attorney or
17 attorneys for fees and costs, unless a more limited
18 allocation of damages to medical expenses is shown by
19 clear and convincing evidence;

20 2. May take any other legal action necessary to recover the
21 amount so paid or to be paid to the injured or diseased person or to
22 the heirs, personal representative or next of kin in case of the
23 death of the person; and

24

1 3. Shall have the right to file a written notice of its lien in
2 any action commenced by the injured or diseased person.

3 E. The Authority, to secure and enforce the right of recovery
4 or reimbursement on behalf of the injured or diseased person, may
5 initiate and prosecute any action or proceeding against any other
6 person or tortfeasor who may be liable to the injured or diseased
7 person, if the injured or diseased person has not initiated any
8 legal proceedings against the other person or tortfeasor. The lien
9 of the Authority shall be superior to any other lien or subrogation
10 of interest.

11 F. Any person or insurer that has been notified by the
12 Authority of a claim of lien authorized by this section and who,
13 directly or indirectly, pays to the recipient any money as a
14 settlement or compromise of the recipient's claim arising out of the
15 injury shall be liable to the Authority for the money value of the
16 medical assistance rendered by the Authority in an amount not in
17 excess of the amount to which the recipient was entitled to recover
18 from the tortfeasor or insurer because of the injury.

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

24

1 H. A Medicaid recipient must notify the Authority prior to a
2 compromise or settlement against a third party in which the
3 Authority has provided or has become obligated to provide medical
4 assistance.

5 I. As used in this section:

6 1. "Medical expenses" includes the cost of hospital, medical,
7 surgical and dental services, care and treatment, rehabilitation,
8 and prostheses and medical appliances, and nursing and funeral
9 services;

10 2. "Person" includes, in addition to an individual, the
11 guardian of an individual, and the administrator or executor of the
12 estate of an individual, and a corporation; and

13 3. "Insurer" means any insurance company that administers
14 accident and health policies or plans or that administers any other
15 type insurance policy containing medical provisions, and any
16 nonprofit hospital service and indemnity and medical service and
17 indemnity corporation, actually engaged in business in the state,
18 regardless of where the insurance contract is written, or plan is
19 administered or where such corporation is incorporated.

20 SECTION 2. This act shall become effective November 1, 2017.

21

22 56-1-186 AM 1/19/2017 11:33:04 PM

23

24