House Engrossed

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 154

HOUSE BILL 2681

AN ACT

AMENDING SECTIONS 33-931, 33-932 AND 33-934, ARIZONA REVISED STATUTES; RELATING TO HEALTH CARE PROVIDER LIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 33-931, Arizona Revised Statutes, is amended to read:

33-931. Lien of health care provider on damages recovered by person receiving services; hospital priority

A. Every individual, partnership, firm, association, corporation or institution or any governmental unit ~~maintaining~~ THAT MAINTAINS and ~~operating~~ OPERATES a health care institution or ~~providing~~ PROVIDES health care services in this state~~, which~~ AND THAT has been duly licensed by this state, or any political subdivision or private entity with ambulances operated, licensed or registered pursuant to title 36, chapter 21.1, is entitled to a lien for the CARE AND TREATMENT OR TRANSPORTATION OF AN INJURED PERSON. THE LIEN SHALL BE FOR THE CLAIMANT'S customary charges for care and treatment or transportation of an injured person. ~~, on~~ A LIEN PURSUANT TO THIS SECTION EXTENDS TO all claims of liability or indemnity, except health insurance AND UNDERINSURED AND UNINSURED MOTORIST COVERAGE AS DEFINED IN SECTION 20-259.01, for damages accruing to the person to whom the services are rendered, or to that person's legal representative, on account of the injuries that gave rise to the claims and that required the services.

B. If a county maintains, operates or provides health care services, it is entitled to an assignment by operation of law for THE CARE AND TREATMENT OR TRANSPORTATION OF AN INJURED PERSON. THE ASSIGNMENT SHALL BE FOR THE CLAIMANT'S customary charges for care and treatment or transportation of an injured person. ~~on~~ AN ASSIGNMENT PURSUANT TO THIS SECTION EXTENDS TO any claims of liability or indemnity, except health insurance AND UNDERINSURED AND UNINSURED MOTORIST COVERAGE AS DEFINED IN SECTION 20-259.01, for damages accruing to the person to whom the services are rendered, or to that person's legal representative, on account of injuries that gave rise to the claims and that required the services.

C. The lien entitlements authorized by subsection A OF THIS SECTION and the assignment authorized by subsection B OF THIS SECTION are applicable to all customary charges by hospitals or ambulances of political subdivisions, but are restricted to customary charges in excess of two hundred fifty dollars by all other providers and privately owned ambulance companies excluding interest and service charges.

D. Liens perfected pursuant to this article by a hospital have priority for payment over all other liens authorized by this article.

Sec. 2. Section 33-932, Arizona Revised Statutes, is amended to read:

33-932. Perfecting lien; statement of claim; recording; effect

A. In order to perfect a lien granted by section 33-931, the executive officer, licensed health care provider or agent of a health care provider shall RECORD, before or within thirty days after the patient has received any services relating to the injuries, except a hospital which shall RECORD within thirty days after the patient is discharged, ~~record~~ in the office of

the recorder in the county in which the health care provider is located a verified statement in writing setting forth ALL OF THE FOLLOWING:

1. The name and address of the patient as ~~it appears~~ THEY APPEAR on the records of the health care provider. ~~,~~

2. The name and location of the health care provider. ~~,~~

3. The name and address of the executive officer or agent of the health care provider, if any. ~~,~~

4. The dates OR RANGE OF DATES of services received by the patient from the health care provider. ~~,~~

5. The amount claimed due for health care~~, and to the best of the claimant's knowledge, the names and addresses of all persons, firms or corporations and their insurance carriers claimed by the injured person or his legal representative to be liable for damages arising from the injuries for which he received health care~~.

6. FOR HEALTH CARE PROVIDERS OTHER THAN HOSPITALS OR AMBULANCE SERVICES, TO THE BEST OF THE CLAIMANT'S KNOWLEDGE, THE NAMES AND ADDRESSES OF ALL PERSONS, FIRMS OR CORPORATIONS AND THEIR INSURANCE CARRIERS CLAIMED BY THE INJURED PERSON OR THE INJURED PERSON'S REPRESENTATIVE TO BE LIABLE FOR DAMAGES ARISING FROM THE INJURIES FOR WHICH THE PERSON RECEIVED HEALTH CARE.

B. The verified statement shall also include the amount claimed due as of the date of recording of the claim or lien and a statement regarding whether the patient's treatment has been terminated or will be continued. ~~Bills~~ AMOUNTS incurred during the continued period are also subject to the lien.

