

Bill No. CS for SB's 2472 & 1892

Amendment No.

| | <u>Senate</u> | CHAMBER ACTION | <u>House</u> |
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11 Senators Casas and Klein moved the following amendment:

12 **Senate Amendment (with title amendment)**

13 On page 10, between lines 27 and 28,

14 insert:

15 Section 9. Subsections (4) and (7) of section 409.910,
16 Florida Statutes, 1998 Supplement, are amended to read:

17 409.910 Responsibility for payments on behalf of
18 Medicaid-eligible persons when other parties are liable.--

19 (4) After the department has provided medical
20 assistance under the Medicaid program, it shall seek recovery
21 of reimbursement from third-party benefits to the limit of
22 legal liability and for the full amount of third-party
23 benefits, but not in excess of the amount of medical
24 assistance paid by Medicaid, as to:

25 (a) Claims for which the department has a waiver
26 pursuant to federal law; or

27 (b) Situations in which the department learns of the
28 existence of a liable third party or in which third-party
29 benefits are discovered or become available after medical
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1 assistance has been provided by Medicaid. Nothing in this
2 subsection shall limit the authority of the state or any
3 agency thereof to bring or maintain actions seeking recoveries
4 in excess of the amount paid as Medicaid benefits under
5 alternative theories of liability in conjunction with an
6 action filed pursuant to this section.

7 (7) The department shall recover the full amount of
8 all medical assistance provided by Medicaid on behalf of the
9 recipient to the full extent of third-party benefits.

10 (a) Recovery of such benefits shall be collected
11 directly from:

12 1. Any third party;

13 2. The recipient or legal representative, if he or she
14 has received third-party benefits;

15 3. The provider of a recipient's medical services if
16 third-party benefits have been recovered by the provider;
17 notwithstanding any provision of this section, to the
18 contrary, however, no provider shall be required to refund or
19 pay to the department any amount in excess of the actual
20 third-party benefits received by the provider from a
21 third-party payor for medical services provided to the
22 recipient; or

23 4. Any person who has received the third-party
24 benefits.

25 (b) Upon receipt of any recovery or other collection
26 pursuant to this section, the department shall distribute the
27 amount collected as follows:

28 1. To itself, an amount equal to the state Medicaid
29 expenditures for the recipient plus any incentive payment made
30 in accordance with paragraph (14)(a).

31 2. To the Federal Government, the federal share of the

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1 state Medicaid expenditures minus any incentive payment made
2 in accordance with paragraph (14)(a) and federal law, and
3 minus any other amount permitted by federal law to be
4 deducted.

5 3. To the recipient, after deducting any known amounts
6 owed to the department for any related medical assistance or
7 to health care providers, any remaining amount. This amount
8 shall be treated as income or resources in determining
9 eligibility for Medicaid.

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11 The provisions of this subsection do not apply to any proceeds
12 received by the state, or any agency thereof, pursuant to a
13 final order, judgment, or settlement agreement, in any matter
14 in which the state asserts claims brought on its own behalf,
15 and not as a subrogee of a recipient, or under other theories
16 of liability. The provisions of this subsection do not apply
17 to any proceeds received by the state, or an agency thereof,
18 pursuant to a final order, judgment, or settlement agreement,
19 in any matter in which the state asserted both claims as a
20 subrogee and additional claims, except as to those sums
21 specifically identified in the final order, judgment, or
22 settlement agreement as reimbursements to the recipient as
23 expenditures for the named recipient on the subrogation claim.

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25 Section 10. The amendments to section 409.910, Florida
26 Statutes, 1998 Supplement, made by this act are intended to
27 clarify existing law and are remedial in nature. As such,
28 they are specifically made retroactive to October 1, 1990, and
29 shall apply to all causes of action arising on or after
30 October 1, 1990.

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(Redesignate subsequent sections.)

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 2, line 15, after the semicolon

4

5 insert:

6 amending s. 409.910, F.S.; clarifying that the

7 state may recover and retain damages in excess

8 of Medicaid payments made under certain

9 circumstances; providing for retroactive

10 application;

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