

## **IC 12-15-8**

### **Chapter 8. Liens**

#### **IC 12-15-8-1**

##### **Recipient asserting claim against another person for injury or illness resulting from negligence or act of other person; lien against other person; amount of lien**

Sec. 1. Whenever:

- (1) the office pays medical expenses for or on behalf of a person who has been injured or has suffered an illness or a disease as a result of the negligence or act of another person; and
- (2) the injured or diseased person asserts a claim against the other person for damages resulting from the injury, illness, or disease;

on any recovery under the claim, whether by judgment, compromise, or settlement, the office has a lien against the other person in the amount paid by the office to the extent of the other person's liability for the medical expenses.

*As added by P.L.2-1992, SEC.9. Amended by P.L.245-1999, SEC.2.*

#### **IC 12-15-8-2**

##### **Recipient asserting claim against insurer; lien for medical expenses paid or for medical services rendered; amount**

Sec. 2. Whenever:

- (1) the office pays for medical expenses or renders medical services on behalf of a person who has been injured or has suffered an illness or a disease; and
- (2) the person asserts a claim against an insurer as a result of that person's injury, illness, or disease;

the office has a lien against the insurer, to the extent of the amount paid by the office, on any recovery from the insurer.

*As added by P.L.2-1992, SEC.9.*

#### **IC 12-15-8-3**

##### **Perfection of lien**

Sec. 3. A lien under this chapter is not effective unless the office takes the following actions before the party alleged to be liable has concluded a final settlement with the injured, ill, or diseased person or the person's attorney or legal representative as compensation for the person's injury, illness, or disease:

- (1) Filing in the Marion County circuit court a written notice stating the following:
  - (A) Notice of the eligibility of the injured, ill, or diseased person for Medicaid.
  - (B) The name and address of the injured, ill, or diseased person.
  - (C) The name of the person, firm, limited liability company, or corporation alleged to be liable to the injured, ill, or diseased person.

(2) Sending to the person, firm, limited liability company, or corporation alleged to be liable, by registered or certified mail, a copy of the notice required by subdivision (1), with a statement of the date of filing of the notice.

*As added by P.L.2-1992, SEC.9. Amended by P.L.8-1993, SEC.182.*

#### **IC 12-15-8-4**

##### **Notice; person for whom medical expenses paid, insurance carrier, and attorney for injured or diseased person**

Sec. 4. In addition to the requirements of section 3 of this chapter, the office shall send a copy of the notice required by section 3(1) of this chapter to the following persons or entities if the appropriate names and addresses can be determined:

- (1) The injured, ill, or diseased person for whom the office has paid medical expenses.
- (2) An insurance carrier that may be ultimately liable.
- (3) An attorney for the injured or diseased person.

*As added by P.L.2-1992, SEC.9.*

#### **IC 12-15-8-5**

##### **Itemized statement of medical expenses paid; sending statement to person for whom expenses paid and to attorney for injured or diseased person; time**

Sec. 5. Not more than twenty-one (21) days after the filing of the notice required under section 3(1) of this chapter, the office shall send to persons or entities listed in section 4(1) and 4(3) of this chapter an itemized statement of the medical expenses paid by the office for which the office seeks to perfect a lien.

*As added by P.L.2-1992, SEC.9.*

#### **IC 12-15-8-6**

##### **Actions on behalf of injured, ill, or diseased person and to perfect lien; conditions**

Sec. 6. (a) The office may, on behalf of an injured, an ill, or a diseased person and to perfect a lien provided by this chapter, initiate and prosecute an action or a proceeding against a:

- (1) person;
- (2) firm;
- (3) corporation; or
- (4) limited liability company;

who may be liable to the injured, ill, or diseased person.

(b) The office may initiate an action or a proceeding under subsection (a) only if the following occurs:

- (1) The injured, ill, or diseased person has not initiated legal proceedings against the person, firm, limited liability company, or corporation alleged to be liable.
- (2) The time remaining under the statute of limitations for the action or proceeding is not more than six (6) months.

*As added by P.L.2-1992, SEC.9. Amended by P.L.8-1993, SEC.183.*

### **IC 12-15-8-7**

#### **Recovery under lien; payment of pro rata share of costs and expenses incurred in asserting claim**

Sec. 7. If the office recovers money under a lien established by this chapter and the recovery is the result of a claim asserted by an injured, an ill, or a diseased person, the office shall pay the office's pro rata share of all costs and reasonably necessary expenses incurred in asserting the claim, including the following:

- (1) Deposition costs.
- (2) Witness fees.
- (3) Other costs and expenses.

*As added by P.L.2-1992, SEC.9.*

### **IC 12-15-8-8**

#### **Attorney's fees**

Sec. 8. (a) This section does not apply to a lien on a Medicaid recipient's real property under IC 12-15-8.5.

(b) This section applies only to a lien on a recovery under section 1 or section 2 of this chapter.

(c) The office shall pay attorney's fees in the amount of one (1) of the following:

- (1) Twenty-five percent (25%) of the office's recovery under the lien if the claim was collected without initiating legal proceedings.
- (2) Thirty-three and one-third percent (33 1/3%) of the office's recovery under the lien if the claim was collected by initiating legal proceedings.

*As added by P.L.2-1992, SEC.9. Amended by P.L.224-2003, SEC.81; P.L.236-2007, SEC.1.*

### **IC 12-15-8-9**

#### **Waiver of right to lien**

Sec. 9. (a) The office may waive the office's right to assert a lien under this chapter.

(b) If the office does waive the right to a lien, the office is not liable for a pro rata share of costs under section 7 of this chapter.

*As added by P.L.2-1992, SEC.9.*