

2025 Regular Session

SENATE BILL NO. 231

BY SENATOR REESE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL PROCEDURE. Provides for recoverable medical expenses. (1/1/26)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 9:2800.27, relative to civil actions; to provide relative to recoverable medical expenses; to provide relative to the amount billed and the amount paid in certain circumstances; to provide relative to the calculation of certain damages; to provide relative to admissible evidence; to provide relative to certain definitions; to provide relative to obtaining discovery in certain circumstances; to provide relative to admissibility of evidence; to provide relative to automobile liability insurance that provides for medical payments coverage; to provide relative to attorney-negotiated write-offs or discounts for medical expenses; to provide relative to write-offs or discounts provided by a medical provider; to provide related to consideration; to provide relative to attorney fees; to provide for prospective application; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2800.27 is hereby amended and reenacted to read as follows:

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

A. For the purpose of this Section:

1 (1) "Contracted medical provider" means any in-network medical provider
2 that has entered into a contract or agreement directly with a health insurance issuer
3 or with a health insurance issuer through a network of providers for the provision of
4 covered healthcare services at a pre-negotiated rate, or any medical provider that has
5 billed and received payment for covered healthcare services from Medicare when the
6 provider is a participating provider in those programs.

7 ~~(2) "Cost of procurement" means the cost paid by or on behalf of the claimant~~
8 ~~to procure the benefit paid by a health insurance issuer or Medicare and the cost of~~
9 ~~procurement of the award of medical expenses, including but not limited to~~
10 ~~contracted attorney fees and health insurance premiums paid.~~

11 ~~(3)~~**(2)** "Cost sharing" means copayments, coinsurance, deductibles, and any
12 other amounts which have been paid or are owed by the claimant to a medical
13 provider.

14 ~~(4)~~**(3)** "Health insurance issuer" means any health insurance coverage through
15 a policy or certificate of insurance subject to regulation of insurance under state law,
16 a health maintenance organization, an employer-sponsored health plan, the Office
17 of Group Benefits, or an equivalent federal or state health plan.

18 ~~(5)~~**(4)** "Medical provider" means any healthcare provider, hospital,
19 ambulance service, or their heirs or assignees.

20 B. In cases where a claimant's medical expenses have been paid, in whole or
21 in part, by a health insurance issuer or Medicare to a contracted medical provider,
22 the claimant's recovery of medical expenses is limited to the amount actually paid
23 to the contracted medical provider by the health insurance issuer or Medicare, and
24 any applicable cost sharing amounts paid or owed by the claimant, and not the
25 amount billed. ~~The court shall award to the claimant forty percent of the difference~~
26 ~~between the amount billed and the amount actually paid to the contracted medical~~
27 ~~provider by a health insurance issuer or Medicare in consideration of the claimant's~~
28 ~~cost of procurement, provided that this amount shall be reduced if the defendant~~
29 ~~proves that the recovery of the cost of procurement would make the award~~

1 ~~unreasonable. The determination of this award shall be made only in accordance with~~
2 ~~the provisions of Subsection F of this Section.~~

3 C. In cases where a claimant's medical expenses have been paid, in whole or
4 in part, by Medicaid to a medical provider, the claimant's recovery of medical
5 expenses actually paid by Medicaid is limited to the amount actually paid to the
6 medical provider by Medicaid, and any applicable cost sharing amounts paid or
7 owed by the claimant, and not the amount billed.

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

14 ~~E.~~D. In cases where a claimant's medical expenses are paid pursuant to the
15 Louisiana Workers' Compensation Law as provided in R.S. 23:1020.1 et seq., a
16 claimant's recovery of medical expenses is limited to the amount paid under the
17 medical payment fee schedule of the Louisiana Workers' Compensation Law.

