



# **129th MAINE LEGISLATURE**

### FIRST REGULAR SESSION-2019

**Legislative Document** 

No. 1133

H.P. 822

House of Representatives, March 7, 2019

## An Act To Require That Hospital Liens Be Satisfied on a Just and Equitable Basis

Reference to the Committee on Judiciary suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative WARREN of Hallowell. Cosponsored by Representatives: CARDONE of Bangor, EVANGELOS of Friendship, HARNETT of Gardiner.

- 1 Be it enacted by the People of the State of Maine as follows:
- 2 Sec. 1. 10 MRSA §3412-A is enacted to read:

### 3 §3412-A. Limits on priority of hospital liens

Lien reduction; just and equitable basis. A hospital lien must be reduced by the
 patient's proportionate share of the patient's litigation or other recovery costs, including,
 but not limited to, reasonable attorney's fees. A hospital lien must be satisfied not on the
 basis of a priority lien but on a just and equitable basis, which means that any factors that
 diminish the potential value of the patient's claim against which the lien is asserted must
 likewise reduce the share in the claim by the hospital for reimbursement for services
 provided. Such factors include, but are not limited to:

- 11 <u>A. Questions of liability and comparative negligence or other legal defenses;</u>
- B. Exigencies of trial that reduce a settlement or award in order to resolve the claim;
  and
- 14 <u>C. Limits on the amount of applicable insurance coverage that reduce the claim to an</u>
  15 <u>amount recoverable by the insured.</u>

2. Dispute resolution. In the event of a dispute as to the application of this section
 or the amount available for payment to those claiming payment for services or
 reimbursement, that dispute must be determined, if the action is pending, before the court
 in which it is pending; or if no action is pending, by filing an action in any court for
 determination of the dispute.

21

#### SUMMARY

This bill requires that a hospital's statutory lien be reduced by the patient's proportionate share of a patient's litigation or other recovery costs, including, but not limited to, reasonable attorney's fees. It also provides that a hospital lien must be satisfied on a just and equitable basis considering factors that diminish the patient's claim such as questions of liability or comparative negligence or other legal defenses, exigencies of trial and limits of insurance coverage.