

Amendment No. ____ (for drafter's use only)

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Sembler offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. (1) Subsection (7) of section 409.910,
Florida Statutes, 1998 Supplement, is amended to read:

409.910 Responsibility for payments on behalf of
Medicaid-eligible persons when other parties are liable.--

(7) The department shall recover the full amount of
all medical assistance provided by Medicaid on behalf of the
recipient to the full extent of third-party benefits.

(a) Recovery of such benefits shall be collected
directly from:

- 1. Any third party;
 - 2. The recipient or legal representative, if he or she
has received third-party benefits;
 - 3. The provider of a recipient's medical services if
third-party benefits have been recovered by the provider;
- notwithstanding any provision of this section, to the

Amendment No. ____ (for drafter's use only)

1 contrary, however, no provider shall be required to refund or
2 pay to the department any amount in excess of the actual
3 third-party benefits received by the provider from a
4 third-party payor for medical services provided to the
5 recipient; or

6 4. Any person who has received the third-party
7 benefits.

8 (b) Upon receipt of any recovery or other collection
9 pursuant to this section, the department shall distribute the
10 amount collected as follows:

11 1. To itself, an amount equal to the state Medicaid
12 expenditures for the recipient plus any incentive payment made
13 in accordance with paragraph (14)(a).

14 2. To the Federal Government, the federal share of the
15 state Medicaid expenditures minus any incentive payment made
16 in accordance with paragraph (14)(a) and federal law, and
17 minus any other amount permitted by federal law to be
18 deducted.

19 3. To the recipient, after deducting any known amounts
20 owed to the department for any related medical assistance or
21 to health care providers, any remaining amount. This amount
22 shall be treated as income or resources in determining
23 eligibility for Medicaid.

24
25 The provisions of this subsection do not apply to any proceeds
26 received by the state, or any agency thereof, pursuant to a
27 final order, judgment, or settlement agreement, in any matter
28 in which the state asserts claims brought on its own behalf,
29 and not as a subrogee of a recipient, or under other theories
30 of liability. The provisions of this subsection do not apply
31 to any proceeds received by the state, or an agency thereof,

Amendment No. ____ (for drafter's use only)

1 pursuant to a final order, judgment or settlement agreement,
2 in any matter in which the state asserted both claims as a
3 subrogee and additional claims, except as to those sums
4 specifically identified in the final order, judgment, or
5 settlement agreement as reimbursements to the recipient as
6 expenditures for the named recipient on the subrogation claim.

7 (2) The amendments to Section 409.910, Florida
8 Statutes, 1998 Supplement, provided herein are intended to
9 clarify existing law and are remedial in nature. As such,
10 they are specifically made retroactive to October 1, 1990, and
11 shall apply to all causes of action arising on or after
12 October 1, 1990.

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15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 On page ,
18 remove from the title of the bill: the entire title
19
20 and insert in lieu thereof:

21 A bill to be entitled
22 An act relating to Medicaid fraud; amending s.
23 409.910, F.S., relating to Medicaid third-party
24 liability; clarifying that the state may
25 recover and retain damages in excess of
26 Medicaid payments made under certain
27 circumstances; providing for retroactive
28 application; providing an effective date.

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