

Medical Liens and Subrogation ANDERSON LAW FIRM

As the victim of an accident which was caused by someone else's negligence, it is incredibly important that you are fully aware of your legal rights and obligations. If you have been seriously injured, then you probably have a stack of medical bills already piling up. You may also have received a letter usually from your own health insurance company or a company they have hired (such as Optum or Rawlings) asking whether you are pursuing a claim against the at-fault party. In certain situations, the government, health insurance companies and/or hospitals assert a claim against your personal injury settlement. It is important that you understand that ignoring any of these liens can expose you to a lot of long-lasting trouble. The following is a summary of the different types of liens and subrogation interests we see most often:

Worker's Compensation Liens

If you were injured on the job and covered by worker's compensation insurance, then your claim against a negligent third party is subject to a "lien." This means that the worker's comp carrier has a right to be paid back for the money spent on your claim - both for medical payments and for lost wages. Is this fair? Of course not! But it is the law in Texas and it cannot be avoided. Does this lien extend to all types of claims? Just about. However, if you are asserting a claim against your uninsured/underinsured motorists policy (UM/UIM), and you are the one who bought the policy, not your employer, then the law allows you to avoid "paying back" the worker's comp carrier.

Hospital Liens

Texas State law allows for hospitals to file a lien on insurance settlement proceeds as long as you were admitted to the hospital within 72 hours of the accident occurring. For this lien to be valid, the hospital must file the lien with the County Clerk any time before the payment of the settlement is made. You can check to see whether a lien exists by researching the county deed records. The hospital lien does not extend to UM/UIM benefits. Also, if the hospital has an opportunity to bill your health insurance they should do so and collect from them. These liens can be negotiated.

Government Liens (V.A., Medicare, Medicaid)

The general rule is that if the government paid for any portion of your medical care, then the government has a right to get paid back if you later recover money for your injuries from another party. Depending on the specific type of government program which is being used, the way the lien works is different. Great care must be taken to get the correct lien amount and any applicable reductions prior to settlement. Failure to pay the government lien can expose those involved to liability later on. These liens take a very long time to resolve, so they must be addressed early in the process.

Health Insurance Subrogation Claims

All health insurance plans have a contractual right of subrogation. That means that you have already agreed to pay back your health insurance provider from any settlement proceeds if your medical expenses were initially covered by health insurance. The extent and strength of the subrogation claim depends on the language of the policy. Usually, you will receive a subrogation letter soon after your accident, after the insurance company starts receiving your medical bills. At that point, it is a good idea to turn the letters over to an injury attorney so that the matter can be properly handled.