HB11

198994-3

By Representative Rowe

RFD: Insurance

First Read: 05-MAR-19

PFD: 01/10/2019
A BILL
TO BE ENTITLED
AN ACT

Relating to hospitals; to amend Sections 35-11-371 and 35-11-372, Code of Alabama 1975, to require a hospital that provides medical treatment to an injured person to seek compensation solely from that person's health insurance provider, with the exception of approved copayments and deductibles, unless certain circumstances apply; and to allow a hospital to perfect a hospital lien against any recovery the injured person may be awarded for injuries by way of settlement or judgment in certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 35-11-371 and 35-11-372, Code of Alabama 1975, are amended to read as follows:

"§35-11-371.

"(a) For the purposes of this section, the following terms shall have the following meanings:

"(1) HEALTH CARE PAYOR. A health care insurer, health maintenance organization, or health care service plan organized under Article 6, Chapter 20, Title 10A, authorized to provide health care coverage in the state."
"(2) SATISFY THE CLAIM. Receipt by the hospital of either of the following:

"a. Full payment for services as billed.

"b. If the hospital has a contract with the injured person's health care payor, payment together with all credits, discounts, and contractual adjustments that the patient's bill would be entitled under the contract, including recoupments, between the hospital and the patient's health care payor which extinguish the patient's obligation for the services rendered.

"(b) Unless specifically contrary to any contractual agreement between the hospital and the injured person's health care payor or unless contrary to any statute or governmental rule or regulation of the United States or this state, no hospital shall perfect a lien as to any injured person who was covered by a health care payor's policy, until the hospital submits to the health care payor an accurate and properly coded claim, or if a contract exists between the hospital and the health care payor, in the form required pursuant to the contract, and there is a failure to satisfy the claim. Perfection of a lien shall be as follows:

"(1) A hospital may perfect its lien as to an injured person who was covered by a health care payor's policy that provides primary coverage for the care, if the hospital takes the steps described in subsection (c), within 20 days after its receipt of notice of the health care payor's denial of an accurate and properly coded claim. Failure to satisfy an accurate and properly coded claim within 45 days of submission
or the subsequent recoupment by the health care payor of amounts previously paid, which results in a failure to satisfy the claim, shall be deemed a denial of the claim.

"(2) A hospital may perfect its lien as to an injured person who was not known to the hospital to be covered by a health care payor, was covered by a governmental payor including Medicare or Medicaid, or was covered by a policy not described in subdivision (b)(1), if it takes the steps described in subsection (c) within 20 days after discharge.

"(3) Where the hospital does not receive evidence of the injured person's health care payor until after the lien provided for by this section has been perfected, the hospital shall bill the health care payor forthwith but may retain its lien until satisfaction of the claim. If the claim is satisfied, the hospital shall release the lien within 10 days.

"(c) In order to perfect such a lien under this division, the operator of such the hospital, before or within 10 days after such person shall have been discharged therefrom shall file in with the office of the judge of probate of the county or counties probate court of the county in which such cause of action arose the hospital is located a verified statement setting forth the name and address of such the patient, as it shall appear on the records of such the hospital, the name and location of such the hospital and the name and address of the operator thereof, the dates of admission and discharge of such the patient therefrom, the amount claimed to be due for such the hospital care, which
shall give full credit for any health care payor payments made, including agreed contractual adjustments, and to the best of the claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such the injured person, or the legal representative of such the person, to be liable for damages arising from such the injuries; such. The claimant shall also within one day after the filing of such the claim or lien, mail a copy thereof by registered or certified mail, postage prepaid, for each person, firm, or corporation so claimed to be liable on account of such the injuries, at the addresses so given in such the statement, and to the patient, his guardian, or his personal representative at the address given at the time of admission.

"(d) The filing of such a claim or lien shall be notice thereof to all persons, firms, or corporations liable for such damages, whether or not they are named in such the claim or lien. Nothing herein shall be deemed to preclude the hospital from perfecting its lien outside of the time limits stated in this section through providing actual notice to persons, firms, or corporations.

"(e) The judge of probate shall endorse thereon the date and hour of filing, and at the expense of the county shall provide a hospital lien book with proper index in which he or she shall enter the date and hour of such the filing, the names and addresses of such the hospital, the operators thereof and of such the patient, the amount claimed and the
names and addresses of those claimed to be liable for damages. The information shall be recorded in the name of the patient. The judge of probate shall be paid $1.00 as his or her fee for such the filing.

"§35-11-372.

"(a) During the period of time allowed by Section 35-11-371 for perfecting the lien provided for by this division, including that period of time during which the hospital is awaiting payment or denial by the patient's health care payor, and also after the lien provided for by this division has been perfected, as provided in this division, by any lienholder entitled thereto, no release or satisfaction of any action, claim, counterclaim, demand, judgment, settlement, or settlement agreement, or of any of them, shall be valid or effectual as against such the lien unless such the lienholder shall join therein or execute a release of such the lien.

"(b) Any acceptance of a release or satisfaction of any such action, claim, counterclaim, demand or judgment and any settlement of any of the foregoing in the absence of a release or satisfaction of the lien referred to in this division shall prima facie constitute an impairment of such the lien, and the lienholder shall be entitled to a civil action for damages on account of such the impairment, and in such the action may recover from the one accepting such the release or satisfaction or making such the settlement the reasonable cost of such charges for the hospital care, treatment, and maintenance. Satisfaction of any judgment
rendered in favor of the lienholder in any such action shall operate as a satisfaction of the lien. Any action by the lienholder shall be brought in any court having jurisdiction thereof and may be brought and maintained in the county wherein the lienholder has his or her, its, or their residence or place of business. If the lienholder shall prevail in such the action, the lienholder shall be entitled to recover from the defendant, costs and reasonable attorney's fees. Such The action shall be commenced against the person liable for such the damages within one year after the date such the liability shall be finally determined by a settlement release covenant not to sue or by the judgment of a court of competent jurisdiction."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law and shall apply to claims for hospital services that arise following the effective date.
House of Representatives

Read for the first time and referred to the House of Representatives committee on Insurance ...... 05-MAR-19

Read for the second time and placed on the calendar with 1 substitute and.............................. 11-APR-19

Read for the third time and passed as amended.............................. 16-APR-19

Yeas 97, Nays 0, Abstains 1

Jeff Woodard
Clerk