

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 4.**  
**PUBLIC CARE SYSTEMS.**

**CHAPTER 6.**  
**HEALTH-CARE ASSISTANCE REIMBURSEMENT.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 6. HEALTH-CARE ASSISTANCE**  
**REIMBURSEMENT.**

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# CHAPTER 6. HEALTH-CARE ASSISTANCE REIMBURSEMENT.

## § 4-601. DEFINITIONS.

For the purposes of this chapter, the term:

(1) "Beneficiary" means any individual who has received health-care assistance from the District and, if applicable, that individual's guardian, conservator, personal representative, estate, dependents, and survivors.

(2) "District" means the District of Columbia.

(3) "Health-care assistance" means health or health-related care and treatment that the District has undertaken to provide or pay for free of charge or at a discounted rate, and includes future care and treatment that the Mayor, in his or her discretion, reasonably anticipates will be provided or paid for by the District. The term "health-care assistance" includes, but shall not be limited to, medical, surgical, nursing, dental, hospital, nursing home, hospice, and home care, prostheses and medical appliances, physical and occupational therapy, counseling and psychotherapy, social work, related transportation costs, and funeral and burial expenses.

(4) "Third party" means a third-party tortfeasor, beneficiary's insurer, or any other individual, organization, or entity that is or may be liable to a beneficiary, in tort or contract, for all or part of the care and treatment the District has undertaken to provide or pay for as health-care assistance.

(June 14, 1984, D.C. Law 5-86, § 2, 31 DCR 2098.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Prior Codifications*

1981 Ed., § 3-501.

#### *Legislative History of Laws*

Law 5-86, the "Health-Care Assistance Reimbursement Act of 1984," was introduced in Council and assigned Bill No. 5-271, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on March 27, 1984, and April 10, 1984, respectively. Signed by the Mayor on April 26, 1984, it was assigned Act No. 5-124 and transmitted to both Houses of Congress for its review.

#### *Delegation of Authority*

Delegation of authority under D.C. Law 5-86, see Mayor's Order 85-56, May 17, 1985.

## § 4-602. RIGHT TO REIMBURSEMENT ESTABLISHED; SUBROGATION AND ASSIGNMENT.

(a) Whenever the District provides health-care assistance to a beneficiary who has suffered an injury or illness under circumstances creating liability in a third party or under circumstances that would have created such a liability had the beneficiary instead of the District incurred the expense of the health-care assistance, it shall have an independent, direct cause of action against that third party for the unreimbursed value or cost of the health-care assistance provided.

(b) As soon as the District begins providing health-care assistance to a beneficiary, it shall become subrogated to any right or claim that the beneficiary has against a third party for the care and treatment it has undertaken to provide or pay for as health-care assistance. Alternatively, or in addition to the legal subrogation effected under this subsection, the Mayor may require a beneficiary to execute a written assignment of that same right or claim.

(June 14, 1984, D.C. Law 5-86, § 3, 31 DCR 2098.)

### *HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 3-502.

*Legislative History of Laws*

For legislative history of D.C. Law 5-86, see Historical and Statutory Notes following § 4-601.

**§ 4-603. SET-OFF.**

(a) Except as provided in subsection (b) of this section, whenever the District is a defendant in a proceeding brought by a beneficiary, it shall have a right to set off from a judgment against it any damages that represent compensation for the care and treatment it has undertaken to provide or pay for as health-care assistance.

(b) No set-off shall be allowed from a judgment entered against the District pursuant to any provision of Chapter 13 of Title 7.

(June 14, 1984, D.C. Law 5-86, § 4, 31 DCR 2098.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 3-503.

*Legislative History of Laws*

For legislative history of D.C. Law 5-86, see Historical and Statutory Notes following § 4-601.

**§ 4-604. ENFORCEMENT OF RIGHT; WAIVER.**

(a) In enforcing its right to reimbursement, the District may:

(1) Permit the beneficiary to proceed on behalf of the District in prosecuting, in conjunction with his or her own claims, the District's claim for the unreimbursed value or cost of the health-care assistance provided;

(2) Intervene or join in any proceeding brought by the beneficiary;

(3) Institute and prosecute a proceeding either alone (in its own or the beneficiary's name) or in conjunction with the beneficiary; or

(4) Compromise or settle and execute a release of its claim against a third party.

(b) The Mayor may waive, in whole or in part, enforcement of the District's claim against a third party if enforcement in a particular case would not be cost effective or would result in undue hardship to the beneficiary, including any dependents or survivors of the actual recipient of health-care assistance. If waiver is based on the avoidance of undue hardship, the Mayor may in addition void the legal subrogation or assignment effected pursuant to § 4- 602(b). In determining whether, and to what extent, reimbursement should be sought or awarded under this chapter, the Mayor or a court, respectively, shall give due consideration to the extent of the beneficiary's injuries and his or her current and future needs, including the current and future needs of any dependents or survivors of the actual recipient of health-care assistance.

(c) No proceeding prosecuted or judgment received by the District pursuant to this chapter shall be a bar to a beneficiary's claim or cause of action for elements of damage not covered by the District's cause of action, or shall operate to deny the beneficiary recovery of those elements of damage.

(June 14, 1984, D.C. Law 5-86, § 5, 31 DCR 2098.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 3-504.

*Legislative History of Laws*

For legislative history of D.C. Law 5-86, see Historical and Statutory Notes following § 4-601.

**§ 4-605. SETTLEMENT PROBATIVE OF LIABILITY.**

Any settlement or compromise of a claim or cause of action between a beneficiary and third party for more than what in the opinion of the court is a nominal amount in light of the claims asserted shall be admissible

in evidence as probative of that third party's liability to the District.

