

2022 Regular Session

HOUSE BILL NO. 896

BY REPRESENTATIVE MCFARLAND

CIVIL/DAMAGES: Provides for limitations on recoverable past medical expenses

1 AN ACT

2 To amend and reenact R.S. 9:2800.27(B), (C), (D), and (G), relative to recoverable past
3 medical expenses; to provide for amounts payable by insurance, Medicare, or
4 Medicaid; to provide for exemptions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:2800.27(B), (C), (D), and (G) are hereby amended and reenacted
7 to read as follows:

8 §2800.27. Recoverable past medical expenses; collateral sources; limitations;
9 evidence

10 * * *

11 B. In cases where a claimant's medical expenses have been paid or are
12 payable, in whole or in part, by a health insurance issuer or Medicare to a contracted
13 medical provider, the claimant's recovery of medical expenses is limited to the
14 amount actually paid or payable to the contracted medical provider by the health
15 insurance issuer or Medicare, and any applicable cost sharing amounts paid or owed
16 by the claimant, and not the amount billed, regardless of whether the claimant elects
17 to use health insurance or Medicare to pay the medical expenses. The court shall
18 award to the claimant forty percent of the difference between the amount billed and
19 the amount actually paid or payable to the contracted medical provider by a health
20 insurance issuer or Medicare in consideration of the claimant's cost of procurement,

1 provided that this amount shall be reduced if the defendant proves that the recovery
2 of the cost of procurement would make the award unreasonable. The determination
3 of this award shall be made only in accordance with the provisions of Subsection F
4 of this Section.

5 C. In cases where a claimant's medical expenses have been paid or are
6 payable, in whole or in part, by Medicaid to a medical provider, the claimant's
7 recovery of medical expenses actually paid or payable by Medicaid is limited to the
8 amount actually paid or payable to the medical provider by Medicaid, and any
9 applicable cost sharing amounts paid or owed by the claimant, and not the amount
10 billed, regardless of whether the claimant elects to use Medicaid to pay the medical
11 expenses.

12 D.(1) The recovery of past medical expenses other than those provided by
13 Subsection B or C of this Section shall be limited to amounts paid to a medical
14 provider by or on behalf of the claimant, and amounts remaining owed to a medical
15 provider, including medical expenses secured by a contractual or statutory privilege,
16 lien, or guarantee. The determination of this award shall be made only in accordance
17 with Subsection F of this Section.

18 (2) The provisions of this Subsection shall apply in every instance regardless
19 of how medical expenses are initially paid and regardless of whether or not such
20 expenses can be considered a debt owed to or owned by any party or third party.

21 * * *

22 G. This Section shall not apply in cases brought pursuant to R.S. 40:1231.1
23 et seq., or R.S. 40:1237.1 et seq., or R.S. 13:5101 et seq.

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 896 Original 2022 Regular Session McFarland

Abstract: Revises the collateral source provisions to include amounts payable by insurance, Medicare, or Medicaid and eliminates the exception for claims brought against the state.

Present law provides that in cases where a claimant's medical expenses have been paid, in whole or in part, by a health insurance issuer or Medicare to a medical provider, the claimant's recovery of medical expenses is limited to the amount actually paid to the medical provider by health insurance or Medicare, and any applicable cost sharing amounts paid or owed by the claimant, and not the amount billed.

Proposed law provides that the claimant's recovery of medical expenses is limited to the amount actually paid or payable by health insurance or Medicare, regardless of whether the claimant elects to use health insurance or Medicare to pay the medical expenses, and any applicable cost sharing amounts paid or owed by the claimant.

Present law provides the court shall award to the claimant 40% of the difference between the amount billed and the amount actually paid by health insurance or Medicare in consideration of the claimant's cost of procurement.

Proposed law provides that the claimant shall be awarded 40% of the difference between the amount billed and the amount actually paid or payable by health insurance or Medicare.

Present law provides that in cases where a claimant's medical expenses have been paid, in whole or in part, by Medicaid to a medical provider, the claimant's recovery of medical expenses paid by Medicaid is limited to the amount actually paid to the medical provider by Medicaid, and any applicable cost sharing amounts paid or owed by the claimant, and not the amount billed.

Proposed law provides that the claimant's recovery is limited to the amount actually paid or payable by Medicaid and any applicable cost sharing amounts paid or owed by the claimant, regardless of whether the claimant elects to use Medicaid to pay the medical expenses.

Present law provides that the recovery of other past medical expenses shall be limited to amounts paid to a medical provider by or on behalf of the claimant, and amounts remaining owed to a medical provider, including medical expenses secured by a contractual or statutory privilege, lien, or guarantee.

Proposed law provides that present law shall apply in every instance regardless of how medical expenses are initially paid and regardless of whether or not such expenses can be considered a debt owed to or owned by any party or third party.

Present law provisions regarding recoverable past medical expenses do not apply in medical malpractice claims or in suits against the state, state agencies, or political subdivisions.

Proposed law repeals present law exception for suits against the state, state agencies, or political subdivisions.

(Amends R.S. 9:2800.27(B), (C), (D), and (G))