

1 HB11
2 198994-3
3 By Representative Rowe
4 RFD: Insurance
5 First Read: 05-MAR-19
6 PFD: 01/10/2019

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ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Relating to hospitals; to amend Sections 35-11-371 and 35-11-372, Code of Alabama 1975, to require a hospital that provides medical treatment to an injured person to seek compensation solely from that person's health insurance provider, with the exception of approved copayments and deductibles, unless certain circumstances apply; and to allow a hospital to perfect a hospital lien against any recovery the injured person may be awarded for injuries by way of settlement or judgment in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 35-11-371 and 35-11-372, Code of Alabama 1975, are amended to read as follows:

"§35-11-371.

"(a) For the purposes of this section, the following terms shall have the following meanings:

"(1) HEALTH CARE PAYOR. A health care insurer, health maintenance organization, or health care service plan organized under Article 6, Chapter 20, Title 10A, authorized to provide health care coverage in the state.

1 "(2) SATISFY THE CLAIM. Receipt by the hospital of
2 either of the following:

3 "a. Full payment for services as billed.

4 "b. If the hospital has a contract with the injured
5 person's health care payor, payment together with all credits,
6 discounts, and contractual adjustments that the patient's bill
7 would be entitled under the contract, including recoupments,
8 between the hospital and the patient's health care payor which
9 extinguish the patient's obligation for the services rendered.

10 "(b) Unless specifically contrary to any contractual
11 agreement between the hospital and the injured person's health
12 care payor or unless contrary to any statute or governmental
13 rule or regulation of the United States or this state, no
14 hospital shall perfect a lien as to any injured person who was
15 covered by a health care payor's policy, until the hospital
16 submits to the health care payor an accurate and properly
17 coded claim, or if a contract exists between the hospital and
18 the health care payor, in the form required pursuant to the
19 contract, and there is a failure to satisfy the claim.

20 Perfection of a lien shall be as follows:

21 "(1) A hospital may perfect its lien as to an
22 injured person who was covered by a health care payor's policy
23 that provides primary coverage for the care, if the hospital
24 takes the steps described in subsection (c), within 20 days
25 after its receipt of notice of the health care payor's denial
26 of an accurate and properly coded claim. Failure to satisfy an
27 accurate and properly coded claim within 45 days of submission

1 or the subsequent recoupment by the health care payor of
2 amounts previously paid, which results in a failure to satisfy
3 the claim, shall be deemed a denial of the claim.

4 "(2) A hospital may perfect its lien as to an
5 injured person who was not known to the hospital to be covered
6 by a health care payor, was covered by a governmental payor
7 including Medicare or Medicaid, or was covered by a policy not
8 described in subdivision (b) (1), if it takes the steps
9 described in subsection (c) within 20 days after discharge.

10 "(3) Where the hospital does not receive evidence of
11 the injured person's health care payor until after the lien
12 provided for by this section has been perfected, the hospital
13 shall bill the health care payor forthwith but may retain its
14 lien until satisfaction of the claim. If the claim is
15 satisfied, the hospital shall release the lien within 10 days.

16 "(c) In order to perfect ~~such a~~ lien ~~under this~~
17 division, the operator of ~~such the~~ hospital, ~~before or within~~
18 ~~10 days after such person shall have been discharged therefrom~~
19 shall file ~~in with~~ the ~~office of the judge of probate of the~~
20 ~~county or counties~~ probate court of the county in which ~~such~~
21 ~~cause of action arose~~ the hospital is located a verified
22 statement setting forth the name and address of ~~such the~~
23 patient, as it shall appear on the records of ~~such the~~
24 hospital, the name and location of ~~such the~~ hospital and the
25 name and address of the operator thereof, the dates of
26 admission and discharge of ~~such the~~ patient therefrom, the
27 amount claimed to be due for ~~such the~~ hospital care, which

1 shall give full credit for any health care payor payments
2 made, including agreed contractual adjustments, and to the
3 best of the claimant's knowledge, the names and addresses of
4 all persons, firms, or corporations claimed by ~~such~~ the
5 injured person, or the legal representative of ~~such~~ the
6 person, to be liable for damages arising from ~~such~~ the
7 injuries; ~~such~~. The claimant shall also within one day after
8 the filing of ~~such~~ the claim or lien, mail a copy thereof by
9 registered or certified mail, postage prepaid, for each
10 person, firm, or corporation so claimed to be liable on
11 account of ~~such~~ the injuries, at the addresses so given in
12 ~~such~~ the statement, and to the patient, his guardian, or his
13 personal representative at the address given at the time of
14 admission.

