Document: O.C.G.A. § 49-4-149

O.C.G.A. § 49-4-149

Copy Citation

Current through the 2026 Special Session of the General Assembly.

Official Code of Georgia Annotated TITLE 49 Social Services (Chs. 1 — 10) CHAPTER 4 Public Assistance (Arts. 1 — 9) Article 7 Medical Assistance Generally (§§ 49-4-140 — 49-4-159.6)

49-4-149. Lien of Department of Community Health against third parties; subrogation to recipients' insurance claims; assignment of recipients' claims.

(a) The Department of Community Health shall have a lien for the charges for medical care and treatment provided a medical assistance recipient upon any moneys or other property accruing to the recipient to whom such care was furnished or to his legal representatives as a result of sickness, injury, disease, disability, or death, due to the liability of a third party, which necessitated the medical care.

(b) The department may perfect and enforce any lien arising under subsection (a) of this Code section by following the procedures set forth for hospital liens in Code Sections 44-14-470 through 44-14-473; except that the department shall have one year from the date the last item of medical care was furnished to file its verified lien statement; and the statement shall be filed with the appropriate clerk of court in the county wherein the recipient resides and in Fulton County. The verified lien statement shall contain the following: the name and address of the person to whom medical care was furnished; the date of injury; the name and address of the provider or providers furnishing medical care; the dates of services; the amount claimed to be due for the care; and, to the best of the department's knowledge, the names and addresses of all persons,

firms, or corporations claimed to be liable for damages arising from the injuries. This Code section shall not affect the priority of any attorney's lien.

(c) The department shall be subrogated, but only to the extent of the reasonable value of the medical assistance paid and attributable to any sickness, injury, disease, or disability, to the rights of medical assistance recipients to any benefits provided such recipients by virtue of private health care insurance contracts; provided, however, the right of subrogation does not attach to any recipient's rights to benefits paid or provided under private health care coverage prior to the receipt of written notice, by the carrier who issued the health care contract, of the exercise by the department of its subrogation rights.

(d) A recipient of medical assistance who receives medical care for which the department may be obligated to pay shall be deemed to have made assignment to the department of any rights of such person to any payments for such medical care from a third party, up to the amount of medical assistance actually paid by the department; provided, however, assignment does not attach to a recipient's right to any payments provided under private health care coverage prior to the receipt of written notice, by the carrier who issued the health care coverage, of the exercise by the department of its assignment. This subsection shall apply to a recipient only if notice of this subsection is given to the recipient at the time his application for medical assistance is filed. The assignment created by this subsection shall be effective until the recipient of medical assistance is no longer an eligible recipient for medical assistance.

History

Ga. L. 1978, p. 1520, § 2; Ga. L. 1979, p. 1293, § 2; Ga. L. 1999, p. 296, § 24.

Annotations

JUDICIAL DECISIONS

"Complete compensation rule" only applies to the subrogation rights of an insurance carrier who has received compensation from an injured party and the rule does not apply to Medicaid liens; thus, when the Georgia Department of Community Health (DCH) had a

departmental lien pursuant to O.C.G.A. § **49**-**4**-**149**(a) against plaintiff recipient's settlement proceeds to recover Medicaid sums that the department expended to pay providers for the recipient's treatment, the DCH's lien was not precluded despite the recipient's claim that the recipient had not received full and complete compensation for the recipient's injuries. Padgett v. Toal, 261 Ga. App. 154, 581 S.E.2d 744, 2003 Ga. App. LEXIS 579 (2003).

Department did not take steps to recover funds. —

Summary judgment denying the claim of the Department of Medical Assistance (now Department of Community Health) was appropriate when the one-year statute of limitation for recovery on the lien had expired and there was no other viable cause of action made out by the department, when the only claim which the department could make to the money received by a recipient of medical care under the Medicaid program from the tortfeasors was that provided by the lien in O.C.G.A. § **49**-**4**-**149**, and since the department took no steps to recover the funds as reimbursement from the tortfeasors. Department of Medical Assistance v. Hallman, 203 Ga. App. 615, 417 S.E.2d 218, 1992 Ga. App. LEXIS 544 (1992).

Lien valid against public agency as third party. —

When the Georgia Department of Community Health (DCH) filed a departmental lien against plaintiff recipient's settlement proceeds to recover Medicaid sums that the department expended to pay providers for the recipient's treatment, and the recipient filed a declaratory judgment suit seeking a declaration that DCH's lien was invalid, the trial court properly granted the summary judgment motion of defendant, the Commissioner of the DCH, as, contrary to the recipient's contentions, the DCH's lien under O.C.G.A. § **49**-**4**-**149**(a) was not invalid even though the DCH was seeking to enforce the lien against another public agency (the board of regents of Georgia's university system, doing business as a medical college) because O.C.G.A. § **49**-**4**-**149**(a) allowed the lien against moneys owed by a third party for its liability leading to the recipient's injury and, applying the definitions in O.C.G.A. § 49-4-141(4) and (9), third parties included other public agencies. Padgett v. Toal, 261 Ga. App. 154, 581 S.E.2d 744, 2003 Ga. App. LEXIS 579 (2003).

Payment of attorney's fees. —

When the Georgia Department of Community Health (DCH) filed a departmental lien pursuant to O.C.G.A. § **49**-**4**-**149**(a) against plaintiff recipient's settlement proceeds to recover Medicaid sums that it expended to pay providers for the recipient's treatment, and the recipient filed a declaratory judgment suit, seeking a declaration that the DCH's lien was invalid, the lien was properly found to be valid and, since the settlement proceeds were sufficient to cover both the DCH's lien and the sum of 40 percent of the settlement proceeds which the recipient had agreed to pay the recipient's attorney as a fee, the DCH was not obligated to reduce DCH's lien to take into account the recipient's payment of attorney fees; such reductions only became an issue where the recipient's recovery was inadequate to cover both the DCH's lien and the attorney's lien, in which case lien priority would have been an issue, but it was not an issue in the recipient's case and so, like any other litigant, the recipient was obliged to bear the cost of the recipient's own attorney fees. Padgett v. Toal, 261 Ga. App. 154, 581 S.E.2d 744, 2003 Ga. App. LEXIS 579 (2003).

Priority of attorney's lien. —

Liens established by O.C.G.A. §§ 44-14-470 and **49**-**4**-**149** are subject to attorney's lien. Holland v. State Farm Mut. Auto. Ins. Co., 236 Ga. App. 832, 513 S.E.2d 48.

Lien applies to all funds recovered in tort claim. —

Georgia Department of Community Health (DCH) lien for Medicaid payments made on behalf of recipients applied to all money recovered in the recipients' tort claims, not just the recovery denominated as the medical expense recovery, and DCH was not required to pay any part of the costs of collecting the reimbursement. Richards v. Ga. Dep't of Cmty. Health, 278 Ga. 757, 604 S.E.2d 815, 2004 Ga. LEXIS 993 (2004).

Research References & Practice Aids

RESEARCH REFERENCES

ALR.

Collateral source rule — Aid or gratuity, 77 A.L.R.3d 366.

Hierarchy Notes:

O.C.G.A. Title 49

O.C.G.A. Title 49, Ch. 4

O.C.G.A. Title 49, Ch. 4, Art. 7

Official Code of Georgia Annotated

Content Type: Statutes and Legislation

Terms: 49-4-149

Narrow By: custom: custom Sources: Official Code of Georgia Annotated

Date and Time: Sep 18, 2026 10:15:57 a.m. EDT

LexisNexis®

Print

Cookie Policy

Terms & Conditions