18 **E. In a trial to recover past medical expenses provided by Subsections B,**
19 **C, or D of this Section, the trier of fact shall be informed of the amounts billed**
20 **and amounts actually paid for medical expenses that have been incurred by the**
21 **claimant.**

22 ~~F. In a jury trial, only after a jury verdict is rendered may the court receive~~
23 ~~evidence related to the limitations of recoverable past medical expenses provided by~~
24 ~~Subsection B or D of this Section. The jury shall be informed only of the amount~~
25 ~~billed by a medical provider for medical treatment. Whether any person, health~~
26 ~~insurance issuer, or Medicare has paid or has agreed to pay, in whole or in part, any~~
27 ~~of a claimant's medical expenses, shall not be disclosed to the jury. In trial to the~~
28 ~~court alone, the court may consider such evidence. **The recovery of past medical**~~
29 **expenses other than those provided by Subsections B or C of this Section shall**

1 include the amounts paid to a medical provider by or on behalf of the claimant,
 2 and the amounts remaining owed to a medical provider, including medical
 3 expenses secured by a contractual or statutory privilege, lien, or guarantee.

4 G. In cases where the attorney for the claimant has entered into a
 5 pre-negotiated agreement with a medical provider of the claimant whereby the
 6 medical provider has agreed to accept as full compensation an amount less than
 7 the amount billed, a claimant's recovery of medical expenses shall be limited to
 8 the amount actually paid pursuant to the pre-negotiated agreement, and any
 9 applicable cost sharing amounts paid or owed by the claimant.

10 ~~G.H.~~ This Section shall not apply in cases brought pursuant to R.S. 40:1231.1
 11 et seq., ~~or~~ 1237.1 et seq., or to any benefits received by a party through a policy
 12 of automobile liability insurance that provides for medical payments coverage.

13 Section 2. The provisions of this Act shall have prospective application only and
 14 shall not apply to causes of action filed prior to the effective date of this Act.

15 Section 3. The provisions of this Act shall become effective on January 1, 2026.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, 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)]

DIGEST

SB 231 Reengrossed

2025 Regular Session

Reese

Present law (R.S. 9:2800.27) provides that certain medical expenses are recoverable and provides limitation on admissibility of evidence related to recoverable past medical expenses.

Present law defines "contracted medical provider", "cost of procurement", "cost sharing", "health insurance issuer", and "medical provider".

Proposed law retains present law, but removes the definition of "cost of procurement".

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 contracted medical provider, the claimant's recovery of medical expenses is limited to the amount actually paid to the contracted medical provider by the health insurance issuer or Medicare, and any applicable cost sharing amounts paid or owed by the claimant, and not the amount billed.

Proposed law retains present law.

Present law provides that the court shall award to the claimant 40% of the difference between the amount billed and the amount actually paid to the contracted medical provider

by a health insurance issuer or Medicare in consideration of the claimant's cost of procurement, provided that this amount shall be reduced if the defendant proves that the recovery of the cost of procurement would make the award unreasonable. Provides that the determination of this award shall be made only as provided by present law.

Proposed law repeals present law.

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 actually 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 retains present law.

Present law provides that the recovery of past medical expenses other than those provided by present law 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. Present law provides that the determination of the award shall be made only in accordance with present law.

Proposed law repeals present law.

Present law provides that in cases where a claimant's medical expenses are paid pursuant to the Louisiana Workers' Compensation Law as provided in present law, a claimant's recovery of medical expenses is limited to the amount paid under the medical payment fee schedule of present law.

Proposed law retains present law.

Present law provides that in a jury trial, only after a jury verdict is rendered may the court receive evidence related to the limitations of recoverable past medical expenses provided by present law. Present law further provides that the jury shall be informed only of the amount billed by a medical provider for medical treatment. Present law provides that whether any person, health insurance issuer, or Medicare has paid or has agreed to pay, in whole or in part, any of a claimant's medical expenses, shall not be disclosed to the jury, but that in trial to the court alone, the court may consider such evidence.

Proposed law repeals present law.

Proposed law provides that in a trial to recover past medical expenses provided by proposed law, the trier of fact shall be informed of the amounts billed and amounts actually paid for medical expenses that have been incurred by the claimant.