(June 14, 1984, D.C. Law 5-86, § 6, 31 DCR 2098.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 3-505.

##### *Legislative History of Laws*

For legislative history of D.C. Law 5-86, see Historical and Statutory Notes following § 4-601.

### **§ 4-606. NOTICE.**

(a) Any individual or institutional health-care provider that bills the District for health-care assistance furnished to a beneficiary shall provide the Mayor with written notice of any known or suspected third-party liability as soon as the health-care provider acquires knowledge of or suspects the existence of that liability. The written notice shall include the beneficiary's name and, if known, the name of the third party and a description of the circumstances allegedly creating a liability.

(b) If either the beneficiary or the Mayor separately institutes a proceeding against or settlement negotiations with a third party, the party instituting the proceeding or negotiations shall have 20 calendar days to give the other party written notice of the action by personal service or certified mail. If a court proceeding has been instituted, proof of timely notice shall be filed with the court. Whenever the Mayor separately institutes a proceeding under this chapter, written notice to the beneficiary shall advise him or her of the Mayor's right to reimbursement and, if the beneficiary has not proceeded to trial in another proceeding or executed a settlement agreement, his or her rights to intervene or join in the proceeding and to retain private counsel.

(c) After deducting a beneficiary's litigation costs and reasonable attorney's fees, a third party who is aware that the District might have a claim against the remainder of a judgment or settlement awarded or executed in favor of the beneficiary shall not satisfy the remainder of that judgment or settlement without first giving the Mayor both written notice of the judgment or settlement and 30 calendar days from the date notice is received to determine the appropriateness of a lien under § 4-607, and, if appropriate, to perfect and satisfy that lien.

(d) If a beneficiary retains private counsel, counsel shall be responsible for giving all notices required by this section.

(June 14, 1984, D.C. Law 5-86, § 7, 31 DCR 2098.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 3-506.

##### *Legislative History of Laws*

For legislative history of D.C. Law 5-86, see Historical and Statutory Notes following § 4-601.

### **§ 4-607. LIEN.**

(a) Except as limited by subsections (b) and (c) of this section, the District shall have a lien, perfected in accordance with subsection (d) of this section, upon any judgment or settlement awarded or executed in favor of a beneficiary against a third party for that amount of the judgment or settlement that represents the care and treatment it has undertaken to provide or pay for as health-care assistance.

(b) If the beneficiary prosecutes a claim on behalf of the District in a proceeding or settlement negotiations and incurs a personal liability for litigation costs and attorney's fees, the Mayor shall determine in good faith what, if any, contribution to those costs and fees would be appropriate, and that contribution shall be subtracted from the amount of the lien.

(c) The beneficiary shall have the right to retain the amount of judgment or settlement that remains after the deduction of litigation costs, reasonable attorney's fees, or any amount necessary to reimburse the District for medical assistance payments the District has made on behalf of the beneficiary or the United States to the extent of the United States' financial participation in the medical assistance.

(d) To perfect a lien under this section, the Mayor, before payment of any part of a judgment or settlement is made to the beneficiary, shall:

(1) File in the Office of the Recorder of Deeds, in a docket provided for this type of lien, a written notice containing the beneficiary's name and address, the approximate date and location of the incident that

caused or allegedly caused the beneficiary's injury or illness, and the name of the third party; and

(2) Provide by personal service or certified mail copies of the written notice of lien together with a statement of the date of filing to the beneficiary, the third party, and, if applicable and ascertained by the Mayor, the insurer of a third-party tortfeasor.

(e) If after receiving a notice of lien under paragraph (2) of subsection (d) of this section, a beneficiary, third party, or an insurer of a third-party tortfeasor disposes of funds covered by a lien perfected under this section without paying the District the amount of its lien that could have been satisfied from those funds after paying off any prior liens, that beneficiary, third party, or insurer shall, for a period of 1 year from the date the funds were improperly disposed of, be liable to the District for any amount that, because of the disposition, it is unable to recover.

(June 14, 1984, D.C. Law 5-86, § 8, 31 DCR 2098; Mar. 24, 1990, D.C. Law 8-99, § 2, 37 DCR 1067.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 3-507.

##### *Legislative History of Laws*

For legislative history of D.C. Law 5-86, see Historical and Statutory Notes following § 4-601.

Law 8-99, the "Health-Care Assistance Reimbursement Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-305, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on January 2, 1990, and January 16, 1990, respectively. Signed by the Mayor on January 26, 1990, it was assigned Act No. 8-152 and transmitted to both Houses of Congress for its review.

### **§ 4-608. RULES.**

The Mayor may, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to effectuate the purposes of this chapter, including, but not limited to, rules for:

- (1) Determining the unreimbursed value of health or health-related care and treatment that the District undertakes to provide directly;
- (2) Determining the appropriateness and amount of a District contribution under § 4-607(b);
- (3) Establishing procedures to implement the notice requirements in § 4-606; and
- (4) Facilitating the District's compliance with applicable federal regulations.

(June 14, 1984, D.C. Law 5-86, § 9, 31 DCR 2098.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 3-508.

##### *Legislative History of Laws*

For legislative history of D.C. Law 5-86, see Historical and Statutory Notes following § 4-601.

### **§ 4-609. EXISTING RIGHTS TO REIMBURSEMENT PRESERVED.**

This chapter shall not be construed to limit or repeal any other provision of law that invests the District with a right to reimbursement for health-care assistance provided to a beneficiary or specified class of beneficiary.

(June 14, 1984, D.C. Law 5-86, § 10, 31 DCR 2098.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 3-509.

##### *Legislative History of Laws*

For legislative history of D.C. Law 5-86, see Historical and Statutory Notes following § 4-601.