

HOUSE BILL 91

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HB 927/98 - JUD

1999 Regular Session
9lr0961
CF 9lr1797

By: **Delegates Dembrow and Flanagan**
Introduced and read first time: January 22, 1999
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 2, 1999

CHAPTER _____

1 AN ACT concerning

2 **Personal Injury Claims - Subrogation - Reduction**

3 FOR the purpose of requiring that the amount for which certain persons have a right
4 of subrogation for health care benefits or services paid or payable on behalf of an
5 injured person be reduced by a certain amount related to the amount of
6 attorney's fees incurred by the injured person in a personal injury claim under
7 certain circumstances; specifying that a payor has no obligation to advise the
8 injured person of the right to a certain reduction of a subrogation claim;
9 requiring an injured person to provide a certain certification concerning
10 attorney's fees incurred by the injured person under certain circumstances;
11 providing for the application of this Act; defining a certain term; and generally
12 relating to a requirement that the amount of a person's right of subrogation for
13 health care benefits or services paid or payable to an injured person be reduced
14 under certain circumstances.

15 BY adding to
16 Article - Courts and Judicial Proceedings
17 Section 11-112
18 Annotated Code of Maryland
19 (1998 Replacement Volume)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 11-112.

3 (A) IN THIS SECTION, "PAYOR" HAS THE SAME MEANING STATED IN § 19-1501
4 OF THE HEALTH - GENERAL ARTICLE.5 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS
6 SECTION APPLIES TO ANY RIGHT OF SUBROGATION UNDER A CONTRACT OR
7 APPLICABLE LAW FOR PAYMENT OF HEALTH CARE BENEFITS OR SERVICES FOR AN
8 INJURED PERSON PAID OR PAYABLE BY A PAYOR UNDER A POLICY OF HEALTH
9 INSURANCE, AS DEFINED IN § 1-101 OF THE INSURANCE ARTICLE, OR UNDER ANY
10 SYSTEM OF SELF-INSURANCE OR INDEMNIFICATION FOR HEALTH CARE EXPENSES,
11 IF THE AMOUNT OF THE SUBROGEE'S CLAIM AS DETERMINED UNDER SUBSECTION
12 (C) OF THIS SECTION IS VOLUNTARILY PAID BY THE INJURED PERSON FROM THE
13 INJURED PERSON'S RECOVERY IN A CLAIM FOR PERSONAL INJURY.14 (2) THIS SECTION DOES NOT APPLY TO A VOLUNTARY REDUCTION OF A
15 SUBROGATION CLAIM BY A PAYOR THAT EXCEEDS THE REDUCTION OF THE
16 SUBROGATION CLAIM DESCRIBED IN SUBSECTION (C) OF THIS SECTION.17 (C) (1) ~~UNLESS A SUBROGEE APPEARS, IN PERSON OR BY ITS ATTORNEY, IN~~
18 ~~AN ACTION FOR PERSONAL INJURY, IN A SUBROGATION CLAIM ARISING OUT OF A~~
19 ~~CLAIM FOR PERSONAL INJURY, THE AMOUNT PERMITTED TO BE RECOVERED BY A~~
20 ~~PAYOR FOR HEALTH CARE BENEFITS OR SERVICES PAID OR PAYABLE ON BEHALF OF~~
21 ~~THE INJURED PERSON SHALL BE REDUCED BY THE AMOUNT THAT IS DETERMINED~~
22 ~~BY:~~23 (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, DIVIDING
24 THE AMOUNT OF THE TOTAL RECOVERY IN THE CLAIM FOR PERSONAL INJURY INTO
25 THE TOTAL AMOUNT OF THE ATTORNEY'S FEES INCURRED BY THE INJURED PERSON
26 FOR SERVICES RENDERED IN CONNECTION WITH THE INJURED PERSON'S CLAIM;
27 AND28 (II) MULTIPLYING THE RESULT UNDER SUBPARAGRAPH (I) OF THIS
29 PARAGRAPH BY THE AMOUNT OF THE PAYOR'S SUBROGATION CLAIM.30 (2) THE PERCENTAGE UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION
31 MAY NOT EXCEED ONE-THIRD.32 (D) A PAYOR HAS NO OBLIGATION TO ADVISE AN INJURED PERSON OR AN
33 ATTORNEY FOR THE INJURED PERSON OF THE INJURED PERSON'S RIGHT TO A
34 REDUCTION OF THE SUBROGATION CLAIM DESCRIBED IN SUBSECTION (C) OF THIS
35 SECTION.36 (E) ON WRITTEN REQUEST BY A PAYOR, AN INJURED PERSON OR AN
37 ATTORNEY FOR THE INJURED PERSON WHO DEMANDS A REDUCTION OF THE
38 SUBROGATION CLAIM DESCRIBED IN SUBSECTION (C) OF THIS SECTION SHALL
39 PROVIDE THE PAYOR WITH A CERTIFICATION BY THE INJURED PERSON THAT
40 STATES THE AMOUNT OF THE ATTORNEY'S FEES INCURRED BY THE INJURED

1 PERSON FOR SERVICES RENDERED IN CONNECTION WITH THE INJURED PERSON'S
2 CLAIM.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
4 construed only prospectively and may not be applied or interpreted to have any effect
5 on or application to any recovery by an injured person before the effective date of this
6 Act.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1999.