

Tessier Mediation

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State Farm v. Huff: Hospital Lien Act Recovery Requires Proof of Reasonableness

On June 11, 2013, the Fourth Appellate District filed its opinion in *State Farm Mutual Automobile Ins. Co. v. Huff* (2013) 216 Cal. App. 4th 1463. In this interpleader action, the court held that liens asserted under the Hospital Lien Act (Cal. Civ. Code 3045.1, 3045.3) require proof that the claimed charges were both reasonable and necessary. Proof of reasonableness requires something more than merely submitting and authenticating the bill generated for those services at trial, even if the plaintiff had relied upon this bill and at trial against the tortfeasor and received a verdict which included recovery for past medical expenses.

Facts

The plaintiff was seriously injured in a car accident, and went to trial. The hospital lien for emergency services totaled \$34,320.86. At trial the verdict included an award for past medical expenses for \$232,708.80.

After entry of judgment the lien asserted under the Hospital Lien Act was asserted by a collection agency. Plaintiff claimed the entire judgment was to be paid to him. The defendant's insurer (State Farm) filed an interpleader given the conflicting claims. The matter then proceeded to a bench trial.

At trial, the District director (lienholder) provided evidence authenticating the medical bill for \$34,320.86, but provided no evidence concerning whether the charges were reasonable in price by a physician or expert.

The trial court ruled that the District was entitled to the full \$34,320.86. The injured plaintiff appealed.

Analysis

Since the Supreme Court ruling in *Howell*, and the follow up case of *Corenbaum*, the billed amount for medical services has come under sharp scrutiny. In *Howell*, the court stated that the billed amount for past medical expenses is not an accurate measure of the value of medical services (*Howell*, 52 Cal. 4th at 562 & 564). In *Corenbaum*, the court concluded that "evidence of the full amount billed for plaintiffs'

medical care was not admissible for the purpose of determining plaintiffs' damages for their past medical expenses." It is against this backdrop that the question of the quantum of proof for medical liens under the Hospital Lien Act is considered.

The Hospital Lien Act (Cal. Civil Code 3045.1, et. seq.) creates a statutory nonpossessory lien to compensate a hospital for providing medical services to an injured person by giving the hospital a direct right to a certain percentage of specific property. The lien is limited by 1) reasonable and necessary charges for the services, and 2) no more than 50% of the settlement or judgment after payment of prior liens.

The court ruled that merely authenticating the bill for such services is not sufficient to establish the "reasonable" component of the lien under the statute. The judgment for

the lienholder was reversed. The testimony from the witness at trial was that the bill was based upon the "standard" charges for the services as determined by the provider. This proof, without more, held the court, did not meet the "reasonableness" threshold. The court stated that the hospital should have no trouble meeting this burden, but does not specifically state what exactly would have been sufficient.

This ruling is important not only for Hospital Lien Act disputes. The same reasoning could apply to any "billed" amount based upon "standard" charges for any lien. The skepticism expressed by our Supreme court and Appellate courts toward billing practices of health care providers, which has now been extended to Hospitals asserting statutory liens, requires trial lawyers to carefully consider the evidence necessary to sustain their burdens of proving the charges for past medical services when those services are provided on a lien.

It would seem that the best practice at trial is evolving. Short of a stipulation before trial as to the past medical expenses to be considered by the jury, either the provider of those services (such as a doctor) or a consultant (such as a medical billing expert) should be ready to provide evidence, in addition to or in lieu of the authentication of a bill, establishing the reasonableness of the charges incurred. Simply authenticating and admitting the bill into evidence will not be sufficient to sustain the burden of proof.

The Future

May we live in interesting times, so the saying goes. It would seem that the billed amounts for past medical expenses are not worth the paper they are written on if they are on a lien or are otherwise unpaid at the time of trial. Perhaps it would behoove providers to reevaluate their "standard" charges with an eye toward the legal standard of reasonableness? (If this is a subject that interests you, take a look at the Time magazine of March 4, 2013 on the high cost of healthcare that features the "chargemaster" and illustrates the systemic problem of billing for health care in America).

Moreover, with the upcoming roll out of "Obama-care" in which all persons are legally obligated to purchase health insurance or face a fine, we will have another layer of complexity to the analysis. That will surely be interesting! In the meantime, what used to be the easy part of the trial (laying the foundation for past medical expenses) has now become more difficult.

Experts will need to be retained and prepared to address the issue of reasonableness of charges. Trials will become more lengthy perhaps, but undoubtedly more expensive.

I hope you find these quick briefings helpful to your practice. Thanks for reading, and feel free to provide any feedback to me at robert@tessiermediation.com

Sincerely,

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