

PUBLIC CHAPTER NO. 776

SENATE BILL NO. 3087

By Burchett

Substituted for: House Bill No. 3135

By Dunn, Fincher

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 5, Part 1, relative to subrogation in the medical assistance program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 71-5-117(c), is amended by deleting such subsection in its entirety.

SECTION 2. Tennessee Code Annotated, Section 71-5-117, is further amended by deleting subsection (f) and substituting instead the following:

(f) The state's right of action under this section shall be authorized as part of the contractual functions of the individual managed care organization or organizations that incurred the medical expenses on behalf of a TennCare recipient where the TennCare program deems appropriate. The Bureau of TennCare shall maintain an easily accessible and clearly identified Internet Web page, updated at least bi-annually, that identifies the individual managed care organization or organizations having authorization to pursue the state's right of action under this section and such Internet Web page, at the minimum, shall provide the appropriate manner, method and form for contacting the managed care organization or organizations. The form made accessible through such Internet Web page shall be consistent with the requirements of subsection (g).

SECTION 3. Tennessee Code Annotated, Section 71-5-117, is further amended by deleting the first two sentences of subsection (g) and substituting instead the following:

Before the entry of the judgment or settlement in a personal injury case, the plaintiff's attorney shall notify and contact in writing by facsimile or certified mail return receipt requested any entity acting pursuant to and identified in accordance with subsection (f), in order to determine if the state or managed care organization or organizations have a subrogation interest. Notice by the plaintiff's attorney, at the minimum, shall provide the following information: the full name of the plaintiff's client; the client's date of birth; the client's social security number, if known; the client's TennCare or managed care organization identification number; and the date the client's claim arose. Notice by the plaintiff's attorney shall be consistent with the foregoing in order to be considered valid. Within sixty (60) days of receipt of the above-referenced notice, the entities having a subrogation interest shall respond to the plaintiff's attorney in writing via

facsimile or certified mail return receipt requested with either the amount of the subrogation interest or advise the plaintiff's attorney that additional time is necessary in order to determine the amount of the subrogation interest, but in no event shall a response containing the amount of the subrogation interest exceed one hundred twenty (120) days. The plaintiff's attorney shall then inform the court regarding the results of such attorney's notice, if any. Should no specific number be claimed within the period specified herein, the subrogation shall be extinguished and disbursements may be made without recourse upon the plaintiff or the plaintiff's attorney. If the plaintiff's attorney received a timely response from the entities acting pursuant to subsection (f), but the amount of the subrogation interest remains in disagreement, then the trial judge may hold a hearing in accordance with subsection (j) below.

SECTION 4. This act shall take effect January 1, 2011, the public welfare requiring it.

PASSED: March 31, 2010



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 16th day of April 2010



PHIL BREDESEN, GOVERNOR