

CHAPTER 1094

MEDICAL ASSISTANCE PAYMENTS RECOVERED

S. F. 2190

AN ACT creating in the department of social services the right of subrogation to recover payments made under the medical assistance program.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter two hundred forty-nine A (249A), Code 1977, is amended by adding the following new section:

NEW SECTION. SUBROGATION.

1. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of any recipient, the department shall be 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. No compromise, including but not limited to a settlement, waiver or release, of any claim to which the department is subrogated under this section shall defeat the department's right of recovery except pursuant to the written agreement of the commissioner or the commissioner's designee.

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 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 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 prior to filing any claim, commencing any action or negotiating any settlement offer.

3. The subrogation rights of the department shall be valid and binding on an 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 insurer or third party has not made payment to the recipient or an assignee of the recipient prior to such notice. Payment of benefits by an insurer or third party pursuant to the subrogation rights hereunder shall discharge such insurer or third party from liability to the recipient or the recipient's assignee to the extent of such payment to the department.

4. In the event a recipient of assistance through the medical assistance program incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the department is subrogated under this section, the amount which the department is entitled to recover under subsection one (1) of this section, or any lesser amount which the department may agree to accept in compromise of its claim, shall be reduced by an amount which bears the same relation to the total amount of attorney fees and court costs actually paid by the recipient as the amount actually recovered by the department, exclusive of the reduction for attorney fees and court costs, bears to the total amount paid by the third party to the recipient. An attorney acting on behalf of a recipient of medical assistance for the purpose of enforcing a claim to which the department is subrogated shall not collect from the recipient any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this section.

5. For purposes of this section the term "third party" includes any 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.

Sec. 2. This Act shall take effect January 1, 1979.

Approved June 12, 1978