C. The claimant shall also MAIL, BY FIRST CLASS MAIL within five days after recording the claim or lien, ~~mail~~ a copy ~~thereof by certified mail~~ OF THE CLAIM OR LIEN to the injured person ~~and to each person, firm or corporation claimed to be liable for damages and their respective insurance carriers, at the appropriate address given in the statement~~. FOR HEALTH CARE PROVIDERS OTHER THAN HOSPITALS OR AMBULANCE SERVICES THE CLAIMANT SHALL ALSO MAIL A COPY TO ALL PERSONS, FIRMS OR CORPORATIONS AND THEIR INSURANCE CARRIERS CLAIMED BY THE INJURED PERSON OR THE INJURED PERSON'S REPRESENTATIVE TO BE LIABLE FOR DAMAGES ARISING FROM THE INJURIES FOR WHICH THE PERSON RECEIVED HEALTH CARE. IF A HEALTH CARE PROVIDER OTHER THAN A HOSPITAL OR AMBULANCE SERVICE DOES NOT RECORD THE CLAIM, LIEN OR ASSIGNMENT AS PROVIDED IN THIS SECTION, THE CLAIM, LIEN OR ASSIGNMENT IS INVALID AND MAY NOT BE ENFORCED BY THE CAUSE OF ACTION PROVIDED IN SECTION 33-934. If a hospital records such a claim or lien, the recording shall be notice to all persons, firms or corporations liable for damages, whether or not they are named in the claim or lien.

D. A HOSPITAL OR AMBULANCE SERVICE LIEN THAT IS NOT RECORDED WITHIN THE TIME PRESCRIBED BY THIS SECTION IS EFFECTIVE AGAINST ANY SETTLEMENT OR JUDGMENT FOR DAMAGES IF THE LIEN IS RECORDED THIRTY DAYS BEFORE THE SETTLEMENT IS AGREED TO OR THE JUDGMENT IS PAID EXCEPT IF THE LIEN IS RECORDED IN A COUNTY WHERE LIENS ARE ACCESSIBLE ON THE INTERNET, THE LIEN IS

EFFECTIVE IF THE LIEN IS ACCESSIBLE ON THE INTERNET THIRTY DAYS OR MORE BEFORE THE SETTLEMENT IS AGREED TO OR THE JUDGMENT IS PAID. IF THE LIEN IS NOT RECORDED OR IS NOT ACCESSIBLE ON THE INTERNET AS PROVIDED IN THIS SECTION, THE LIEN IS INVALID AND MAY NOT BE ENFORCED BY THE CAUSE OF ACTION PROVIDED IN SECTION 33-934.

Sec. 3. Section 33-934, Arizona Revised Statutes, is amended to read:

33-934. Release of claim by injured person ineffective as to lienholder; action to enforce lien

A. A release of claims on which a lien or assignment is given by section 33-931 or of any judgment on that claim is not valid or effectual against the lien or assignment unless the lienholder or assignee joins in the release or executes a release of the lien or assignment. If any amount has been or is to be collected by the injured person or that person's legal representative from or on account of the person, firm or corporation liable for damages by reason of a judgment, settlement or compromise, the claimant or assignee of the lien or assignment may enforce the lien or assignment by action against the person, firm or corporation THAT IS liable for damages, OR AGAINST ANY INSURER OR OTHER PERSON, FIRM OR CORPORATION THAT IS RESPONSIBLE FOR PAYING ALL OR PART OF THE DAMAGES.

B. ~~This~~ AN action PURSUANT TO THIS SECTION shall be commenced and tried in the county in which the lien or assignment is filed, unless ordered by the court to be removed to another county for cause. ~~If the claimant prevails~~ The court may allow reasonable attorney fees and disbursements TO THE PREVAILING PARTY. The action shall be commenced within two years after the entry of the judgment or the making of the settlement or compromise. IN AN ACTION TO ENFORCE A LIEN OR ASSIGNMENT, THE LIENHOLDER OR ASSIGNEE MAY NOT RECOVER MORE THAN THE AMOUNT OF THE LIEN OR ASSIGNMENT NOR MAY IT RECOVER MORE AGAINST A DEFENDANT IN THE LIEN ACTION THAN THAT DEFENDANT IS OBLIGATED TO PAY UNDER JUDGMENT OR SETTLEMENT. THE DEFENDANT IN THE LIEN OR ASSIGNMENT ACTION CANNOT RAISE AS A DEFENSE IN THAT ACTION THAT IT IS NOT LIABLE FOR THE AMOUNT IT IS OBLIGATED TO PAY UNDER THE JUDGMENT OR SETTLEMENT EXCEPT THAT IT MAY DISPUTE THE AMOUNT OF THE LIEN ON THE GROUNDS THAT THE CHARGES GIVING RISE TO THE LIEN ARE ERRONEOUS OR EXCEED THE CUSTOMARY CHARGES, OR THAT THE CARE, TREATMENT OR TRANSPORTATION GIVING RISE TO THE CHARGES WAS NOT MEDICALLY NECESSARY OR CAUSALLY RELATED TO THE EVENT GIVING RISE TO THE CLAIM TO WHICH THE LIEN OR ASSIGNMENT EXTENDS.

C. THIS SECTION DOES NOT CREATE ANY RIGHTS OR CAUSES OF ACTION ON BEHALF OF THE LIENHOLDER OTHER THAN ARE PROVIDED FOR IN THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.