

MAINE STATE LEGISLATURE

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(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1845

S. P. 709

In Senate, January 22, 1980

Referred to the Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Clark of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Aid Recovery of Medicaid Funds.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 22 MRSA § 14, as enacted by PL 1979, c. 145 is amended to read:

§ 14. Action against parties liable for medical care rendered to assistance recipients; assignment of claims

1. Recovery procedures. When benefits are provided or will be provided to a beneficiary under the Medicaid program administered by the department pursuant to the Federal Social Security Act, Title XIX, ~~because of an injury for which another person~~ **for the medical costs of injury, disease, disability or similar occurrence for which a third party** is civilly liable, the commissioner shall have the right to recover from that ~~person party~~ **third party** the reasonable value of the benefits so provided. The Attorney General, or counsel for any fiscal intermediary with the permission of the Attorney General, may, to enforce this right, institute and prosecute legal proceedings against the ~~3rd person who is liable for the injury~~ **third party** in the appropriate court, either in the name of the ~~commissioner~~ **commissioner** or in the name of the injured person, **beneficiary**, his guardian, personal representative, estate or survivor.

In the event that the recipient has already received compensation ~~for injuries~~

received from the ~~third party responsible~~, the commissioner may recover from the recipient the amount expended for aid in a civil action. The action shall be prosecuted by the Attorney General and the amount recovered shall be credited to the account for the program which supplied aid to the recipient.

The commissioner may compromise, or settle and execute a release of, any claim or waive any claim, in whole or in part, for the convenience of the commissioner, or if the commissioner determines the collection will result in undue hardship upon the ~~person who suffered the injury~~ recipient.

In any case in which ~~3rd~~ third party liability is found under this section, the commissioner shall be subrogated to the rights of the individual for whom medical assistance was made available.

2. Condition for eligibility. As a condition for eligibility for benefits under the Medicaid program administered by the department pursuant to the Federal Social Security Act, Title XIX, the commissioner may require a recipient to assign to the department the right to recover from ~~3rd~~ third parties for ~~injuries received~~ **medical cost of injury, disease, disability or similar occurrence** for which the recipient receives medical benefits. The department's assigned right to recover shall be limited to the amount of medical benefits received by the recipient.

Sec. 2. 22 MRSA § 14, sub-§ 3 is enacted to read:

3. Definitions. For purposes of this section, "third party" means any entity that is or may be liable to pay all or part of the medical cost of injury, disease, disability or similar occurrence of an applicant or recipient of Medicaid.

STATEMENT OF FACT

This bill broadens the law enacted last session which gave the Commissioner of Human Services the authority to recover the cost of Medicaid expenditures for accident victims who later recover compensation from a third party at fault and to require the recipient to assign the right of recovery against a third party in such cases. The Department of Human Services also frequently pays under its Medicaid program for medical care which is covered by a private insurer. This bill would clarify the commissioner's right to recover the cost of Medicaid expenditures for medical care for which insurance benefits are available and to require a recipient to assign the right to make such recovery as a condition of Medicaid eligibility.