

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 48

SENATE BILL 1083

AN ACT

AMENDING SECTIONS 36-2915 AND 36-2956, ARIZONA REVISED STATUTES; RELATING TO
THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-2915, Arizona Revised Statutes, is amended to
3 read:

4 36-2915. Lien of administration on damages recovered by injured
5 person; perfection, recording, assignment and notice
6 of lien

7 A. The administration is entitled to a lien for the charges for
8 hospital or medical care and treatment of an injured person for which the
9 administration or a contractor is responsible, on any and all claims of
10 liability or indemnity for damages accruing to the person to whom hospital or
11 medical service is rendered, or to the legal representative of such person,
12 on account of injuries giving rise to such claims and which necessitated such
13 hospital or medical care and treatment. THE MEMBER OR THE MEMBER'S LEGAL
14 REPRESENTATIVE MUST PROVIDE WRITTEN NOTICE TO THE ADMINISTRATION WITHIN
15 TWENTY CALENDAR DAYS AFTER THE COMMENCEMENT OF A CIVIL ACTION OR OTHER
16 PROCEEDING TO ESTABLISH THE LIABILITY OF ANY THIRD PARTY OR TO COLLECT MONIES
17 PAYABLE FROM ACCIDENT INSURANCE, LIABILITY INSURANCE, WORKERS' COMPENSATION,
18 HEALTH INSURANCE, MEDICAL PAYMENT INSURANCE, UNDERINSURED COVERAGE, UNINSURED
19 COVERAGE OR ANY OTHER FIRST OR THIRD PARTY SOURCE.

20 B. In order to perfect a lien granted by this section, the director or
21 the director's authorized representative, before or within sixty days from
22 the date of notification to the administration of the hospital discharge or
23 rendering of medical care and treatment, shall record in the office of the
24 recorder of the county in which the injuries were incurred a verified
25 statement in writing setting forth the name and address of the patient as
26 they appear on the records of the administration, the name and address of the
27 administration, the dates of admission to and discharge of the patient from
28 the hospital or the dates on which medical care and treatment were provided
29 to the patient, the amount estimated to be due for hospital or medical care
30 and treatment, and, to the best of the director's knowledge, the names and
31 addresses of all persons, firms or corporations and their insurance carriers
32 alleged by the injured person or that person's legal representative to be
33 liable for damages arising from the injuries for which he was hospitalized or
34 for which medical care and treatment were provided. However, the director or
35 the director's authorized representative is not required to include the
36 address of the patient in the verified statement if the administration's
37 records indicate that the patient's injuries may have resulted from an
38 offense against the patient as defined in section 13-105. The director or
39 the director's authorized representative, within five days after recording
40 the lien, shall mail a copy of the lien, postage prepaid, to the patient and
41 to each person, firm or corporation, including insurance carriers, alleged to
42 be liable for liability or indemnity damages, at the address given in the
43 statement. The recording of the lien is notice of the lien to all persons,
44 firms or corporations, including insurance carriers, liable for liability or
45 indemnity damages, whether or not they are named in the lien.

1 C. The recorder shall endorse on a lien recorded as provided by this
2 section the date and hour of receipt and such facts as are necessary to
3 indicate that it has been recorded.

4 D. The lien may be assigned in whole or in part to a contractor that
5 is responsible for hospital or medical services.

6 E. The director shall establish by rule procedures for a contractor
7 and a noncontracting provider to notify the administration concerning the
8 delivery of hospital or medical services to a person who may have claims for
9 damages.

10 F. Notwithstanding any other law, a lien or claim provided for by this
11 article has priority over a lien of the department pursuant to section
12 36-596.01, a lien of the counties pursuant to section 11-291, a health care
13 provider lien pursuant to title 33, chapter 7, article 3 and a claim against
14 a third party payor. A lien of the department of economic security pursuant
15 to section 36-596.01, a lien of a special health care district pursuant to
16 section 48-5541.01, subsection N and a lien of the counties pursuant to
17 section 11-291 has priority over a health care provider lien pursuant to
18 title 33, chapter 7, article 3 and a claim against a third party payor.

19 G. A lien authorized pursuant to this chapter may be amended to
20 reflect current charges. However, if the administration is given notice of
21 an impending settlement of the member's claim at least fifteen working days
22 before the final settlement of that claim, the lien may not be amended after
23 the time of final settlement.

24 H. A public entity shall compromise a claim it has pursuant to this
25 section or section 11-291, 12-962, 36-596, 36-596.01, 36-2903, 36-2935 or
26 36-2956 if, after considering the factors listed in subsection I of this
27 section, the compromise provides a settlement of the claim that is fair and
28 equitable.

29 I. In determining the extent of the compromise of the claim required
30 by subsection H of this section, the public entity shall consider the
31 following factors:

- 32 1. The nature and extent of the patient's injury or illness.
33 2. The sufficiency of insurance or other sources of indemnity
34 available to the patient.
35 3. Any other factor relevant for a fair and equitable settlement under
36 the circumstances of a particular case.

37 J. Notwithstanding any other law, for the purpose of recovering monies
38 from third party payors as provided by this section, a lien that includes a
39 cover sheet pursuant to subsection K of this section and that is filed by an
40 entity under contract with the administration, a health plan or a program
41 contractor, or the authorized representatives of these entities, is
42 considered filed by the state for the purposes of payment of county recorder
43 fees pursuant to section 11-475, subsection A, paragraph 2.

1 K. A health plan, a program contractor, an entity under contract with
2 the administration or an authorized representative of the health plan,
3 program contractor or entity shall include a cover sheet, as prescribed by
4 the administration, when filing a lien on behalf of the administration
5 pursuant to this section. The cover sheet shall be signed by the director on
6 the administration's letterhead with the statutory authority of the health
7 plan, program contractor, entity or authorized representative of the health
8 plan, program contractor or entity to file a lien on behalf of the
9 administration.

10 Sec. 2. Section 36-2956, Arizona Revised Statutes, is amended to read:
11 36-2956. Liens on damages for injuries; notification

12 A. The administration is entitled to a lien for the charges for
13 hospital, medical or long-term care and treatment of an injured person for
14 which the administration or a program contractor is responsible pursuant to
15 this article, on any and all claims for damages accruing to the person to
16 whom hospital or medical service is rendered, or to the legal representative
17 of such person, on account of injuries giving rise to such claims and which
18 necessitated such hospital or medical care and treatment. Recovery of
19 charges pursuant to this section shall be in a manner as nearly as possible
20 the same as the procedures prescribed in sections 36-2915 and 36-2916.

21 B. THE MEMBER OR THE MEMBER'S LEGAL REPRESENTATIVE MUST PROVIDE
22 WRITTEN NOTICE TO THE ADMINISTRATION WITHIN TWENTY CALENDAR DAYS AFTER THE
23 COMMENCEMENT OF A CIVIL ACTION OR OTHER PROCEEDING TO ESTABLISH THE LIABILITY
24 OF ANY THIRD PARTY OR TO COLLECT MONIES PAYABLE FROM ACCIDENT INSURANCE,
25 LIABILITY INSURANCE, WORKERS' COMPENSATION, HEALTH INSURANCE, MEDICAL PAYMENT
26 INSURANCE, UNDERINSURED COVERAGE, UNINSURED COVERAGE OR ANY OTHER FIRST OR
27 THIRD PARTY SOURCE.

APPROVED BY THE GOVERNOR APRIL 6, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2006.