

IC 32-33-4

Chapter 4. Hospital Liens

IC 32-33-4-1

Lien for services or expenses; exception; entry on judgment docket

Sec. 1. A person, a firm, a partnership, an association, a limited liability company, or a corporation maintaining a hospital in Indiana or a hospital owned, maintained, or operated by the state or a political subdivision of the state is entitled to hold a lien for the reasonable value of its services or expenses on any judgment for personal injuries rendered in favor of any person, except a person covered by:

- (1) the provisions of IC 22-3-2 through IC 22-3-6;
- (2) the federal worker's compensation laws; or
- (3) the federal liability act;

who is admitted to the hospital and receives treatment, care, and maintenance on account of personal injuries received as a result of the negligence of any person or corporation. In order to claim the lien, the hospital must at the time or after the judgment is rendered, enter, in writing, upon the judgment docket where the judgment is recorded, the hospital's intention to hold a lien upon the judgment, together with the amount claimed.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-2

Junior and inferior lien

Sec. 2. The lien provided for in section 1 of this chapter is junior and inferior to all claims for attorney's fees, court costs, and all other expenses contracted for or incurred in the recovery of claims or damages for personal injuries as described in this chapter.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-3

Lien for reasonable and necessary charges upon any claims accruing to patient; scope of lien; allowance to patient

Sec. 3. (a) A person, a firm, a partnership, an association, a limited liability company, or a corporation maintaining a hospital in Indiana or a hospital owned, maintained, or operated by the state or a political subdivision has a lien for all reasonable and necessary charges for hospital care, treatment, and maintenance of a patient (including emergency ambulance services provided by the hospital) upon any cause of action, suit, or claim accruing to the patient, or in the case of the patient's death, the patient's legal representative, because of the illness or injuries that:

- (1) gave rise to the cause of action, suit, or claim; and
- (2) necessitated the hospital care, treatment, and maintenance.

(b) The lien provided for in subsection (a):

- (1) except as provided in subsection (c), applies to any amount obtained or recovered by the patient by settlement or compromise rendered or entered into by the patient or by the

- patient's legal representative;
- (2) is subject and subordinate to any attorney's lien upon the claim or cause of action;
 - (3) is not applicable to accidents or injuries within the purview of:
 - (A) IC 22-3;
 - (B) 5 U.S.C. 8101 et seq.; or
 - (C) 45 U.S.C. 51 et seq.;
 - (4) is not assignable; and
 - (5) must first be reduced by the amount of any medical insurance proceeds paid to the hospital on behalf of the patient after the hospital has made all reasonable efforts to pursue the insurance claims in cooperation with the patient.

(c) If a settlement or compromise that is subject to subsection (b)(1) is for an amount that would permit the patient to receive less than twenty percent (20%) of the full amount of the settlement or compromise if all the liens created under this chapter were paid in full, the liens must be reduced on a pro rata basis to the extent that will permit the patient to receive twenty percent (20%) of the full amount.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-4

Perfecting lien; procedure; contest

Sec. 4. (a) To perfect the lien provided for in section 3 of this chapter, the hospital must file for record in the office of the recorder of the county in which the hospital is located, within one hundred eighty (180) days after the person is discharged, a verified statement in writing stating:

- (1) the name and address of the patient as it appears on the records of the hospital;
- (2) the name and address of the operator of the hospital;
- (3) the dates of the patient's admission to and discharge from the hospital;
- (4) the amount claimed to be due for the hospital care; and
- (5) to the best of the hospital's knowledge, the names and addresses of anyone claimed by the patient or the patient's legal representative to be liable for damages arising from the patient's illness or injury.

(b) Within ten (10) days after filing the statement, the hospital shall send a copy by registered mail, postage prepaid:

- (1) to each person claimed to be liable because of the illness or injury at the address given in the statement;
- (2) to the attorney representing the patient if the name of the attorney is known or with reasonable diligence could be discovered by the hospital; and
- (3) to the department of insurance as notice to insurance companies doing business in Indiana.

