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Raised Bill 6492  
Public Hearing: 3/9/11

TO: MEMBERS OF THE JUDICIARY COMMITTEE  
FROM: CONNECTICUT TRIAL LAWYERS ASSOCIATION (CTLA)  
DATE: MARCH 9, 2011

RE: SUPPORT FOR RAISED BILL 6492

**The Connecticut Trial Lawyer's Association ("CTLA") supports enactment of Raised Bill Number 6492 "An Act Concerning the Admissibility of Medical Bills in Civil Actions".**

The CTLA respectfully submits that this proposed legislation will clarify the law regarding the admissibility of medical bills submitted into evidence during the trial of personal injury or wrongful death actions. In accordance with the common law, the full amount of the bill will be submitted into evidence, rather than a medical bill that has been reduced by insurance payments or write-offs. Any issues regarding a decrease in economic damages, as defined by Conn. Gen. Stat. Section 52-572h(a)(1), will then appropriately be determined at a post-verdict collateral source hearing, pursuant to Conn. Gen. Stat. Sections 52-225a-225c.

The rules of evidence and general statutes permit plaintiffs to offer medical bills as evidence of economic damages. Specifically, Conn. Gen. Stat. §52-572h(a)(1) defines "economic damages" as including "the cost of reasonable and necessary medical care". Frequently when the health care provider submits its bill to the health insurance carrier, the health insurance carrier only pays a portion of the bill. The balance is written off. Pursuant to statute in Connecticut, if the health care provider accepts the payment from the health insurance carrier, it cannot subsequently bill the patient for the balance. Conn. Gen. Stat. §20-7f.

Recently, defense counsel have objected to the total bill being offered into evidence at the time of trial. Defense counsel argues that only the amount of the bill actually paid by the health insurance carrier represents the “cost of reasonable and necessary medical care” pursuant to Conn. Gen. Stat. §52-572h.

It has already been held in the Superior Court and affirmed by the Appellate Court, that adjustments or “write-offs” are not “collateral sources” pursuant to Conn. Gen. Stat. §52-225. *Hassett v. City of New Haven*, Docket No.: CV 458974-S (Aug. 25, 2004) (Blue, J.), affirmed 91 Conn. App. 245 (Sept. 6, 2005). However, the defendants are claiming that the total bill, in the first instance, is not admissible during the course of the trial as evidence of the cost of medical care, in view of the “write-off”. The defendants’ argument is improper for several reasons.

First, the defendants’ argument may require the introduction of collateral source information to the jury, specifically the existence of health insurance. It is established law that the existence of collateral source payments, including health insurance, is something that is not admissible to the jury. If the jury were to hear that a portion of the bill was paid by the health insurance carrier, in all likelihood the jury would be disinclined to compensate for the medical bills, because they would improperly assume the plaintiff was receiving a double recovery. In fact, if the jury was to decline to award compensation for medical bills paid by insurance, and then the plaintiff is required to subsequently undergo a collateral source hearing where the payment of medical bills is again deducted, the plaintiff’s damages are unfairly being deducted twice for the same payments.

Moreover, the defendants’ argument also suffers from a broader logical problem. The total amount of the bill does, in fact, represent the “cost of reasonable and necessary medical care” as required by Conn. Gen. Stat. §52-572h. The only reason that the health care provider accepts a lower amount from the health insurance carrier is because, due to their leverage in the market, many of the larger health insurance companies have negotiated lower payments due to market forces. In fact, the patient without insurance still has to pay the total bill, and obviously a physician cannot change an amount which is not reasonable and appropriate.

Additionally, the admission of the reduced bill can also serve to adversely affect the plaintiff's claim for future medical expenses. Typically, the jury looks to the past medical expenses as a guide in determining an appropriate figure for future medical expenses. If the jury were to calculate the award of future medical expenses based on the current reduced bills, and if the plaintiff were to then lose his health insurance, he would not be sufficiently compensated for his future medical expenses.

The appellate court addressed these issues in *Madsen v. Gates*, 85 Conn. App. 383 (2004). While, the *Madsen* decision never addressed the merits of this issue due to the Court's determination that the plaintiff had not adequately preserved the issue for appellate review. The court's holding does affirm that the existence of collateral sources generally is not admissible, and is not something that the jury should consider.

Raised Bill 64921 will address the problems caused by defendants attempting to convince the trial judge to only allow into evidence the reduced medical bill. The jury will, instead, consider the entire medical bill as evidence of the plaintiff's economic damages. The defendants will still have the right to seek a reduction of the amount of the bill for payments made by an insurer at a post-verdict hearing, pursuant to Conn. Gen. Stat. Sections 52a-225a – 225c.

**WE RESPECTFULLY URGE YOU TO SUPPORT RAISED BILL 6492**