**South Carolina General Assembly**

118th Session, 2009-2010

**S. 742**

**STATUS INFORMATION**

General Bill

Sponsors: Senator McConnell

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Introduced in the Senate on April 22, 2009

Currently residing in the Senate Committee on **Medical Affairs**

Summary: Medicaid

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/22/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\04-22-09.docx)‑2

4/22/2009 Senate Referred to Committee on **Medical Affairs** [SJ](file:///h:\SJ%20Archive\2009\04-22-09.docx)‑2

**VERSIONS OF THIS BILL**

[4/22/2009](file:///p:\pprever\2009-10\742_20090422.docx)

**A** **BILL**

TO AMEND SECTION 43‑7‑430, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SUBROGATION RIGHTS TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR MEDICAL ASSISTANCE PAID BY MEDICARE, SO AS TO PROVIDE THAT AN ATTORNEY RETAINED BY A BENEFICIARY WHO, DUE TO INJURY OR DEATH, OBTAINS FUNDS FOR THE BENEFICIARY FROM A THIRD PARTY SHALL DISTRIBUTE TO THE DEPARTMENT, PRORATED WITH THE CLAIMS OF ALL OTHERS HAVING MEDICAL SUBROGATION RIGHTS OR MEDICAL LIENS AGAINST THE AMOUNT RECEIVED OR RECOVERED, AN AMOUNT NOT TO EXCEED ONE THIRD OF THE GROSS AMOUNT OBTAINED OR RECOVERED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 43-7-430 of the 1976 Code is amended to read:

“Section 43‑7‑430. (A) The department automatically is subrogated, only to the extent of the amount of medical assistance paid by Medicaid, to the rights an applicant or recipient has to recover an amount paid by Medicaid from a third party or private insurer. The applicant or recipient shall cooperate fully with the department and shall do nothing after medical assistance is provided to prejudice the subrogation rights of the department.

(B) An applicant’s and recipient’s determination of, and continued eligibility for, medical assistance under Medicaid is contingent on his cooperation with the department in its efforts to enforce its subrogation rights. Cooperation includes, but is not limited to, reimbursing the department from proceeds or payments received by the recipient from a third party or private insurer.

(C) Any attorney retained by the beneficiary of the medical assistance shall, out of the proceeds obtained on behalf of the beneficiary by settlement with, judgment against, or otherwise from a third party by reason of injury or death, distribute to the department the amount of medical assistance paid by the department on behalf of or to the beneficiary, as prorated with the claims of all others having medical subrogation rights or medical liens against the amount received or recovered, but the amount paid to the department shall not exceed one third of the gross amount obtained or recovered.

(D) An applicant or recipient is considered to have authorized all persons, including insurance companies and providers of medical care, to release to the department information needed to enforce the subrogation rights of the department.”

SECTION 2. This act takes effect upon approval by the Governor.

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