

Reprinted 4/6/83

FILED MAR 18 1983

SENATE FILE 498

BY COMMITTEE ON JUDICIARY
Approved 3/18/83 (p. 848)
(FORMERLY SSB 255)

Passed Senate, Date 4-5-83 (p. 1094) Passed House, Date 4-14-83 (p. 1341)
Vote: Ayes 39 Nays 7 Vote: Ayes 90 Nays 1
Approved May 12, 1983

A BILL FOR

1 An Act relating to the liability for a subrogation claim
2 for medical care or expenses through a medical assistance
3 program.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 498

S-3424

- 1 Amend Senate File 498 as follows:
- 2 1. Page 1, by striking lines 1 through 3 and
- 3 inserting in lieu thereof the following:
- 4 "Section 1. Section 249A.6, Code 1983, subsections
- 5 1, 2, 3, and 5, are amended to read as follows:"
- 6 2. Page 2, by striking lines 16 through 33.

S-3424 FILED & ADOPTED
APRIL 5, 1983 (p. 1093)

BY ARTHUR A. SMALL, JR.

15
16
17
18
19
20
21
22
23
24
25

1 Section 1. Section 249A.6, Code 1983, is amended to read
2 as follows:

3 249A.6 SUBROGATION.

4 1. When payment is made by the department for medical
5 care or expenses through the medical assistance program on
6 behalf of any a recipient, the department ~~shall be~~ is
7 subrogated, to the extent of those payments, to all monetary
8 claims which the recipient may have against third parties
9 as a result of the medical care or expenses received or
10 incurred. ~~No~~ A compromise, including but not limited to a
11 settlement, waiver or release, of any a claim to which the
12 department is subrogated under this section ~~shall~~ does not
13 defeat the department's right of recovery except pursuant
14 to the written agreement of the commissioner or the
15 commissioner's designee or except as provided in this section.

16 2. The department shall be given notice of monetary claims
17 against third parties as follows:

18 a. Applicants for medical assistance shall notify the
19 department of any possible claims against third parties upon
20 submitting the application. Recipients of medical assistance
21 shall notify the department of any possible claims when those
22 claims arise.

23 b. Any A person who provides health care services to a
24 person receiving assistance through the medical assistance
25 program shall notify the department whenever the person has
26 reason to believe that third parties may be liable for payment
27 of the costs of those health care services.

28 c. Any An attorney representing an applicant for or
29 recipient of assistance on a claim to which the department
30 is subrogated under this section shall notify the department
31 of the claim of which the attorney has actual knowledge, prior
32 to filing any a claim, commencing any an action or negotiating
33 any a settlement offer.

34 The mailing and deposit in a United States post office
35 or public mailing box of the notice, addressed to the

1 department at its state or district office location, is
2 adequate legal notice of the claim.

3 3. The subrogation rights of the department ~~shall-be~~ are
4 valid and binding on an attorney, insurer, or other third
5 party only upon notice by the department or unless the insurer
6 or third party has actual notice that the recipient is
7 receiving medical assistance from the department and only
8 to the extent to which ~~sueh~~ the attorney, insurer, or third
9 party has not made payment to the recipient or an assignee
10 of the recipient prior to ~~sueh~~ the notice. Payment of benefits
11 by an insurer or third party pursuant to the subrogation
12 rights ~~hereunder-shall-discharge-sueh~~ of this section
13 discharges the attorney, insurer, or third party from liability
14 to the recipient or the recipient's assignee to the extent
15 of ~~sueh~~ the payment to the department.

16 4. ~~In-the-event~~ If a recipient of assistance through the
17 medical assistance program incurs the obligation to pay
18 attorney fees and court costs for the purpose of enforcing
19 a monetary claim to which the department is subrogated under
20 this section, the amount which the department is entitled
21 to recover under subsection 1, or ~~any~~ a lesser amount which
22 the department may agree to accept in compromise of its claim,
23 shall be reduced by an amount which bears the same relation
24 to the total amount of attorney fees and court costs actually
25 paid by the recipient as the amount actually recovered by
26 the department, exclusive of the reduction for attorney fees
27 and court costs, bears to the total amount paid by the third
28 party to the recipient. An attorney acting on behalf of a
29 recipient of medical assistance for the purpose of enforcing
30 a claim to which the department is subrogated shall not collect
31 from the recipient ~~any~~ an amount as attorney fees which is
32 in excess of the amount which the attorney customarily would
33 collect on claims not subject to this section.

34 5. For purposes of this section the term "third party"
35 includes ~~any~~ an attorney, individual, institution, corporation,

1 or public or private agency which is or may be liable to pay
2 part or all of the medical costs incurred as a result of
3 injury, disease or disability by or on behalf of an applicant
4 for or recipient of assistance under the medical assistance
5 program.

6 EXPLANATION

7 This bill attempts to treat attorneys similar to insurers
8 or other third parties in subrogation claims for medical care
9 or expenses through the medical assistance program of chapter
10 249A of the Code.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Judiciary and Law Enforcement: McIntee, Chair; Chapman and Tabor.

