

ASSEMBLY BILL

No. 2491

Introduced by Assembly Member Adams

February 19, 2010

An act to add Section 3041 to the Civil Code, relating to medical liens.

LEGISLATIVE COUNSEL'S DIGEST

AB 2491, as introduced, Adams. Medical liens.

Existing law provides, other things being equal, different liens upon the same property have priority according to the time of their creation, except as specified.

Under existing law, a hospital and any hospital affiliated health facility that furnishes emergency and ongoing medical or other services to the victim of an accident or negligent or other wrongful conduct have a lien upon any damages recovered by the victim against a 3rd party in the amount of the services provided. Existing law provides that, if prescribed notice of the lien is given to the persons known to the hospital and alleged to be liable on the claim, any person so notified who is liable on the claim and who makes payment on the claim to the injured person or his or her attorney or representative without paying the lienholder is liable to the hospital for the amount of the lien, as specified.

Under existing law, a county that furnishes hospital, medical, surgical, or dental care and treatment to a person who is injured or suffers a disease, under circumstances creating a tort liability upon a 3rd party to pay damages, has the right to recover the reasonable value of the care and treatment provided from the 3rd party, including a first lien against any judgment recovered by the injured or diseased person against the

3rd party to the extent of the reasonable value of the care and treatment provided, as specified.

Existing law provides that the Director of Health Care Services has a right to recover the reasonable value of benefits provided to a beneficiary because of an injury for which a 3rd party or an insurance carrier is liable. Subject to the director’s prior right of recovery and first lien, a medical care provider who has rendered services to the beneficiary and who has received payment under the Medi-Cal program is entitled to file a 2nd lien for services provided against any judgment, award, or settlement obtained by the beneficiary or director against the 3rd party, as specified. The liens of the director and any provider are payable after payment of litigation expenses and attorney’s fees.

Existing law provides that no lien asserted by a licensee of the Department of Managed Health Care or the Department of Insurance, and no lien of a medical group or an independent practice association, to the extent it asserts or enforces a lien, for the recovery of money paid or payable to or on behalf of an enrollee or insured for medical services provided under a health care service plan contract or disability insurance policy, may exceed specified amounts.

This bill would provide that the provider of any medical care or services to an injured party shall have an implied lien upon any damages recovered by that person by judgment, settlement, or compromise in the amount of the reasonable charges of the provider for that care or services, if the attorney for the injured party submits a claim for settlement purposes to an insurance company for that medical care or services on behalf of the injured party. The implied lien would be limited in application to only the attorney, and would not apply as to the insurance company.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 3041 is added to the Civil Code, to read:
- 2 3041. The provider of any medical care or services to an injured
- 3 party shall have an implied lien upon any damages recovered by
- 4 that person by judgment, settlement, or compromise in the amount
- 5 of the reasonable charges of the provider for that care or services,
- 6 if the attorney for the injured party submits a claim for settlement
- 7 purposes to an insurance company for that medical care or services

- 1 on behalf of the injured party. The implied lien shall apply as to
- 2 only the attorney, and not as to the insurance company.

O