

Sample Letter Requested Medicaid HMO to Reduce Lien Demand

NOTE: This letter is a sample that must be customized to fit the facts of your individual situation and claim. All bracketed and underlined portions must be completed or revised before sending. Use this letter to request a Medicaid HMO to reduce its claim by more than Florida's Medicaid Statutory Formula.

(Date)

(Name of employee)

(Name of Recovery Company)

(Address)

Re: Medicaid Plan Member Name: (Name)
Medicaid Plan ID No.:
Date of Incident:

Dear [Medicaid HMO Recovery Company]:

I am in receipt of your letter dated _____. I disagree with your analysis.

The plan is not afforded all the rights, entitlements and protections of the Florida Medicaid Statute.

Let me illustrate just one example of a difference between Medicaid liens and Medicaid HMO liens. If an injured person wishes to challenge a Medicaid lien, he/she must pursue an administrative hearing at the Department of Administrative Hearings (DOAH) in Tallahassee. Yet, DOAH doesn't have jurisdiction to hear a petition regarding reduction of a Medicaid *managed care plan*.

Florida Statute 409.910 applies to Medicaid lien reductions. However, it does not apply to Medicaid *Managed Care Organizations*. The plan that you represent is a Medicaid Managed Care organization.

Nowhere in 409.910 does it say that it applies to Medicaid HMOs. If the legislature's intent was to apply 409.910, it could have easily added this with just a few words. As evidence of how simple is to do, at least one other state (Louisiana) has done so. Louisiana has specifically included Medicaid Managed Care Entities to their Medicaid reduction statute. Yet, Florida has not done so.

Medicaid Managed Care chapter, 409.962(7), Fla. Stat., defines the plans that are eligible to participate in Florida's Medicaid Managed Care system. Section 409.962(7) states that a "health

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maintenance organization authorized under chapter 641" may serve as a Medicaid Managed Care Health Plan (MMCHP).

Medicaid HMO Must Reduce Per Florida Statute 786.76(4)

Chapter 641 grants HMOs a right of recovery, specifically, §641.31(8), which states:

(8) A health maintenance organization providing medical benefits or payments to a subscriber who suffers injury, disease, or illness by virtue of the negligent act or omission of a third party is entitled to reimbursement from the subscriber in accordance with 768.76(4)."

Where does Florida Statutes or Florida case law say that Medicaid managed care organizations are exempt from F.S. 641.31(8)?

Florida Statute 768.76(4) allows reduction for attorney's fees and costs. It also allows the court to consider any other equitable factors.

Equitable Factors Warrant a Further Lien Reduction

The following are equitable factors that warrant a further reduction.

This was a devastating accident where an occupant of another vehicle was killed. My client's injuries included, but are not limited to, were an acetabulum (hip) fracture, which resulted in two separate hospitalizations. During one of those hospital visits, she was admitted to the hospital. Additionally, my client had to use a walker for quite a bit of time. Moreover, _____ has several young children that her injuries prevented her from enjoying life with.

Due to limited available liability and underinsured motorist insurance, my client had agreed to settle her personal injury claims for \$33,000. (We also are recovering \$95.00 for my client's property damage, but HMO or any liens don't apply to property damage.)

In the spirit of compromise, we offer \$_____ to settle your alleged lien. Please advise if you wish to accept this amount as full and final settlement of your claimed lien.

Thank you for your help.

Sincerely,

YOUR NAME

MAILING ADDRESS

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