

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H3/3/11
A Bill

HOUSE BILL 1598

5 By: Representative Ratliff
6

7 **For An Act To Be Entitled**

8 AN ACT TO CLARIFY THE AUTHORITY OF THE DEPARTMENT OF
9 HUMAN SERVICES TO RECOVER COSTS OF MEDICAL SERVICES
10 FROM CERTAIN THIRD PARTIES; AND FOR OTHER PURPOSES.
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13 **Subtitle**

14 AN ACT TO CLARIFY THE AUTHORITY OF THE
15 DEPARTMENT OF HUMAN SERVICES TO RECOVER
16 COSTS OF MEDICAL SERVICES FROM CERTAIN
17 THIRD PARTIES.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 20-77-301(a)-(c), concerning recovery
23 actions from third parties for Medicaid costs, is amended to read as follows:

24 (a)(1) When medical assistance benefits are provided or will be
25 provided to a medical assistance recipient because of injury, disease, ~~or~~
26 disability, or death for which another person a third party is or may be
27 liable, the appropriate division of the Department of Human Services ~~shall~~
28 ~~have a right to~~ may recover from the person the cost of benefits so provided.

29 (2) The To enforce the right under subdivision (a)(1) of this
30 section, the department may, ~~to enforce the right,~~ institute and prosecute
31 legal proceedings against the third person who may be liable.

32 (b)(1) ~~No~~ An action taken on behalf of the division ~~pursuant to~~ under
33 this section or any judgment rendered in the action shall not be a bar to any
34 action upon the claim or cause of action of the recipient, his or her
35 guardian, personal representative, estate, or survivors against the third
36 ~~person~~ party who is or may be liable for the injury.



1 (2) ~~Nor shall any action operate to~~ An action under this section
2 does not deny to the recipient the recovery for that portion of any damages
3 not covered hereunder.

4 (c)(1) The department ~~shall likewise have the authority to~~ may recover
5 from a third party the cost of benefits for medical care provided to indigent
6 persons from third persons, ~~whether or not the case was provided pursuant to~~
7 ~~the Arkansas Health Care Access Program~~, another program administered by the
8 department, or a program administered through another department or agency of
9 state government.

10 (2) The department shall remit to other departments or agencies
11 of state government any amounts recovered, less its pro rata share and costs
12 of collection, for care provided by them.

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14 SECTION 2. Arkansas Code § 20-77-303(a), concerning actions in
15 recovery by Medicaid and Medicaid recipients, is amended to read as follows:

16 (a) If an action is prosecuted both by the medical assistance
17 recipient and the division against a third ~~person~~ party who is or may be
18 liable for injury, disease, or disability, or death of the medical assistance
19 recipient, then in the event of judgment or award in a suit or claim against
20 the third party, the court shall first order paid from any judgment or award
21 the reasonable litigation expenses incurred in prosecution of the action or
22 claim, together with reasonable attorney's fees based solely on the services
23 rendered for the benefit of the recipient.

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25 SECTION 3. Arkansas Code § 20-77-304 is amended to read as follows:

26 20-77-304. Notice of action or claim – Intervention or consolidation.

27 (a)(1) If either the medical assistance recipient or the appropriate
28 division brings an action or claim against a third ~~person~~ party, the
29 recipient or Department of Human Services shall, ~~within thirty (30) days of~~
30 ~~filing the action~~, give to the other party written notice of the action or
31 claim by personal service or registered mail within thirty (30) days of
32 filing the action.

33 (2) This notice shall contain the names of the third ~~person~~
34 party and the court in which the action is brought.

35 (3) Proof of the notice shall be filed in the action.

36 (4) If an action or claim is brought by either the department or

1 the medical assistance recipient, the other may, ~~at any time before trial on~~
2 ~~the facts,~~ become a party to the action, at any time before trial on the
3 facts, or shall consolidate his or her action or claim with the other if
4 brought independently, at any time before trial on the facts.

5 (b)(1) If the recipient, his or her guardian, personal representative,
6 estate, or survivors bring an action against the third ~~person~~ party who may
7 be liable for injury, disease, or disability, then notice of institution of
8 the legal proceedings and notice of settlement shall be given the Director of
9 the Department of Human Services.

10 (2) All notices shall be given by the attorney retained to
11 assert the medical assistance recipient's claim, or by the medical assistance
12 recipient, his or her guardian, personal representative, estate, or survivors
13 if ~~no~~ an attorney is not retained.

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15 SECTION 4. Arkansas Code § 20-77-305(a), concerning notice to
16 Department of Human Services of awards or settlements by Medicaid recipients,
17 is amended to read as follows:

18 (a) ~~No~~ A judgment, an award, or a settlement in any action or claim by
19 a medical assistance recipient to recover damages for injuries, disease, ~~or~~
20 disability, or death in which the Department of Human Services has an
21 interest, shall not be satisfied without first giving the department notice
22 and a reasonable opportunity to establish its interest.

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24 /s/Ratliff
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