Proposed law provides that the recovery of past medical expenses other than those provided by proposed law shall include the amounts paid to a medical provider by or on behalf of the claimant, and the amounts remaining owed to a medical provider, including medical expenses secured by a contractual or statutory privilege, lien, or guarantee.

Proposed law provides that in cases where the attorney for the claimant has entered into a pre-negotiated agreement with a medical provider of the claimant whereby the medical provider has agreed to accept as full compensation an amount less than the amount billed, a claimant's recovery of medical expenses shall be limited to the amount actually paid pursuant to the pre-negotiated agreement, and any applicable cost sharing amounts paid or owed by the claimant.

Present law provides that present law shall not apply in cases brought pursuant to present law (Medical Malpractice and Malpractice Liability for State Services).

Proposed law retains present law and adds that proposed law shall not apply to any benefits received by a party through a policy of automobile liability insurance that provides for medical payments coverage.

Proposed law provides that the provisions of proposed law shall have prospective application only and shall not apply to causes of action filed prior to the effective date of proposed law.

Effective on January 1, 2026.

(Amends R.S. 9:2800.27)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Makes technical changes.
2. Defines "health care provider" and "health insurance coverage".
3. Decreases the amount the court shall award to the claimant from 40% to 30% of the difference between the amount billed and the amount actually paid to the contracted medical provider.
4. Provides that the determination of the award of recoverable past medical expenses in certain circumstances, shall be limited to amounts paid to a medical provider on behalf of the claimant, and amounts remaining owed to a medical provider shall not exceed 300% of the Medicare fee schedule for services.
5. Specifies that the recovery of medical expenses by a claimant shall not include attorney-negotiated write-offs or discounts for medical expenses obtained as a product of the litigation process.
6. Specifies that attorney fees paid by the claimant to recover medical expenses shall not be deemed consideration that diminishes a claimant's patrimony.
7. Provides that the proposed law does not apply to any benefits received through automobile liability insurance that provides for medical payments coverage.

Senate Floor Amendments to engrossed bill

1. Removes from present law the definition of "cost of procurement".
2. Removes proposed new definitions of "health care provider" and "health insurance coverage".
3. Removes present law providing that the court shall award to the claimant 40% of the difference between the amount billed and the amount actually paid to the contracted medical provider by a health insurance issuer or Medicare in consideration of the claimant's cost of procurement, provided that this amount shall be reduced if the defendant proves that the recovery of the cost of procurement would make the award unreasonable.
4. Removes present law providing that recovery of past medical expenses other than those provided in current law 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.

5. Removes present law providing that in a jury trial, only after a jury verdict is rendered may the court receive evidence related to the limitations of recoverable past medical expenses provided by present law. Removes present law providing that the jury shall be informed only of the amount billed by a medical provider for medical treatment, and that whether any person, health insurance issuer, or Medicare has paid or has agreed to pay, in whole or in part, any of a claimant's medical expenses, shall not be disclosed to the jury.
6. Removes proposed law that would have provided that the recovery of medical expenses by a claimant shall not include attorney-negotiated write-offs or discounts for medical expenses obtained as a product of the litigation process. Removes proposed law providing that attorney fees paid by the claimant to recover medical expenses shall not be deemed consideration that diminishes a claimant's patrimony.
7. Adds that in a trial to recover past medical expenses as provided in proposed law, the trier of fact shall be informed of the amounts billed and amounts actually paid for medical expenses that have been incurred by the claimant.
8. Adds that the recovery of past medical expenses other than those provided in proposed law shall include the amounts paid to a medical provider by or on behalf of the claimant, and the amounts remaining owed to a medical provider, including medical expenses secured by a contractual or statutory privilege, lien, or guarantee.
9. Adds that in cases where the attorney for the claimant has entered into a pre-negotiated agreement with a medical provider of the claimant whereby the medical provider has agreed to accept as full compensation an amount less than the amount billed, a claimant's recovery of medical expenses shall be limited to the amount actually paid pursuant to the pre-negotiated agreement, and any applicable cost sharing amounts paid or owed by the claimant.