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PROPER PLANNING MAY CREATE PEACE OF MIND



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Computing The Medicaid Third Party Lien

Trial attorneys should understand the statutory formula for computing the Medicaid Third Party Liability lien. F.S. 409.910(6)©. The attorney fee is computed at twenty-five percent of the recovery after costs and expenses of litigation; taxable costs are paid in full; of the balance, one-half is paid to the Agency for Health Care Administration up to the total amount of medical assistance provided by Medicaid. Medicaid is repaid the lesser of this amount or, the actual third-party lien.

Example: Jane Smith was involved in an accident. Medicaid expends \$100,000.00 for medically necessary services that are directly related to the accident. The attorney incurs \$10,000.00 in taxable costs. The liable third party offers \$200,000.00 to settle the claim. Medicaid is entitled to recover \$70,000.00 in full satisfaction of Medicaid's claim:

Settlement Offer	\$200,000.00
Attorney's Fees	\$ (50,000.00)
Taxable Costs	<u>\$ (10,000.00)</u>
Net Proceeds	\$140,000.00
Medicaid Due	\$ 70,000.00

An exception to using the formula occurs when recovery is made against medical coverage benefits (under health insurance, HMO, PPO, prepaid

health clinic, portion of benefits designated for medical payments under coverage for workers' compensation, personal injury protection, and casualty). The intent behind this exception is that medical coverage should be fully available to cover the related medical expenses, and Medicaid should not be required to pay when such benefits are available. When the settlement reached is a combination of medical and non-medical coverage, both formula provisions apply. The amount due and paid under the medical benefits provision reduces the Medicaid lien.

Example: Jane Smith has a car accident. There was \$10,000.00 PIP and \$20,000.00 of bodily injury coverage. Medicaid's claim is \$50,000.00. Medicaid is entitled to the full \$10,000.00 of PIP coverage; a calculation is made to determine the amount due Medicaid from the bodily injury coverage. Assuming \$1,000.00 in taxable costs, the total amount due Medicaid is as follows:

Offer (BI)	\$20,000.00
Attorney's fees	\$(5,000.00)
Taxable Costs	<u>\$(1,000.00)</u>
Net Proceeds	\$14,000.00
Medicaid Due (BI)	\$ 7,000.00
Medicaid Due (PIP)	\$10,000.00
Total Due Medicaid	\$17,000.00

ANNOUNCEMENTS:

Stephanie has been elected Chair of The Florida Bar Elder Law Section as of July 1, 2003.

Our firm is a proud Business Patron of the Eagle Program of the Academy of Florida Trial Lawyers.

Meet The Staff

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