

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 419 OF 1979, AS AMENDED, AND ACT 500 OF 1981; TO PROVIDE FOR REIMBURSEMENT TO THE DEPARTMENT OF HUMAN SERVICES THE FULL AMOUNT OF MEDICAID BENEFITS PAID ON BEHALF OF THE MEDICAID RECIPIENT WHEN THE ACTION IS "PROSECUTED BY THE RECIPIENT ALONE; TO PROVIDE THAT THE RECEIPT OF MEDICAL ASSISTANCE CONSTITUTES AN AUTOMATIC ASSIGNMENT TO THE DEPARTMENT OF HUMAN SERVICES OF A MEDICAID RECIPIENT'S RIGHT OF RECOVERY FROM A THIRD PARTY AND THAT SUCH ASSIGNMENT IS A CONDITION FOR MEDICAID ELIGIBILITY; TO PROVIDE THAT THE DEPARTMENT'S RIGHT TO RECOVERY OF MEDICAID BENEFITS CONSTITUTES A STATUTORY LIEN; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Subsection C of Section 2 of Act 419 of 1979, as amended, the same being Arkansas Statutes 83-171.1C, is hereby amended to read as follows:

"C. In the event of judgement or award in a suit or claim against such third party, if the action or claim is prosecuted by the recipient alone, the court or agency shall first order paid from any judgement or award the reasonable litigation expenses and attorney's fees. After payment of such expenses and attorney's fees, the Court or Agency shall order that the Department receive an amount sufficient to reimburse the Department the full amount of benefits paid on behalf of the recipient under the medical assistance program. The remainder shall be awarded to the medical assistance recipient."

SECTION 2. Subsection B. of Section 4 of Act 419 of 1979, the same being Arkansas Statutes 83--171.3 B. is hereby amended to read as follows:

"B. If the recipient, his guardian, personal representative, estate or survivors brings an action against the third person who may be liable for injury, disease or disability, notice of institution or legal proceedings and notice of settlement shall be given the Director of the Department of Human Services. All such notices shall be given by the attorney retained to assert the recipient's claim, or by the recipient, his guardian, personal representative, estate or survivors, if no attorney is retained."

SECTION 3. Section 5 of Act 419 of 1979, as amended, the same being Arkansas Statutes, Section 83-171.4, is hereby amended to read as follows:

"A. No judgement, award or settlement in any action or claim by a medical assistance recipient to recover damages for injuries, disease or disability, in which the Department has interest, shall be satisfied without first giving the Department notice and a reasonable opportunity to establish its interest. If a recipient, his guardian, attorney, or personal representative disposes, without the written approval of the Department of Human Services, of the funds that are to be held for the benefit of the Department under this section, that person shall be liable to the Department for any amount that, as a result of the disposition of the funds is not recoverable by the Department."

SECTION 4. Section 4 of Act 500 of 1981, the same being Arkansas Statutes 83.171.5, is hereby amended to read as follows:

"All parties who were legally liable for any or part of any medical cost of an injury, disease or disability or condition requiring medical treatment for which the Medicaid Program, established by Arkansas Statutes, Section

83-162, has paid, or has assumed liability to pay, shall be liable to the Department of Human Services for the amount of their liability to the extent that the Department of Human Services has paid or agreed to pay."

SECTION 5. Section 5 of Act 500 of 1981, the same being Arkansas Statutes 83-171.6 is hereby amended to read as follows:

"As a condition of eligibility, every Medicaid applicant shall automatically assign his or her right to any settlement, judgement, or award which may be obtained against any third party to the Arkansas Department of Human Services to the full extent of any amount which may be paid by Medicaid for the benefit of the applicant. The application for Medicaid benefits shall in itself constitute such an assignment by operation of law. Such assignment shall be considered a statutory lien on any settlement, judgement or award received by the recipient from a third party."

SECTION 6. Section 6 of Act 500 of 1981, the same being Arkansas Statutes 83-171.7, is hereby amended to read as follows:

"All recipients of medical assistance under the Medicaid Program shall be deemed to have authorized all third parties, including, but not limited to insurance companies and providers of medical care, to release to the Department of Human Services information needed by the Department to secure or enforce its rights as assignee under Section 4 of this Act."

SECTION 7. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 8. It is hereby found and determined by the Seventy-sixth General Assembly that the third party liability and Medicaid eligibility laws of this state are in immediate need of amendment due to Federal requirements and resulting collection efforts that this Act is necessary to accomplish that purpose. Therefore, an emergency is hereby declared to exist, this Act being immediately necessary for the preservation of public peace, health and safety shall be in full force and effect, and after its passage and approval.

APPROVED: 3/30/87

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