

IC 32-33-4

Chapter 4. Hospital Liens

IC 32-33-4-1

Lien for services or expenses; exception; entry on judgment docket

Sec. 1. Subject to sections 3(c), 3(d), and 3.5 of this chapter, a person, a firm, a partnership, an association, a limited liability company, or a corporation maintaining a hospital in Indiana or a hospital owned, maintained, or operated by the state or a political subdivision of the state is entitled to hold a lien for the reasonable value of its services or expenses (including any amount designated as a copayment or deductible) on any judgment for personal injuries rendered in favor of any person, except:

- (1) a person covered by the provisions of IC 22-3, the state worker's compensation laws;
- (2) a person covered by the provisions of 5 U.S.C. 8101 et seq., the federal worker's compensation laws;
- (3) a person covered by the provisions of 45 U.S.C. 51 et seq., the federal liability act;
- (4) an eligible person (as defined in IC 34-13-8-1) with respect to a distribution paid from the supplemental state fair relief fund for an occurrence (as defined in IC 34-13-8-2); and
- (5) a person covered by the provisions of 42 U.S.C. 1395 et seq., the federal Medicare program;

who is admitted to the hospital and receives treatment, care, and maintenance on account of personal injuries received as a result of the negligence of any person or corporation. In order to claim the lien, the hospital must satisfy the conditions for perfecting the lien as set forth in section 4 of this chapter and, not later than the date on which the judgment is rendered, enter, in writing, upon the judgment docket where the judgment is recorded, the hospital's intention to hold a lien upon the judgment, together with the amount claimed.

As added by P.L.2-2002, SEC.18. Amended by P.L.160-2012, SEC.59; P.L.173-2013, SEC.1; P.L.205-2013, SEC.340.

IC 32-33-4-2

Junior and inferior lien

Sec. 2. The lien provided for in section 1 of this chapter is junior and inferior to all claims for attorney's fees, court costs, and all other expenses contracted for or incurred in the recovery of claims or damages for personal injuries as described in this chapter.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-3

Lien for reasonable and necessary charges upon any claims accruing to patient; scope of lien; allowance to patient

Sec. 3. (a) A person, a firm, a partnership, an association, a limited liability company, or a corporation maintaining a hospital in Indiana or a hospital owned, maintained, or operated by the state or a political subdivision has a lien for all reasonable and necessary

charges for hospital care, treatment, and maintenance of a patient (including emergency ambulance services provided by the hospital and any amount designated as a copayment or deductible) upon any cause of action, suit, or claim accruing to the patient, or in the case of the patient's death, the patient's legal representative, because of the illness or injuries that:

- (1) gave rise to the cause of action, suit, or claim; and
- (2) necessitated the hospital care, treatment, and maintenance.

(b) The lien provided for in subsection (a):

(1) except as provided in subsection (c), applies to any amount obtained or recovered by the patient by settlement or compromise rendered or entered into by the patient or by the patient's legal representative;

(2) is subject and subordinate to any attorney's lien upon the claim or cause of action;

(3) is not applicable to a person covered by:

(A) the provisions of IC 22-3, the state worker's compensation laws;

(B) the provisions of 5 U.S.C. 8101 et seq., the federal worker's compensation laws;

(C) 45 U.S.C. 51 et seq., the federal liability act;

(D) IC 34-13-8 concerning a distribution paid from the supplemental state fair relief fund to an eligible person (as defined in IC 34-13-8-1) for an occurrence (as defined in IC 34-13-8-2); or

(E) the provisions of 42 U.S.C. 1395 et seq., the federal Medicare program;

(4) is not assignable; and

(5) must:

(A) first be reduced by the amount of any benefits to which the patient is entitled under the terms of any contract, health plan, or medical insurance; and

(B) reflect credits for all payments, contractual adjustments, write-offs, and any other benefit in favor of the patient;

after the hospital has made all reasonable efforts to pursue the insurance claims in cooperation with the patient.

(c) If a settlement or compromise that is subject to subsection (b)(1) is for an amount that would permit the patient to receive less than twenty percent (20%) of the full amount of the settlement or compromise if all the liens created under this chapter were paid in full, the liens must be reduced on a pro rata basis to the extent that will permit the patient to receive twenty percent (20%) of the full amount.

(d) A lien provided for in this chapter does not apply to a judgment, cause of action, suit, or claim accruing to the patient under:

(1) a policy of disability insurance; or

(2) automobile or homeowner's insurance that provides for medical payments.

As added by P.L.2-2002, SEC.18. Amended by P.L.160-2012,

SEC.60; P.L.173-2013, SEC.2; P.L.205-2013, SEC.341.

IC 32-33-4-3.5

Restrictions on hospital lienholder

Sec. 3.5. (a) This section applies to any person who holds a lien under this chapter.

(b) As used in this section, "hospital lienholder" means:

- (1) a person, firm, partnership, association, limited liability company, or corporation maintaining a hospital in Indiana; or
- (2) a hospital owned, maintained, or operated by the state or a political subdivision;

that has a lien under this chapter.

(c) If a hospital lienholder settles or compromises a claim in an amount less than the amount of its lien, the hospital lienholder is barred from seeking any additional reimbursement from the patient or the patient's representative.

(d) A hospital lienholder is barred from seeking from the patient or the patient's representative payment for any amount of the hospital's charges that exceed the patient's financial obligation to the hospital under the terms of any private benefits to which the patient is entitled, including the terms of any health plan contract and medical insurance. The lien must reflect credits for all payments, contractual adjustments, write-offs, and any other benefit in favor of the patient.

