

HB 1271

2016

1 A bill to be entitled

2 An act relating to damages recoverable for cost of  
3 medical or health care services; creating s. 768.755,  
4 F.S.; providing for the calculation of an award of  
5 damages for certain medical or health care services  
6 paid or owed by a claimant or a governmental or  
7 commercial insurance payor; providing that individual  
8 contracts between providers and licensed commercial  
9 insurers or licensed health maintenance organizations  
10 are not subject to discovery or disclosure and are not  
11 admissible into evidence in certain actions; providing  
12 that the amount of a lien or subrogation claim  
13 asserted by Medicaid, Medicare, or a payor regulated  
14 under the Florida Insurance Code for certain past  
15 medical expenses, in addition to the amount of  
16 copayments or deductibles payable by the claimant, is  
17 the maximum amount recoverable and admissible into  
18 evidence under certain circumstances; providing  
19 applicability; providing a directive to the Division  
20 of Law Revision and Information; providing an  
21 effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 768.755, Florida Statutes, is created  
26 to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 768.755 Damages recoverable for cost of medical or health  
 28 care services; evidence of amount of damages; applicability.—

29 (1) In any personal injury or wrongful death action to  
 30 which this part applies, damages for the cost of medical or  
 31 health care services provided to a claimant shall be calculated  
 32 as follows:

33 (a) For medical or health care services provided by a  
 34 particular health care provider to the claimant which the  
 35 claimant paid for and for which an outstanding balance is not  
 36 due the provider, the actual amount remitted to the provider is  
 37 the maximum amount recoverable. Any difference between the  
 38 amount originally billed by the provider and the actual amount  
 39 remitted to the provider is not recoverable or admissible into  
 40 evidence.

41 (b) For medical or health care services provided by a  
 42 particular health care provider to the claimant which a  
 43 governmental or commercial insurance payor paid for and for  
 44 which an outstanding balance is not due the provider, other than  
 45 a copay or deductible owed by the claimant, the actual amount  
 46 remitted to the provider by the governmental or commercial  
 47 insurance payor and any copay or deductible owed by the claimant  
 48 are the maximum amount recoverable. Any difference between the  
 49 amount originally billed by the provider and the actual amount  
 50 remitted to the provider or due from the claimant for a copay or  
 51 deductible is not recoverable or admissible into evidence.

52 (c) For medical or health care services provided to the

53 claimant for which an outstanding balance is claimed to be due  
54 the provider and for claims asserted for medical or health care  
55 services to be provided to the claimant in the future, the  
56 maximum amounts recoverable are the amounts customarily accepted  
57 from Medicare in payment for such services by other providers in  
58 the same geographic area. This limitation also applies to any  
59 lien asserted for such services in the action, with the  
60 exception of liens identified in subsection (3).

61 (2) Individual contracts between providers and licensed  
62 commercial insurers or licensed health maintenance organizations  
63 are not subject to discovery or disclosure in an action under  
64 this part, and such information is not admissible into evidence  
65 in an action to which this section applies.

66 (3) Notwithstanding this section, if Medicaid, Medicare,  
67 or a payor regulated under the Florida Insurance Code has  
68 covered or is covering the cost of a claimant's medical or  
69 health care services and has given notice of assertion of a lien  
70 or subrogation claim for past medical expenses in the action,  
71 the amount of the lien or subrogation claim, in addition to the  
72 amount of any copayment or deductible paid or payable by the  
73 claimant, is the maximum amount recoverable and admissible into  
74 evidence with respect to the covered medical or health care  
75 services.

76 (4) This section applies only to those actions for  
77 personal injury or wrongful death to which this part applies  
78 arising on or after the effective date of this act. This section

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79 has no other application or effect regarding compensation paid  
80 to providers of medical or health care services.

81 Section 2. The Division of Law Revision and Information is  
82 directed to replace the phrase "the effective date of this act"  
83 wherever it occurs in this act with the date the act becomes a  
84 law.

85 Section 3. This act shall take effect upon becoming a law.