(c) The filing of a claim under subsections (a) and (b) is notice to any person, firm, limited liability company, or corporation that may

be liable because of the illness or injury if the person, firm, limited liability company, or corporation:

- (1) receives notice under subsection (b);
- (2) resides or has offices in a county where the lien was perfected or in a county where the lien was filed in the recorder's office as notice under this subsection; or
- (3) is an insurance company authorized to do business in Indiana under IC 27-1-3-20.

(d) The filing of a verified statement under subsection (a) constitutes filing of a lien under section 1 of this chapter if the statement is filed before the issuance of the judgment.

(e) A person desiring to contest a lien or the reasonableness of the charges claimed by the hospital may do so by filing a motion to quash or reduce the claim in the circuit court in which the lien was perfected, making all other parties of interest respondents.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-5

Date and hour of filing; endorsement; filing fee; rules

Sec. 5. (a) The recorder of the county shall endorse on the statement filed under section 4(a) of this chapter the date and hour of filing.

(b) The recorder shall charge a fee for filing the claim in accordance with the fee schedule established in IC 36-2-7-10.

(c) The department of insurance shall adopt rules under IC 4-22-2 to:

- (1) provide for the filing of lien notices mailed to the department by hospitals under section 4(b)(3) of this chapter;
- (2) provide insurance companies with reasonable and timely access to the information contained in the lien notices filed with the department under section 4(b)(3) of this chapter; and
- (3) provide a system for filing and for cross-referencing lien releases mailed under section 7 of this chapter with lien notices filed under section 4(b)(3) of this chapter.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-6

Validity of lien; release or settlement of claim; satisfaction of judgment; jurisdiction

Sec. 6. (a) A lien perfected under section 4 of this chapter is valid unless the lienholder executes a release of the lien under section 7 of this chapter.

(b) The release or settlement of a claim with a patient by a person claimed to be liable for the damages incurred by the patient:

- (1) after a lien has been perfected under section 4 of this chapter; and
- (2) without obtaining a release of the lien;

entitles the lienholder to damages for the reasonable cost of the hospital care, treatment, and maintenance.

(c) Satisfaction of a judgment rendered in favor of the lienholder

under subsection (b) is satisfaction of the lien.

(d) An action by the lienholder must be brought in the court having jurisdiction of the amount of the lienholder's claim and may be brought and maintained in the county of residence of the lienholder.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-7

Release of lien; filing executed certificate; entry in lien book; lienholders liability

Sec. 7. (a) To release a lien perfected under section 4 of this chapter, the operator of the hospital to whom the lien has been paid must file with each recorder in whose office the notice of the hospital lien was filed an executed certificate:

- (1) stating that the claim filed by the hospital for treatment, care, and maintenance has been paid or discharged; and
- (2) authorizing the recorder to release the lien.

The hospital shall bear the expense of obtaining a release.

(b) Upon receipt of the certificate, the recorder shall enter in the margin of the record of the lien and the entry book a memorandum of the filing and the date the certificate was filed. This entry constitutes a release of lien for which the recorder shall receive the fee prescribed in IC 36-2-7-10.

(c) If the amount of a lien has been satisfied or paid and subsequently a demand for a release of the lien is made, the lienholder is liable to the person, firm, limited liability company, or corporation against whose interest the lien has been filed for ten dollars (\$10) for each day that the lien remains in effect after the fifteenth day after the demand for a release of the lien was made.

(d) The operator of the releasing hospital shall mail a copy of the release of lien certificate required under subsection (a) to the department of insurance within ten (10) days after the certificate was filed with the recorder.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-8

Limitation on hospital's right

Sec. 8. This chapter does not give any hospital a right:

- (1) of action to determine liability; or
- (2) to approve a compromise or settlement;

for injuries sustained by any person covered by this chapter.

As added by P.L.2-2002, SEC.18.