



PROPER PLANNING MAY CREATE PEACE OF MIND



May 2006

U.S. SUPREME COURT RENDERS DECISION IN AHLBORN

The United States Supreme Court issued its opinion in Arkansas Department of Health and Human Services v. Ahlborn on May 1, 2006. 547 U.S. (2006)

The Court held that under federal Medicaid law, a state may only assert its third party liability lien against the portion of a personal injury settlement that represents *payment for medical expenses*. The Court acknowledged that a state has priority to receive reimbursement from the portion of the settlement representing medical expenses before disbursement is made to the plaintiff. However, the Arkansas statute which was aimed at entitling the state to collect the full amount of its lien from the full amount of the settlement was held to violate both the third party liability and the anti-lien provisions of the federal Medicaid law.

Under federal law, a Medicaid recipient must, in order to obtain eligibility, assign the State any rights to payment for medical care from a third party. 42 U.S.C. 1396k(a)(1)(A). The statute does not give the state rights to payment for lost wages, nor pain and suffering. The language contained in

“A state may only impose its third party Medicaid lien against the portion of a settlement that represents payment for medical expenses.”

another section of the statute clarifies that the right being assigned by the Medicaid recipient refers to payment by any other party for health care items or services. 42 U.S.C. 1396a(a)(25)(H).

Federal anti-lien law prohibits states from imposing liens against property of an individual prior to his death for medical assistance paid except in limited circumstances; this is known as the estate recovery lien and differs from the third-party liability lien. 42 U.S.C. 1396p(a). When the Arkansas DHHS sought to impose its lien against the portion of the settlement that did not represent payment for medical care its actions were inconsistent with federal law.

The Court further disagreed with the State’s argument that there was an inherent danger of manipulation in cases where the parties to a tort case settle without judicial oversight. The Court made two suggestions: 1) the State can agree in advance to an allocation or, 2) the court can make a determination of an allocation.

The Court’s decision now sets a precedent which will require practitioners to ensure an allocation of the settlement proceeds, or jury verdict, is properly made either by stipulation or by

Court order. Failure to make an allocation prior to repayment of the State’s Medicaid third party liability lien could be viewed as malpractice.

Firm Events:

May 23 DCTLA Lunch
Stephanie will Present
Advanced Level CLE

May is Elder Law Month
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