

By Senator Richter

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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.

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

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

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:

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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 Medicaid 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

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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, or
67 a payor regulated under the Florida Insurance Code has covered
68 or is covering the cost of a claimant's medical or health care
69 services and has given notice of assertion of a lien or
70 subrogation claim for past medical expenses in the action, the
71 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 personal
77 injury or wrongful death to which this part applies arising on
78 or after the effective date of this act. This section has no
79 other application or effect regarding compensation paid to
80 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.