

RCW 43.20B.060 Reimbursement for medical care or residential care—Lien—Subrogation—Delegation of lien and subrogation rights.

(1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient's rights against a tortfeasor or the tortfeasor's insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tortfeasor or the tortfeasor's insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tortfeasor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department's discretion, such alternate filing or service is necessary to secure the department's interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tortfeasor or insurer of the tortfeasor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its proportionate share of attorneys' fees and costs.

(a) The determination of the proportionate share to be borne by the department shall be based upon:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(b) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

(c) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature.

(5) The rights and remedies provided to the department in this section to secure reimbursement for assistance, including the department's lien and subrogation rights, may be delegated to a *managed health care system by contract entered into pursuant to RCW 74.09.522. A *managed health care system may enforce all rights and remedies delegated to it by the department to secure and recover assistance provided under a *managed health care system consistent with its agreement with the department. [1997 c 236 s 2; 1990 c 100 s 7.]

***Reviser's note:** RCW 74.09.522 was amended by 2023 c 51 s 43, removing the definition of "managed health care system" and changing "managed health care system" to "managed care organization."

Application—1990 c 100 ss 2, 4, 7(1), 8(2): "Sections 2, 4, 7(1), and 8(2) of this act apply to all existing claims against third parties for which settlements have not been reached or judgments entered by June 7, 1990." [1990 c 100 s 13.]