15 "(d) The filing of ~~such~~ a claim or lien shall be
16 notice thereof to all persons, firms, or corporations liable
17 for ~~such~~ damages, whether or not they are named in ~~such~~ the
18 claim or lien. Nothing herein shall be deemed to preclude the
19 hospital from perfecting its lien outside of the time limits
20 stated in this section through providing actual notice to
21 persons, firms, or corporations.

22 "~~(b)~~ (e) The judge of probate shall endorse thereon
23 the date and hour of filing, and at the expense of the county
24 shall provide a hospital lien book with proper index in which
25 he or she shall enter the date and hour of ~~such~~ the filing,
26 the names and addresses of ~~such~~ the hospital, the operators
27 thereof and of ~~such~~ the patient, the amount claimed and the

1 names and addresses of those claimed to be liable for damages.
2 ~~Such~~ The information shall be recorded in the name of the
3 patient. The judge of probate shall be paid ~~\$1.00~~ one dollar
4 (\$1) as his or her fee for ~~such~~ the filing.

5 "§35-11-372.

6 "(a) During the period of time allowed by Section
7 35-11-371 for perfecting the lien ~~provided for by this~~
8 ~~division,~~ including that period of time during which the
9 hospital is awaiting payment or denial by the patient's health
10 care payor, and also after the lien provided for by this
11 division has been perfected, ~~as provided in this division,~~ by
12 any lienholder entitled thereto, no release or satisfaction of
13 any action, claim, counterclaim, demand, judgment, settlement,
14 or settlement agreement, or of any of them, shall be valid or
15 effectual as against ~~such~~ the lien unless ~~such~~ the lienholder
16 shall join therein or execute a release of ~~such~~ the lien.

17 "(b) Any acceptance of a release or satisfaction of
18 any ~~such~~ action, claim, counterclaim, demand or judgment and
19 any settlement of any of the foregoing in the absence of a
20 release or satisfaction of the lien referred to in this
21 division shall prima facie constitute an impairment of ~~such~~
22 the lien, and the lienholder shall be entitled to a civil
23 action for damages on account of ~~such~~ the impairment, and in
24 ~~such~~ the action may recover from the one accepting ~~such~~ the
25 release or satisfaction or making ~~such~~ the settlement the
26 reasonable ~~cost of such~~ charges for the hospital care,
27 treatment, and maintenance. Satisfaction of any judgment

1 rendered in favor of the lienholder in any ~~such~~ action shall
2 operate as a satisfaction of the lien. Any action by the
3 lienholder shall be brought in any court having jurisdiction
4 thereof and may be brought and maintained in the county
5 wherein the lienholder has his or her, its, or their residence
6 or place of business. If the lienholder shall prevail in ~~such~~
7 the action, the lienholder shall be entitled to recover from
8 the defendant, costs and reasonable attorney's fees. ~~Such~~ The
9 action shall be commenced against the person liable for ~~such~~
10 the damages within one year after the date ~~such~~ the liability
11 shall be finally determined by a settlement release covenant
12 not to sue or by the judgment of a court of competent
13 jurisdiction."

14 Section 2. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law and
17 shall apply to claims for hospital services that arise
18 following the effective date.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Insurance 05-MAR-19

Read for the second time and placed
on the calendar with 1 substitute
and..... 11-APR-19

Read for the third time and passed
as amended..... 16-APR-19

Yeas 97, Nays 0, Abstains 1

Jeff Woodard
Clerk