

**WAC 182-501-0100 Subrogation.** (1) For the purpose of this section, "**liable third party**" means:

(a) The tort-feasor, or insurer of the tort-feasor, or both; and

(b) Any person, entity or program that is or may be liable to provide coverage for the illness or injuries for which the medicaid agency is providing assistance or residential care.

(2) As a condition of medical care eligibility, a client must assign to the state any right the client may have to receive payment from any liable third party for medical expenses, assistance, or residential care.

(3) To the extent authorized by a contract executed under RCW 74.09.522, a managed health care plan has the rights and remedies of the agency under RCW 43.20B.060 and 74.09.180.

(4) The agency is not responsible for medical care payment(s) for a client whose personal injuries are caused by the negligence or wrongdoing of another. However, the agency may provide the medical care required as a result of an injury or illness to the client if the client is otherwise eligible for medical care.

(5) The agency may pursue its right to recover the value of medical care provided to an eligible client from any liable third party or third-party settlement or judgment as a subrogee, assignee, or by enforcement of its public assistance lien under RCW 43.20B.040 through 43.20B.070, 74.09.180, and 74.09.185.

(6) Notice to the agency and determining the reimbursement amount:

(a) The client or the client's legal representative must notify the agency in writing when filing any claim against a third party, commencing an action at law, negotiating a settlement, or accepting an offer from the liable third party. Send notices under this section to:

Health Care Authority  
COB Casualty Unit  
P.O. Box 45561  
Olympia, WA 98504-5561  
Fax: 360-753-3077

(b) The client or the client's legal representative must give the agency documentation proposing allocation of damages, if any, to be used for settlement or to be proven at trial.

(c) Where damages, including medical damages, have not been designated in the settlement or judgment, the client or the client's legal representative must contact the agency to determine the appropriate reimbursement amount for payments the agency made for the client's benefit.

(d) If the client and the agency cannot agree upon the appropriate reimbursement amount, any party may bring a motion in superior court for a hearing to determine the amount of reimbursement to the agency from settlement or judgment proceeds.

(7) The agency director or the director's designee must consent in writing to any discharge or compromise of any settlement or judgment of a lien created under RCW 43.20B.060. The agency considers the compromise or discharge of a medical care lien only as authorized by federal regulation at 42 C.F.R. 433.139.

(8) The doctrine of equitable subrogation does not apply to defeat, reduce, or prorate any recovery made by the agency based on its assignment, lien, or subrogation rights.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 15-15-053, § 182-501-0100, filed 7/9/15, effective 8/9/15. WSR 11-14-075, recodified as § 182-501-0100, filed 6/30/11, effective 7/1/11. Statutory Authority: 42 U.S.C. §§ 1396a, 1396k, 1396p, chapter 43.20B RCW, RCW 74.08.090, 74.09.180, 74.09.185. WSR 08-17-046, § 388-501-0100, filed 8/14/08, effective 12/1/08. Statutory Authority: RCW 74.08.090 and 74.09.185. WSR 07-23-080 and 08-01-041, § 388-501-0100, filed 11/19/07 and 12/12/07, effective 12/1/08. Statutory Authority: RCW 74.04.050 and 74.08.090. WSR 00-01-088, § 388-501-0100, filed 12/14/99, effective 1/14/00.]