

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

# A Bill

HOUSE BILL 1985

5 By: Representative Clemmer  
6  
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## For An Act To Be Entitled

9 AN ACT TO CLARIFY LIABILITY FOR FAILURE TO  
10 RECEIVE WRITTEN APPROVAL FROM THE DEPARTMENT OF  
11 HUMAN SERVICES BEFORE DISPOSING OF FUNDS THAT  
12 SHOULD BE HELD FOR REIMBURSEMENT OF MEDICAID  
13 COSTS; AND FOR OTHER PURPOSES.  
14

## Subtitle

15 TO CLARIFY AN LIABILITIES REGARDING  
16 FAILURE TO RECEIVE WRITTEN APPROVAL  
17 BEFORE DISPOSING OF FUNDS THAT SHOULD BE  
18 HELD FOR REIMBURSEMENT OF MEDICAID  
19 COSTS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 20-77-305 is amended to read as follows:  
26 20-77-305. Notice to Department of Human Services of award or  
27 settlement by recipient required.

28 (a) No judgment, award, or settlement in any action or claim by a  
29 medical assistance recipient to recover damages for injuries, disease, or  
30 disability, in which the Department of Human Services has an interest, shall  
31 be satisfied without first giving the department notice and a reasonable  
32 opportunity to establish its interest.

33 (b) If a recipient, his or her guardian, attorney, or personal  
34 representative disposes of the funds that are to be held for the benefit of  
35 the department under this section without the written approval of the  
36 department, that person shall be liable to the department for any amount



1 that, as a result of the disposition of the funds, is not recoverable by the  
2 department.

3 (c) In addition to the amount of the department's claim, a recipient,  
4 his or her guardian, attorney, or personal representative who knowingly fails  
5 to obtain written approval from the department before disposing of funds  
6 under this section is liable to the department for:

7 (1) A penalty equal to ten percent (10%) of the amount of the  
8 department's claim; and

9 (2) Reasonable costs and attorney's fees.

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