
OLR Bill Analysis

sHB 5545 (as amended by House "A")*

AN ACT CONCERNING FINANCIAL LIABILITY FOR AMBULANCE SERVICES, EVIDENCE OF COLLATERAL SOURCE PAYMENTS AND EVIDENCE OF BILLS FROM TREATING HEALTHCARE PROVIDERS.

SUMMARY:

This bill generally provides that anyone who receives emergency medical treatment or transportation services from a licensed or certified ambulance service is liable for the reasonable and necessary cost of those services, even if the person did not agree or consent to the liability.

Under the bill, this provision is subject to certain conditions in existing law, including the Department of Public Health (DPH) commissioner's rate setting for ambulance services and requirements that insurers cover medically necessary ambulance services. Also, the provision does not apply to anyone receiving ambulance services for injuries arising out of and in the course of his or her employment, as defined in the worker's compensation law (see BACKGROUND).

The bill also makes changes to the law regarding how economic damages are determined in personal injury or wrongful death cases. It makes evidence that a specified health care provider accepted payment from a claimant that is less than the total amount billed, or evidence that an insurer paid less than that total amount, admissible for purposes of the collateral source rule (the requirement that courts reduce economic damage awards by the amount the claimant received from health insurance or other collateral sources).

Under the bill, in cases in which the law allows such health care providers' signed reports and bills for treatment to be introduced as business entry evidence without the provider testifying (see BACKGROUND), the total amount of the provider's bill is admissible

evidence of the cost of reasonable and necessary medical care, and the calculation of that amount must not be reduced because (1) the provider accepts less than the total bill or (2) an insurer pays less than that amount.

Existing law provides that the law's provisions allowing certain business entry evidence to be introduced without such providers testifying does not preclude either party or the court from calling the treating provider as a witness. The bill specifies that the purposes for which they may be called to testify include giving testimony on the reasonableness of their bills for treatment.

*House Amendment "A" (1) makes the collateral source provision, which in the file applies to actions filed on or after October 1, 2012, also apply to actions pending on that date; (2) makes the business entry evidence provisions apply to actions pending on or filed on or after October 1, 2012; (3) adds the provision on the purposes for which providers can be called to testify; and (4) makes technical changes.

EFFECTIVE DATE: October 1, 2012, and the provisions on collateral sources and business entry evidence are applicable to actions pending on or filed on or after that date.

LIABILITY FOR AMBULANCE PAYMENTS

The bill's provisions on liability for ambulance payments are subject to the following provisions in existing law:

1. the DPH commissioner's duties regarding emergency medical services (which include, among other things, setting rates for ambulance services) (CGS § 19a-177); and
2. the requirement that health insurance policies provide coverage for medically necessary ambulance services (CGS §§ 38a-498 and 38a-525).

Among other things, the law provides that (1) insurers are not required to provide ambulance benefits in excess of the maximum rates set by DPH and (2) payments for such services must be paid

directly to the ambulance provider if the provider complies with certain requirements and has not been paid by another source.

EVIDENCE OF COLLATERAL SOURCE PAYMENTS

In personal injury or wrongful death cases, the law generally requires courts to reduce economic damages by the amount paid to the claimant by collateral sources (e.g., health insurance), less the amount paid, contributed, or forfeited by the claimant to secure the collateral source benefit. (Both the amount of collateral sources, and the amount paid to secure them, also include amounts paid on the claimant's behalf.)

After the jury or court finds liability and awards damages, and before the court enters judgment, the court must receive evidence on the total amount of collateral sources that have been paid for the claimant's benefit as of the date the court enters judgment. Under the bill, evidence that a specified health care provider accepted an amount less than the provider's total bill, or evidence that an insurer paid less than the total bill, is admissible for this purpose.

This provision applies to bills by state-licensed physicians, physician assistants, dentists, chiropractors, natureopaths, physical therapists, podiatrists, psychologists, optometrists, advanced practice registered nurses, or state-certified emergency medical technicians.

By law, there is no reduction for (1) collateral sources for which a right of subrogation exists or (2) the amount of collateral sources equal to the reduction in the claimant's economic damages due to his or her percentage of negligence (CGS § 52-225a(a)).

BACKGROUND

Worker's Compensation

The worker's compensation law defines "arising out of and in the course of employment" as an accidental injury to an employee, or an occupational disease of an employee, originating while the employee was engaged in the line of the employee's duty in the business or affairs of the employer upon the employer's premises, or while

engaged elsewhere upon the employer's business or affairs by the employer's express or implied direction. There are additional provisions related to specific employees (e.g., police officers and firefighters) as well as other conditions and exceptions (e.g., injuries due to alcohol or narcotic use) (CGS § 31-275).

Business Entry Evidence

The law allows signed reports and bills of the treating health care providers listed above to be introduced in any civil action as business entry evidence without calling the provider to testify. It is presumed that the signature on the report is that of the treating provider, and that the report and bill were made in the ordinary course of business. The use of such evidence must not give rise to an adverse inference concerning the provider's testimony or lack thereof.

In personal injury cases, the law also allows the records and reports of such providers, as well as certain other professionals, to be admitted into evidence if the provider or other professional has (1) died before trial or (2) is physically or mentally disabled and thus no longer practicing. To introduce such evidence, the court must determine that the person is in fact disabled to such an extent that he or she cannot testify (CGS § 52-174).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 8 (04/02/2012)