

2020 Regular Session

HOUSE BILL NO. 287

BY REPRESENTATIVE MCFARLAND

INSURANCE: Provides relative to the collateral source rule

1 AN ACT

2 To amend and reenact Code of Evidence Article 409 and to enact R.S. 9:2800.25, relative
3 to compensation for certain medical expenses; to provide for the admissibility of
4 evidence; to provide for definitions; to provide for the recovery of medical expenses
5 as damages in civil litigation; to provide for limitations in the amount of the medical
6 expenses recoverable; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Evidence Article 409 is hereby amended and reenacted to read
9 as follows:

10 Art. 409. Payment of medical and similar expenses

11 In a civil case, evidence of furnishing or offering or promising to pay
12 expenses or losses occasioned by an injury to person or damage to property is not
13 admissible to prove liability for the injury or damage nor is it admissible to mitigate,
14 reduce, or avoid liability therefor, except as provided in R.S. 9:2800.25. This Article
15 does not require the exclusion of such evidence when it is offered solely for another
16 purpose, such as to enforce a contract for payment.

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

18 §2800.25. Recoverable medical expenses; collateral sources; limitations

19 A.(1) For the purposes of this Section, "health insurance" means any health
20 insurer, health maintenance organization, employer-sponsored health plan, workers
21 compensation, Medicare, or Medicaid.

1 (2) For the purposes of this Section, "health insurer" means any provider of
2 "health insurance" as defined in Paragraph (1) of this Subsection.

3 B. Reductions in medical bills based upon the write-offs or write-downs by
4 any health insurer are not collateral sources and are not recoverable as damages in
5 civil litigation. In cases where a plaintiff's medical expenses have been paid by
6 health insurance, the plaintiff's recovery of medical expenses is limited to the amount
7 actually paid to the healthcare provider by the health insurer and not the amount
8 billed.

9 C. If a plaintiff does not submit medical bills to an available health insurer
10 for payment, plaintiff's recovery is limited to the amount that would have been paid
11 by the health insurer had the medical bills been submitted to the health insurer for
12 payment.

13 D.(1) In all personal injury accident cases, healthcare providers shall accept
14 reasonable medical expense reimbursement or any amount collectible from plaintiff's
15 health insurance coverage as payment in full for any accident-related medical
16 expense.

17 (2) For the purpose of Paragraph (1) of this Subsection, "reasonable medical
18 expense" means no more than one hundred forty percent of the Medicare
19 reimbursement rate for non-hospital services and two hundred percent of the
20 Medicare reimbursement rate for hospital charges.

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 287 Original

2020 Regular Session

McFarland

Abstract: Provides for limitations of recovery for medical expenses paid by certain collateral sources.

Present law provides that evidence of furnishing or offering to pay expenses is not admissible to mitigate, reduce, or avoid liability.

Proposed law (C.E. Art. 409) allows payment from collateral sources as defined in proposed law (R.S. 9:2800.25) to be admissible.

Proposed law (R.S. 9:2800.25) provides that write-offs or write-downs by any health insurer are not collateral sources and not recoverable.

Proposed law limits recovery for plaintiffs who do not submit medical bills to a health insurer to what the amount paid by the health insurer would have been.

Proposed law requires that in personal injury accident cases, healthcare providers shall accept reasonable medical expense reimbursement, including no more than 140% of the Medicare reimbursement rate for non-hospital charges and 200% of the Medicare reimbursement rate for hospital charges.

(Amends C.E. 409; Adds R.S. 9:2800.25)