

LAW OFFICE OF STEPHANIE L. SCHNEIDER, P.A.

CERTIFIED ELDER LAW ATTORNEY BY THE FLORIDA BAR

1860 N. PINE ISLAND RD, SUITE 111, Plantation, FL 33322

TELEPHONE (954) 382-1997

www.fl-elderlaw.com

FACSIMILE (954) 382-9997



PROPER PLANNING MAY CREATE PEACE OF MIND



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U.S. Supreme Court Reviews Medicaid Lien Case

We are eagerly awaiting the decision of the United States Supreme Court in the case of *Ahlborn v. Arkansas Dept. of Human Services*, 397 F.3d 620 (8th Cir 2005). On September 27, 2005, certiorari was granted. The US Court of Appeals on February 9, 2005, ruled that a state's right to recover its Medicaid lien from a beneficiary's liability settlement is limited to that portion of the settlement representing payment for past medical expenses.

Ms. Ahlborn was permanently injured in a motor vehicle accident in 1996. She applied for and was approved for Medicaid assistance in Arkansas. As a condition of Medicaid she agreed to assign any third party settlement to the Arkansas Department of Human Services to the full extent of any amount paid by Medicaid for her benefit. By the time her case settled Medicaid had paid \$215,645.30 for her care. The net amount of her settlement was \$550,000. An allocation was made for past medical expenses of \$35,581.47. ADHS asserted a lien for \$215,645.30 against the entire settlement.

Ms. Ahlborn sued and won a declaratory judgment that

ADHS could recover its lien only from the portion of the settlement proceeds representing payment for past medical expenses. Her winning argument was based upon 42 U.S.C. § 1396p(a)(1) which prohibits Medicaid from imposing a lien against property of a Medicaid recipient prior to his/her death.

The appellate court construed 42 U.S.C. § 1396a(a)(25)(H) and 42 U.S.C. § 1396k(a)(1) to provide a federal statutory scheme that only requires a state to recover payments from third parties to the extent of their legal liability to compensate the injured party for medical care and services they incur.

If the US Supreme Court affirms the US Court of Appeals decision, it will be a favorable change in the law for Medicaid recipients. It could put an end to the split among the states and clarify that lien recovery is limited to payment for past medical care only, and that the nature of the claim does play a role (i.e. a claim for emotional distress would not be subject to the lien). In the interim, you may find that a state Medicaid agency is more willing to negotiate recovery of its lien knowing that there is a good possibility the US Supreme Court will affirm.

“A state’s right to recover its Medicaid lien from a beneficiary’s liability settlement is limited to that portion of the settlement representing payment for past medical expenses.”

Firm Facts:

Stephanie is the Former Chair of The Florida Bar Elder Law Section.

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“Individual commitment to a group effort - that is what makes a team work, a company work, a society work, a civilization work.”
—Vince Lombardi

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