§2836. Limits on priority liens

No group or blanket policy shall provide for priority over the insured member of payment for any hospital, nursing, medical or surgical services, or of any expenses paid or reimbursed under the policy, in the event the insured member is entitled to receive payment reimbursement from any other person as a result of legal action or claim, except as provided in this section. [PL 1975, c. 770, §108 (NEW).]

A policy may contain a provision that allows such payments, if that provision is approved by the superintendent, and if that provision requires the prior written approval of the insured member and allows such payments only on a just and equitable basis, and not on the basis of a priority lien. A just and equitable basis shall mean that any factors that diminish the potential value of the insured member's claim shall likewise reduce the share in the claim for those claiming payment for services or reimbursement. Such factors shall include, but are not limited to: [PL 1975, c. 770, §108 (NEW).]

1. Legal defenses. Questions of liability and comparative negligence or other legal defenses;
[PL 1975, c. 770, §108 (NEW).]

2. Exigencies of trial. Exigencies of trial that reduce a settlement or award in order to resolve the claim; and
[PL 1975, c. 770, §108 (NEW).]

3. Limits of coverage. Limits on the amount of applicable insurance coverage that reduce the claim to an amount recoverable by the insured member.
[PL 1975, c. 770, §108 (NEW).]

In the event of a dispute as to the application of any such provision or the amount available for payment to those claiming payment for services or reimbursement, the dispute shall be determined if the action is pending, before the court in which it is pending; or if no action is pending, by filing an action in any court for determination of the dispute. [PL 1975, c. 770, §108 (NEW).]

SECTION HISTORY

PL 1975, c. 770, §108 (NEW).

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