CHAPTER 340

SENATE BILL 1021

AN ACT

AMENDING SECTION 33-931, ARIZONA REVISED STATUTES; AMENDING TITLE 33, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 33-937; RELATING TO HEALTH CARE PROVIDER LIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 33-931, Arizona Revised Statutes, is amended to read:

33-931. Lien of health care provider on damages recovered by injured person receiving services; hospital priority; enforcement

A. Every individual, partnership, firm, association, corporation or institution or any governmental unit that maintains and operates a health care institution or provides health care services in this state and that has been duly licensed by this state, or any political subdivision or private entity with ambulances operated, licensed or registered pursuant to title 36, chapter 21.1, is entitled to a lien for the care and treatment or transportation of an injured person AS PRESCRIBED BY SUBSECTION E OF THIS SECTION. The lien shall be for the claimant's customary charges for care and treatment or transportation of an injured person. A lien pursuant to this section extends to all claims of liability or indemnity, except health insurance AND MEDICAL PAYMENTS COVERAGE and underinsured MOTORIST and uninsured motorist coverage as defined in section 20-259.01, for damages accruing to the person to whom the services are rendered, or to that person's legal representative, on account of the injuries that gave rise to the claims and that required the services.

B. If a county maintains, operates or provides health care services, THE COUNTY is entitled to an assignment by operation of law for the care and treatment or transportation of an injured person AS PRESCRIBED BY SUBSECTION E OF THIS SECTION. The assignment shall be for the claimant's customary charges for care and treatment or transportation of an injured person. An assignment pursuant to this section extends to any claims of liability or indemnity, except health insurance AND MEDICAL PAYMENTS COVERAGE and underinsured MOTORIST and uninsured motorist coverage as defined in section 20-259.01, for damages accruing to the person to whom the services are rendered, or to that person's legal representative, on account of injuries that gave rise to the claims and that required the services.

C. The lien entitlements authorized by subsection A of this section and the assignment authorized by subsection B of this section are applicable to all customary charges by hospitals or ambulances of political subdivisions, but are restricted to customary charges in excess of two hundred fifty dollars $250 by all other providers and privately owned ambulance companies excluding interest and service charges.

D. Liens perfected pursuant to this article by a hospital have priority for payment over all other liens authorized by this article.
E. The liens and assignments authorized by this section are enforceable by a cause of action prescribed by section 33-934 and are subject to the following:

1. One-third of any third-party judgment, settlement or award is exempt from any lien or assignment authorized by this section.

2. If the injured person is covered as an insured or dependent under a health insurance or similar medical benefit plan and the health care provider has a valid and binding contract with that insurer or plan as an in-network provider, the contract must expressly allow the health care provider to assert a lien or assignment that is authorized by this section. In the absence of that contract provision, the lien or assignment is invalid and may not be enforced by a cause of action prescribed by section 33-934 except as allowed under paragraph 3 or 4 of this subsection.

3. Paragraphs 1 and 2 of this subsection do not apply if any of the following exceptions are met:
   (a) The services provided are not covered by the injured person's health insurance or similar medical benefit plan.
   (b) The health care provider does not have a valid and binding contract with the insurer or plan as an in-network provider.
   (c) The injured person is not covered by any health insurance or any similar medical benefit plan.
   (d) The injured person and the health care provider have a written and signed document stating that they elect not to use any coverage potentially available under a health insurance or similar medical benefit plan that covers the injured as an insured or dependent.

4. Notwithstanding paragraphs 1, 2, and 3 of this subsection, a health care provider may enforce a lien or assignment authorized by this section by a cause of action prescribed by section 33-934 for all amounts for which a patient is personally responsible, including outstanding coinsurance amounts, copayments and deductibles that are due under the injured person's or dependent's health insurance or similar medical benefit plan.

5. Any valid and enforceable lien or assignment authorized by this section shall be compromised pursuant to the criteria prescribed by section 33-937.

6. Any valid and enforceable lien or assignment authorized by this section shall be subordinate to any lien with higher priority.

F. This section does not affect the rights of a health care provider to enforce a consensual agreement, whether called a lien or contract, against the patient who has signed the agreement.
Sec. 2. Title 33, chapter 7, article 3, Arizona Revised Statutes, is amended by adding section 33-937, to read:

33-937. Limitation of lien or assignment; compromise; cause of action; attorney fees

A. All interested parties, including the health care provider, patient and patient's attorney, shall compromise any lien or assignment granted pursuant to section 33-931 and the amounts owed pursuant to any such lien or assignment to provide a settlement of the claim that is fair and equitable to all parties.

B. In determining the extent of the compromise required by subsection A of this section, the health care provider shall consider the following factors:

1. The nature and extent of the patient's injury or illness.
2. The sufficiency of liability insurance or other sources of indemnity available to the patient from the tortfeasor or the tortfeasor's insurer. The potential availability of health insurance or a similar medical benefit plan that covers the patient as an insured or dependent may not be considered as a factor in any compromise, if the patient and the health care provider have agreed not to use that health insurance or similar medical benefit plan coverage.
3. Whether the health care provider, the hospital or an assignee has received any payment reducing the patient's financial obligation to pay the lien balance.
4. The nature and complexity of the services rendered by the health care provider to the patient.
5. The health care provider's customary charges for the services rendered to the patient.
6. The total amount of the third-party judgment, settlement or award.
7. Other valid liens made pursuant to section 33-931 that are attached to any third-party judgment, settlement or award and the priority position of the liens.
8. The patient's attorney fees and costs.
9. Any reductions agreed to by any other claimants to the total amount of the third-party judgment, settlement or award.
10. Other valid claims against the third-party judgment, settlement or award, including health insurance reimbursement and subrogation claims.
11. Any other factor relevant to a fair and equitable settlement under the circumstances of that particular case.

C. On request of the health care provider, the patient shall provide a proposed distribution of the settlement monies that contains a complete listing of how the monies would be distributed among all parties along with a statement of the monies that the patient would receive if the liens are compromised.
D. If the interested parties cannot agree on a compromise of a lien or assignment as prescribed by this section, an action may be filed for a judicial determination of an appropriate compromise of the lien or assignment based on the factors prescribed by this section. The action may be filed by the injured person whose care, treatment or transportation is subject to a lien or assignment pursuant to section 33-931, the health care provider or assignee, or the person, firm or corporation liable for damages, or any insurer or other person, firm or corporation that is responsible for paying all or part of the damages. In any action brought pursuant to this section, the prevailing party may not recover attorney fees authorized by section 33-934.

Sec. 3. Applicability

Section 33-931, Arizona Revised Statutes, as amended by this act, and section 33-937, Arizona Revised Statutes, as added by this act, apply to liens that are filed for services that are provided from and after December 31, 2022.

APPROVED BY THE GOVERNOR JULY 6, 2022.