(e) A hospital lienholder is barred from enforcing the collection of charges covered by this chapter until the cause of action, suit, or claim accruing to the patient has been resolved by compromise, settlement, or judgment.

As added by P.L.173-2013, SEC.3. Amended by P.L.205-2013, SEC.342.

IC 32-33-4-4

Perfecting lien; procedure; contest

Sec. 4. (a) To perfect the lien provided for in section 3 of this chapter, the hospital must file for record in the office of the recorder of the county in which the hospital is located, within ninety (90) days after the person is discharged or not later than the date of the final settlement, compromise, or resolution of the cause of action, suit, or claim accruing to the patient, whichever occurs first, a verified statement in writing stating:

- (1) the name and address of the patient as it appears on the records of the hospital;
- (2) the name and address of the operator of the hospital;
- (3) the dates of the patient's admission to and discharge from the hospital;
- (4) the amount claimed to be due for the hospital care; and
- (5) to the best of the hospital's knowledge, the names and addresses of anyone claimed by the patient or the patient's legal representative to be liable for damages arising from the patient's illness or injury.

(b) Within ten (10) days after filing the statement, the hospital shall send a copy by registered mail, postage prepaid:

- (1) to each person claimed to be liable because of the illness or injury at the address given in the statement;
- (2) to the attorney representing the patient if the name of the attorney is known or with reasonable diligence could be discovered by the hospital; and
- (3) to the department of insurance as notice to insurance companies doing business in Indiana.

(c) The filing of a claim under subsections (a) and (b) is notice to any person, firm, limited liability company, or corporation that may be liable because of the illness or injury if the person, firm, limited liability company, or corporation:

- (1) receives notice under subsection (b);
- (2) resides or has offices in a county where the lien was perfected or in a county where the lien was filed in the recorder's office as notice under this subsection; or
- (3) is an insurance company authorized to do business in Indiana under IC 27-1-3-20.

(d) A lien:

- (1) is effective under this chapter on the date a hospital complies with subsections (a) and (b); and
- (2) may not be made retroactive to any prior date.

(e) A person desiring to contest a lien or the reasonableness of the charges claimed by the hospital may do so by filing a motion to quash or reduce the claim in the circuit court in which the lien was perfected, making all other parties of interest respondents.

As added by P.L.2-2002, SEC.18. Amended by P.L.173-2013, SEC.4.

IC 32-33-4-5

Date and hour of filing; endorsement; filing fee; rules

Sec. 5. (a) The recorder of the county shall endorse on the statement filed under section 4(a) of this chapter the date and hour of filing.

(b) The recorder shall charge a fee for filing the claim in accordance with the fee schedule established in IC 36-2-7-10.

(c) The department of insurance shall adopt rules under IC 4-22-2 to:

- (1) provide for the filing of lien notices mailed to the department by hospitals under section 4(b)(3) of this chapter;
- (2) provide insurance companies with reasonable and timely access to the information contained in the lien notices filed with the department under section 4(b)(3) of this chapter; and
- (3) provide a system for filing and for cross-referencing lien releases mailed under section 7 of this chapter with lien notices filed under section 4(b)(3) of this chapter.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-6

Validity of lien; release or settlement of claim; satisfaction of

judgment; jurisdiction

Sec. 6. (a) A lien perfected under section 4 of this chapter is valid unless the lienholder executes a release of the lien under section 7 of this chapter.

(b) The release or settlement of a claim with a patient by a person claimed to be liable for the damages incurred by the patient:

(1) after a lien has been perfected under section 4 of this chapter; and

(2) without obtaining a release of the lien;

entitles the lienholder to damages for the reasonable cost of the hospital care, treatment, and maintenance.

(c) Satisfaction of a judgment rendered in favor of the lienholder under subsection (b) is satisfaction of the lien.

(d) An action by the lienholder must be brought in the court having jurisdiction of the amount of the lienholder's claim and may be brought and maintained in the county of residence of the lienholder.

As added by P.L.2-2002, SEC.18.

IC 32-33-4-7**Release of lien; filing executed certificate; entry in lien book; lienholders liability**

Sec. 7. (a) To release a lien perfected under section 4 of this chapter, the operator of the hospital that claims the lien must file with each recorder in whose office the notice of the hospital lien was filed an executed certificate:

(1) stating that the claim filed by the hospital for treatment, care, and maintenance has been paid or discharged; and

(2) authorizing the recorder to release the lien.

The hospital shall bear the expense of obtaining a release.

(b) Upon receipt of the certificate, the recorder shall enter in the margin of the record of the lien and the entry book a memorandum of the filing and the date the certificate was filed. This entry constitutes a release of lien for which the recorder shall receive the fee prescribed in IC 36-2-7-10.

(c) If the amount of a lien has been satisfied or paid and subsequently a demand for a release of the lien is made, the lienholder is liable to the person, firm, limited liability company, or corporation against whose interest the lien has been filed for twenty-five dollars (\$25) for each day that the lien remains in effect after the fifteenth day after the demand for a release of the lien was made.

(d) The operator of the releasing hospital shall mail a copy of the release of lien certificate required under subsection (a) to the department of insurance within ten (10) days after the certificate was filed with the recorder.

As added by P.L.2-2002, SEC.18. Amended by P.L.173-2013, SEC.5.

IC 32-33-4-8**Limitation on hospital's right**

Sec. 8. This chapter does not give any hospital a right:
 (1) of action to determine liability; or
 (2) to approve a compromise or settlement;
for injuries sustained by any person covered by this chapter.
As added by P.L.2-2002, SEC.18.