

Recent U.S. Supreme Court Case Holds State's Lien Limited to Amount of Recovery Allocated to Medical Expenses

by Vangi Johnson

Medicaid is a partnership between the federal government and the states. Under 42 U.S.C. § 1396a(a), each state develops a plan detailing standards for eligibility and the content of medical expenses it will provide.

With regard to tort liability, the state agency in charge of Medicaid must take all reasonable measures to ascertain the legal liability of third-party tortfeasors to pay for care and services available under the plan. 42 U.S.C. § 1396a(a) (25)(A).

In California, under *Welfare & Institutions Code* § 14124.7(a), if the medical expenses of an injured party have been paid by the state's Medi-Cal program, the state Director of Health Services, as the administrator of the Medi-Cal program, has a statutory first lien on any judgment or settlement. See also, *Bonta v. Friedman* (2001) 91 Cal. App.4th 819, 823. However, lien recovery is permitted only where the damages recovered from the third-party tortfeasor include damages for the cost of medical treatment or other benefits provided by Medi-Cal. *Fitch v. Select Products Company* (2005) 36 Cal.4th 812, 820. For example, the Director of Health Services may not assert a lien against a wrongful death recovery that does not include compensation for the decedent's medical expenses covered by Medi-Cal. *Id.* at 819.¹ In addition, the state's lien is limited to the amount of the recovery that is allocated to medical expenses.

Such reflects the recent holding of the U.S. Supreme Court in the matter of *Arkansas Department of Health & Human Services v.*

Ahlborn (2006) 547 U.S. 268. In the *Ahlborn* matter, the injured party had received Medicaid benefits from the Arkansas Department of Health Services, following a car accident in which she had sustained severe and permanent injuries. The Arkansas Department of Health Services paid her healthcare providers \$215,645.30 under the state's Medicaid plan. After filing a lawsuit in state court, the injured party subsequently settled with the third-party tortfeasors for \$550,000.00. Such settlement represented pain and suffering, past medical expenses, future expenses and loss of earnings, although such settlement was not allocated between categories of damages.

The Arkansas Department of Health Services intervened in the lawsuit, and asserted a lien against the settlement, for the full amount it had paid for the injured party's medical expenses. The injured party subsequently filed an action in Federal District Court, contending that the state's lien violated federal law, in that satisfaction would result in depletion of her compensation. The injured party and the Arkansas Department of Health Services later entered into a stipulation, whereby it was agreed that the settlement represented approximately one-sixth of the reasonable value of the injured party's claim against the third-party tortfeasors, and also that only \$35,581.47 of the sum represented compensation for medical expenses.

The Arkansas Department of Health Services maintained its contention that it was entitled to recover from the settlement the full amount it paid in medical expenses - \$215,645.30. The U.S. Supreme Court disagreed, and ultimately held otherwise.

*"We must decide whether [the state] can lay claim to more than the portion of [the injured party's] settlement that represents medical expenses. The text of the federal third-party liability provisions suggest not; it focuses on recovery of payments for medical care. Medicaid recipients must, as a condition of eligibility, 'assign the State any rights ... to payment for medical care from any third-party,' [citations omitted; emphasis in original], not rights to payment for, for example, lost wages. The other statutory language that [the state] relies upon is not to the contrary; indeed, it reinforces the limitation implicit in the assignment provision." *Id.**

State's Lien Limited *continued*

In a unanimous opinion, the U.S. Supreme Court held that federal Medicaid law does not authorize the states to recover an amount in excess of an injured party's recovery for medical expenses, and that federal anti-lien provisions affirmatively prohibit such recovery. In *Ahlborn*, The Arkansas Department of Health Services, accordingly, was only able to recover \$35,581.47 - the sum representing compensation for the injured party's medical expenses. It had no lien on the portion of the settlement representing pain and suffering, loss of earnings and etc.

In the last several months, this holding has been followed and cited by several

Federal District Courts and state courts. Although such has not yet been cited by a California court, *Ahlborn* arguably mandates a proportionate reduction on Medi-Cal liens based upon the proportion of overall damages when compared with the lien amount. Consequently, it would appear to represent a significant tool to decrease Medi-Cal liens. The defense may be able to argue for lower settlement values, in order to gain some advantage from the decreased Medi-Cal lien.

Such an approach may be difficult, but it is worth exploring as plaintiffs have received a significant offset in Medi-Cal liens. ■

For more information regarding this article, contact Vangi Johnson at 213.738.5811 or vjohnson@bonnebridges.com.

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¹For a detailed discussion of the Fitch holding, refer to newsbrief, September 2006.