

2020 Regular Session

HOUSE BILL NO. 790

BY REPRESENTATIVE DAVIS

CIVIL/DAMAGES: Provides relative to the payment of certain expenses

1 AN ACT

2 To enact Code of Evidence Article 607(E), R.S. 9:2800.25, and R.S. 13:4212, relative to the
3 payment of certain expenses in a personal injury claim; to require a testifying
4 medical professional to submit evidence of certain amounts received; to provide for
5 the payment of medical expenses; to require a claimant to present invoices for
6 outstanding medical and related expenses; to provide for the payment of future
7 medical and related expenses; to require the use of a reversionary trust in certain
8 circumstances; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Evidence Article 607(E) is hereby enacted to read as follows:

11 Art. 607. Attacking and supporting credibility generally

12 * * *

13 E.(1) In a personal injury claim, a healthcare provider, as defined in Article
14 510, offering evidence on the injuries or required treatment of an injured party shall
15 submit the following into evidence:

16 (a) The amount of any payment anticipated or received on behalf of the
17 injured party for services rendered or testimony provided.

18 (b) The total amount of payments received in the previous four years for
19 testimony provided or services rendered to a party involved in a personal injury case
20 wherein the healthcare provider testified.

1 (2) For purposes of this Paragraph, any payment received by an entity in
2 which an individual healthcare provider has an ownership interest shall be deemed
3 to have been received fully by the healthcare provider individually.

4 Section 2. R.S. 9:2800.25 is hereby enacted to read as follows:

5 §2800.25. Payment of medical expenses; personal injury; liability

6 A. When an injured person makes written demand on another seeking
7 reimbursement of medical and related expenses incurred due to personal injury, the
8 injured person shall present to the person upon whom demand is made all invoices
9 for medical and related expenses received or outstanding on or after the date demand
10 is made. The adverse party may make payment directly to the invoicing medical
11 provider within sixty days of the receipt of the invoice. If the adverse party does not
12 make payment within sixty days, the injured person may thereafter make payment.

13 B. Any payment made pursuant to this Section shall not be an admission of
14 liability.

15 Section 3. R.S. 13:4212 is hereby enacted to read as follows:

16 §4212. Reversionary trust

17 A. If a party is held liable for damages for personal injury and the court
18 determines that the claimant is in need of future medical and related benefits in the
19 amount of at least fifty thousand dollars, the court shall order that the amount due for
20 future medical care and related benefits be paid through a reversionary medical trust.

21 B. The trust shall be established by the liable party and administered for the
22 benefit of claimants entitled to medical care and related benefits that may be incurred
23 subsequent to judgment. Amounts due for medical care and related benefits shall be
24 paid from the reversionary medical trust directly to the provider as they are incurred.
25 In submitting requests for payment, the claimant shall submit the original invoices.

26 C. The trustee shall review all invoices received for future medical care and
27 related benefits, prepare vouchers or warrants, and evaluate and settle claims related
28 to the payment of future medical care and related benefits. The trustee shall have the
29 same fiduciary duties as imposed upon a trustee by the Louisiana Trust Code.

1 D. Upon the death of the claimant or upon the termination of the trust as
2 provided in the trust instrument, any funds remaining in the reversionary trust shall
3 revert to the party that established the trust.

4 E. No provision of this Section shall limit the rights of claimants to contract
5 with respect to attorney fees and costs.

6 F. "Reversionary medical trust" means a trust established for the exclusive
7 benefit of the claimant to pay the medical care and related benefits as they accrue,
8 including without limitation reasonable and necessary amounts for all diagnosis,
9 cure, mitigation, or treatment of any disease or condition from which the injured
10 person suffers as a result of the injuries, and the sequelae thereof, sustained by the
11 claimant on the date the injury was sustained.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 790 Original

2020 Regular Session

Davis

Abstract: Requires testifying healthcare providers to submit evidence of amounts received in payment of services rendered or testimony provided, requires a claimant to submit invoices for medical expenses to an adverse party for payment at the adverse party's discretion, and requires the use of a reversionary medical trust for the payment of future medical expenses in excess of \$50,000.

Payments received by a healthcare provider

Proposed law requires that in a personal injury claim, a healthcare provider offering evidence on the injuries or required treatment of an injured party submit into evidence the amount of any payment anticipated or received on behalf of the injured party for services rendered or testimony provided and the total amount of payments received in the previous four years for testimony provided or services rendered to a party involved in a personal injury case wherein the healthcare provider testified.

Proposed law further provides that any payment received by an entity in which an individual healthcare provider has an ownership interest shall be deemed to have been received fully by the healthcare provider individually.

Payment of medical expenses by an adverse party

Proposed law provides that when an injured person makes written demand on another seeking reimbursement of medical and related expenses incurred due to personal injury, the injured person shall present all invoices for medical and related expenses received or outstanding on or after the date demand is made.

Proposed law allows the adverse party to make payment directly to the invoicing medical provider within 60 days of the receipt of the invoice. If the adverse party does not make payment within 60 days, the injured person may thereafter make payment.

Proposed law further provides that any payment made by the adverse party shall not be an admission of liability.

Reversionary medical trust

Proposed law requires the use of a reversionary medical trust for the payment of future medical and related expenses in the amount of \$50,000 or greater. Proposed law defines "reversionary medical trust."

Proposed law requires that the liable party establish the trust and the claimant shall submit original invoices, which the trustee shall review for payment. The trustee shall also prepare vouchers or warrants and evaluate and settle claims related to the payment of future medical care and related benefits. The trustee shall have the same fiduciary duties as imposed upon a trustee by the Louisiana Trust Code.

Proposed law provides that upon the death of the claimant or upon the termination of the trust as provided in the trust instrument, any funds remaining in the reversionary trust shall revert to the party that established the trust.

Proposed law does not limit a claimant's ability to contract with respect to attorney fees and costs.

(Adds C.E. Art. 607(E) and R.S. 9:2800.25, and R.S. 13:4212)