SENATE FILE 498

Do Pass 4/7/83

BY COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE APRIL 5, 1983)

Passed Senate, Date 4-5-83 (p. 1094) Passed House, Date 4-14-83 (p. 134)

Vote: Ayes 39 Nays 7 Vote: Ayes 90 Nays 1

Approved May 13, 1983 (p. 1719)

A BILL FOR

1 An Act relating to the liability for a subrogation claim
 2 for medical care or expenses through a medical assistance
 3 program.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

————— = New Language
by the Senate

* = Language Stricken
by the Senate

1 Section 1. Section 249A.6, Code 1983, subsections 1, 2,
2 3, and 5 are amended to read as follows:

3 1. When payment is made by the department for medical
4 care or expenses through the medical assistance program on
5 behalf of any a recipient, the department ~~shall be~~ is
6 subrogated, to the extent of those payments, to all monetary
7 claims which the recipient may have against third parties
8 as a result of the medical care or expenses received or
9 incurred. ~~No~~ A compromise, including but not limited to a
10 settlement, waiver or release, of any a claim to which the
11 department is subrogated under this section ~~shall~~ does not
12 defeat the department's right of recovery except pursuant
13 to the written agreement of the commissioner or the
14 commissioner's designee or except as provided in this section.

15 2. The department shall be given notice of monetary claims
16 against third parties as follows:

17 a. Applicants for medical assistance shall notify the
18 department of any possible claims against third parties upon
19 submitting the application. Recipients of medical assistance
20 shall notify the department of any possible claims when those
21 claims arise.

22 b. ~~Any~~ A person who provides health care services to a
23 person receiving assistance through the medical assistance
24 program shall notify the department whenever the person has
25 reason to believe that third parties may be liable for payment
26 of the costs of those health care services.

27 c. ~~Any~~ An attorney representing an applicant for or
28 recipient of assistance on a claim to which the department
29 is subrogated under this section shall notify the department
30 of the claim of which the attorney has actual knowledge, prior
31 to filing any a claim, commencing any an action or negotiating
32 any a settlement offer.

33 The mailing and deposit in a United States post office
34 or public mailing box of the notice, addressed to the
35 department at its state or district office location, is

1 adequate legal notice of the claim.

2 3. The subrogation rights of the department ~~shall-be~~ are
3 valid and binding on an attorney, insurer, or other third
4 party only upon notice by the department or unless the insurer
5 or third party has actual notice that the recipient is
6 receiving medical assistance from the department and only
7 to the extent to which ~~such~~ the attorney, insurer, or third
8 party has not made payment to the recipient or an assignee
9 of the recipient prior to ~~such~~ the notice. Payment of benefits
10 by an insurer or third party pursuant to the subrogation
11 rights ~~hereunder-shall-discharge-such~~ of this section
12 discharges the attorney, insurer, or third party from liability
13 to the recipient or the recipient's assignee to the extent
14 of ~~such~~ the payment to the department.

* 15 5. For purposes of this section the term "third party"
16 includes ~~any~~ an attorney, individual, institution, corporation,
17 or public or private agency which is or may be liable to pay
18 part or all of the medical costs incurred as a result of
19 injury, disease or disability by or on behalf of an applicant
20 for or recipient of assistance under the medical assistance
21 program.

22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 498

AN ACT

RELATING TO THE LIABILITY FOR A SUBROGATION CLAIM FOR MEDICAL CARE OR EXPENSES THROUGH A MEDICAL ASSISTANCE PROGRAM.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 249A.6, Code 1983, subsections 1, 2, 3, and 5 are amended to read as follows:

1. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of any a recipient, the department ~~shall be~~ is subrogated, to the extent of those payments, to all monetary claims which the recipient may have against third parties as a result of the medical care or expenses received or incurred. ~~Ne a~~ no a compromise, including but not limited to a settlement, waiver or release, of any a claim to which the department is subrogated under this section ~~shall does not~~ defeat the department's right of recovery except pursuant to the written agreement of the commissioner or the commissioner's designee or except as provided in this section.

2. The department shall be given notice of monetary claims against third parties as follows:

a. Applicants for medical assistance shall notify the department of any possible claims against third parties upon submitting the application. Recipients of medical assistance shall notify the department of any possible claims when those claims arise.

b. Any A person who provides health care services to a person receiving assistance through the medical assistance program shall notify the department whenever the person has reason to believe that third parties may be liable for payment of the costs of those health care services.

c. Any An attorney representing an applicant for or recipient of assistance on a claim to which the department is subrogated under this section shall notify the department of the claim of which the attorney has actual knowledge, prior to filing any a claim, commencing any an action or negotiating any a settlement offer.

The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or district office location, is adequate legal notice of the claim.

3. The subrogation rights of the department ~~shall be~~ are valid and binding on an attorney, insurer, or other third party only upon notice by the department or unless the insurer or third party has actual notice that the recipient is receiving medical assistance from the department and only to the extent to which ~~such the attorney,~~ insurer, or third party has not made payment to the recipient or an assignee of the recipient prior to ~~such~~ the notice. Payment of benefits by an insurer or third party pursuant to the subrogation rights ~~hereunder shall discharge such of this section~~ discharges the attorney, insurer, or third party from liability to the recipient or the recipient's assignee to the extent of ~~such the~~ payment to the department.

5. For purposes of this section the term "third party" includes any an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for or recipient of assistance under the medical assistance program.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 498, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved May 13, 1983

TERRY E. BRANSTAD
Governor