

Senate Engrossed

health care liens; limitation

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

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)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 33-931. Lien of health care provider on damages recovered by
5 injured person receiving services; hospital
6 priority; enforcement

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

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

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

41 D. Liens perfected pursuant to this article by a hospital have
42 priority for payment over all other liens authorized by this article.

1 E. THE LIENS AND ASSIGNMENTS AUTHORIZED BY THIS SECTION ARE
2 ENFORCEABLE BY A CAUSE OF ACTION PRESCRIBED BY SECTION 33-934 AND ARE
3 SUBJECT TO THE FOLLOWING:

4 1. THE FIRST \$20,000 OF ANY THIRD-PARTY JUDGMENT, SETTLEMENT OR
5 AWARD IS EXEMPT FROM ANY LIEN OR ASSIGNMENT AUTHORIZED BY THIS SECTION.

6 2. IF THE SERVICES PROVIDED ARE COVERED BY THE INJURED PERSON'S
7 HEALTH INSURANCE OR SIMILAR MEDICAL BENEFIT PLAN WITH WHICH THE HEALTH
8 CARE PROVIDER HAS A CONTRACT, THE CONTRACT MUST EXPRESSLY ALLOW THE
9 CLAIMANT TO ASSERT A LIEN OR ASSIGNMENT THAT IS AUTHORIZED BY THIS
10 SECTION. IN THE ABSENCE OF THAT CONTRACT PROVISION, THE LIEN OR
11 ASSIGNMENT IS INVALID AND MAY NOT BE ENFORCED BY A CAUSE OF ACTION
12 PRESCRIBED BY SECTION 33-934.

13 3. PARAGRAPHS 1 AND 2 OF THIS SUBSECTION DO NOT APPLY IF THE
14 SERVICES PROVIDED ARE NOT COVERED BY THE INJURED PERSON'S HEALTH INSURANCE
15 OR SIMILAR MEDICAL BENEFIT PLAN IN WHICH THE HEALTH CARE PROVIDER HAS A
16 CONTRACT WITH THE INSURER OR PLAN, OR IF THE INJURED PERSON IS NOT COVERED
17 BY ANY HEALTH INSURANCE OR ANY SIMILAR MEDICAL BENEFIT PLAN.

18 4. NOTWITHSTANDING PARAGRAPHS 1, 2, AND 3 OF THIS SUBSECTION, A
19 CLAIMANT MAY ENFORCE A LIEN OR ASSIGNMENT AUTHORIZED BY THIS SECTION BY A
20 CAUSE OF ACTION PRESCRIBED BY SECTION 33-934 FOR THE AMOUNT OF A PATIENT'S
21 RESPONSIBILITY FOR OUTSTANDING COPAYMENTS AND DEDUCTIBLES THAT ARE DUE
22 UNDER THE INJURED PERSON'S HEALTH INSURANCE OR SIMILAR MEDICAL BENEFIT
23 PLAN.

24 5. ANY VALID AND ENFORCEABLE LIEN OR ASSIGNMENT AUTHORIZED BY THIS
25 SECTION SHALL BE COMPROMISED PURSUANT TO THE CRITERIA PRESCRIBED BY
26 SECTION 33-937.

27 Sec. 2. Title 33, chapter 7, article 3, Arizona Revised Statutes,
28 is amended by adding section 33-937, to read:

29 33-937. Limitation of lien or assignment; compromise; cause
30 of action; attorney fees

31 A. A HEALTH CARE PROVIDER SHALL COMPROMISE ANY LIEN OR ASSIGNMENT
32 GRANTED PURSUANT TO SECTION 33-931 TO PROVIDE A SETTLEMENT OF THE CLAIM
33 THAT IS FAIR AND EQUITABLE.

34 B. IN DETERMINING THE EXTENT OF THE COMPROMISE REQUIRED BY
35 SUBSECTION A OF THIS SECTION, THE HEALTH CARE PROVIDER SHALL CONSIDER THE
36 FOLLOWING FACTORS:

37 1. THE NATURE AND EXTENT OF THE PATIENT'S INJURY OR ILLNESS.

38 2. THE SUFFICIENCY OF INSURANCE OR OTHER SOURCES OF INDEMNITY
39 AVAILABLE TO THE PATIENT.

40 3. THE NATURE AND COMPLEXITY OF THE SERVICES RENDERED BY THE HEALTH
41 CARE PROVIDER TO THE PATIENT.

42 4. THE AMOUNT THE HEALTH CARE PROVIDER CUSTOMARILY ACCEPTS FROM
43 OTHER PAYORS, INCLUDING HEALTH INSURANCE, IN FULL SATISFACTION OF THE
44 BILLED CHARGES.

1 5. THE TOTAL AMOUNT OF THE THIRD-PARTY JUDGMENT, SETTLEMENT OR
2 AWARD.

3 6. OTHER VALID LIENS MADE PURSUANT TO SECTION 33-931 THAT ARE
4 ATTACHED TO ANY THIRD-PARTY JUDGMENT, SETTLEMENT OR AWARD.

5 7. THE PATIENT'S ATTORNEY FEES AND COSTS.

6 8. ANY REDUCTIONS AGREED TO BY ANY OTHER CLAIMANTS TO THE TOTAL
7 AMOUNT OF THE THIRD-PARTY JUDGMENT, SETTLEMENT OR AWARD.

8 9. OTHER VALID CLAIMS AGAINST THE THIRD-PARTY JUDGMENT, SETTLEMENT
9 OR AWARD, INCLUDING HEALTH INSURANCE REIMBURSEMENT AND SUBROGATION CLAIMS.

10 10. ANY OTHER FACTOR RELEVANT TO A FAIR AND EQUITABLE SETTLEMENT
11 UNDER THE CIRCUMSTANCES OF THAT PARTICULAR CASE.

12 C. IF THE PARTIES CANNOT AGREE ON A COMPROMISE OF A LIEN OR
13 ASSIGNMENT AS PRESCRIBED BY THIS SECTION, AN INJURED PERSON WHOSE CARE,
14 TREATMENT OR TRANSPORTATION IS SUBJECT TO A LIEN OR ASSIGNMENT PURSUANT TO
15 SECTION 33-931 MAY FILE AN ACTION FOR A JUDICIAL DETERMINATION OF AN
16 APPROPRIATE COMPROMISE OF THE LIEN OR ASSIGNMENT BASED ON THE FACTORS
17 PRESCRIBED BY THIS SECTION. IN ANY ACTION BROUGHT PURSUANT TO THIS
18 SECTION, THE PREVAILING PARTY MAY NOT RECOVER ATTORNEY FEES AUTHORIZED BY
19 SECTION 33-934.

20 Sec. 3. Applicability

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