

By Senator Passidomo

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1                   A bill to be entitled  
2           An act relating to damages recoverable for the cost of  
3           medical or health care services; creating s. 768.755,  
4           F.S.; providing for the calculation of an award of  
5           damages for certain medical or health care services  
6           paid or owed by a claimant or a governmental or  
7           commercial insurance payor; providing that individual  
8           contracts between providers and licensed commercial  
9           insurers or licensed health maintenance organizations  
10          are not subject to discovery or disclosure and are not  
11          admissible into evidence in certain actions; providing  
12          that the amount of a lien or subrogation claim  
13          asserted by Medicaid, Medicare, or a payor regulated  
14          under the Florida Insurance Code for certain past  
15          medical expenses, in addition to the amount of  
16          copayments or deductibles payable by the claimant, is  
17          the maximum amount recoverable and admissible into  
18          evidence under certain circumstances; providing  
19          applicability; providing a directive to the Division  
20          of Law Revision and Information; providing an  
21          effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

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25           Section 1. Section 768.755, Florida Statutes, is created to  
26 read:

27           768.755 Damages recoverable for cost of medical or health  
28 care services; evidence of amount of damages; applicability.-

29           (1) In any personal injury or wrongful death action to  
30 which this part applies, damages for the cost of medical or  
31 health care services provided to a claimant shall be calculated  
32 as follows:

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33       (a) For medical or health care services provided by a  
34 health care provider to the claimant which the claimant paid for  
35 and for which an outstanding balance is not due the provider,  
36 the actual amount remitted to the provider is the maximum amount  
37 recoverable. Any difference between the amount originally billed  
38 by the provider and the actual amount remitted to the provider  
39 is not recoverable or admissible into evidence.

40       (b) For medical or health care services provided by a  
41 health care provider to the claimant which a governmental or  
42 commercial insurance payor paid for and for which an outstanding  
43 balance is not due the provider, other than a copay or  
44 deductible owed by the claimant, the sum of the actual amount  
45 remitted to the provider by the governmental or commercial  
46 insurance payor and any copay or deductible owed by the claimant  
47 is the maximum amount recoverable. Any difference between the  
48 amount originally billed by the provider and the actual amount  
49 remitted to the provider or due from the claimant for a copay or  
50 deductible is not recoverable or admissible into evidence.

51       (c) For medical or health care services provided to the  
52 claimant for which an outstanding balance is claimed to be due  
53 the provider and for claims asserted for medical or health care  
54 services to be provided to the claimant in the future, the  
55 maximum amounts recoverable are the amounts customarily accepted  
56 from Medicaid in payment for such services by other providers in  
57 the same geographic area. This limitation also applies to any  
58 lien asserted in the action for such services, with the  
59 exception of liens identified in subsection (3).

60       (2) Individual contracts between providers and licensed  
61 commercial insurers or licensed health maintenance organizations

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62 are not subject to discovery or disclosure in an action under  
63 this part, and such information is not admissible into evidence  
64 in an action to which this section applies.

65 (3) Notwithstanding this section, if Medicaid, Medicare, or  
66 a payor regulated under the Florida Insurance Code has covered  
67 or is covering the cost of a claimant's medical or health care  
68 services and has given notice of assertion of a lien or  
69 subrogation claim for past medical expenses in the action, the  
70 amount of the lien or subrogation claim, in addition to the  
71 amount of any copayment or deductible paid or payable by the  
72 claimant, is the maximum amount recoverable and admissible into  
73 evidence with respect to the covered medical or health care  
74 services.

75 (4) This section applies only to those actions for personal  
76 injury or wrongful death to which this part applies arising on  
77 or after the effective date of this act. This section has no  
78 other application or effect regarding compensation paid to  
79 providers of medical or health care services.

80 Section 2. The Division of Law Revision and Information is  
81 directed to replace the phrase "the effective date of this act"  
82 wherever it occurs in this act with the date the act becomes a  
83 law.

84 Section 3. This act shall take effect upon becoming a law.