



Department of Business Regulation

1511 Pontiac Avenue
Cranston, RI 02920

Insurance Bulletin Number 2006-4

Medicaid Liens in Settlement of Property & Casualty Claims

The Rhode Island Executive Office of Health and Human Services (“EOHHS”) has requested the assistance of the Insurance Division in notifying insurers of their obligation to satisfy Medicaid liens in the settlement of Property and Casualty claims. R.I. Gen. Laws § 40-6-9(c) provides in relevant part that whenever Medicaid payments have been made:

...by reason of accident, injury, or illness for which a third party may be liable, for and on behalf of himself or herself, and for and on behalf of any other person for whom he or she may legally act, shall be deemed, without the necessity of signing any document, to have assigned to the department of human services, from amounts recovered or recoverable from any third party, an amount of money equal to the amount of financial assistance provided as a result of the accident, illness, or injury.

Insurers should also be aware of the provisions of R.I. Gen. Laws § 40-8-15 which allows EOHHS to assert a lien for Medicaid benefits against the estate. R.I. Gen. Laws § 40-8-15 allows collection for all Medicaid payments, not just those related to an accident or medical malpractice action. EOHHS can proceed under both statutes.

The Rhode Island Supreme Court has recently held that the payments subject to R.I. Gen. Laws § 40-6-9(c) are not admissible to reduce plaintiff’s damages in medical malpractice claims pursuant to R.I. Gen. Laws § 9-19-34.1. *Esposito v. O’Hair*, 886 A.2d 1197 (R.I. 2005).

Insurers should, therefore, evaluate claims to determine whether any Medicaid reimbursement to EOHHS is implicated under R.I. Gen. Laws § 40-6-9(c). If R.I. Gen. Laws § 40-6-9(c) is implicated in a claim please contact EOHHS’ Department of Human Services prior to the settlement of the claim to assure that the obligations under R.I. Gen. Laws § 40-6-9(c) are satisfied. Insurers should contact the Third Party Liability Unit of EOHHS’ Department of Human Services at (401) 462 2299 (phone);

(401) 462-3350 (facsimile) or by mail DHS TPL Unit, Hazard Bldg #74LL, 74 West Road, Cranston, Rhode Island 02920 to discuss any claims or with any questions concerning the content of this Bulletin.

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Superintendent of Insurance

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