

**§4243. Limits on priority liens; subrogation**

An individual or group contract subject to this chapter may not provide for subrogation or priority over the enrollee of payment for any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the coverage, in the event the enrollee is entitled to receive payment or reimbursement from any other person as a result of legal action or claim, except as provided in this section. [PL 1997, c. 369, §3 (NEW).]

The coverage may contain a provision that allows the payments, if that provision is approved by the superintendent and if that provision required the prior written approval of the insured and allows such payments only on a just and equitable basis and not on the basis of a priority lien. A "just and equitable basis" means that any factors that diminish the potential value of the enrollee's claim may likewise reduce the share in the claim for those claiming payment for services or reimbursement. Such factors include, but are not limited to: [PL 1997, c. 369, §3 (NEW).]

**1. Legal defenses.** Questions of liability and comparative negligence or other legal defenses; [PL 1997, c. 369, §3 (NEW).]

**2. Exigencies of trial.** Exigencies of trial that reduce a settlement or award in order to resolve the claim; and [PL 1997, c. 369, §3 (NEW).]

**3. Limits of coverage.** Limits on the amount of applicable insurance coverage that reduce the claim to an amount recoverable by the insured. [PL 1997, c. 369, §3 (NEW).]

In the event of a dispute as to the application of any such provision 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. [PL 1997, c. 369, §3 (NEW).]

**REVISOR'S NOTE:** §4243. Coverage for prostate cancer screening (As enacted by PL 1997, c. 754, §4 is REALLOCATED TO TITLE 24-A, SECTION 4244)

**SECTION HISTORY**

RR 1997, c. 2, §53 (RAL). PL 1997, c. 369, §3 (NEW). PL 1997, c. 754, §4 (NEW).

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