

NEW MEXICO INJURY ATTORNEY BLOG

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COLLINS & COLLINS, P.C.
ATTORNEYS AT LAW

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Reduction of Medicare/Medicaid Liens on Personal Injury Funds for Unrelated Medical Expenses

Medicare/Medicaid will have a lien on all funds from a personal injury settlement or judgment in cases where Medicare/Medicaid benefits were received. Medicare/Medicaid is very aggressive in pursuing these liens. Failure to properly account for and reimburse Medicare/Medicaid for its liens can result in serious penalties for both the personal injury plaintiff and his or her attorney.

Medicare/Medicaid often claims liens on all medical expenses, both past and future. These claims can significantly erode the funds received by the injured plaintiff. This is particularly so in cases where the personal injury plaintiff is seriously injured and there is little or no liability insurance and the defendant has no assets to cover a judgment. This is frequently the case in auto accidents where the at-fault driver is uninsured or underinsured.

Because Medicare/Medicaid typically claims a lien on all medical benefits provided by Medicare/Medicaid, the lien is often overstated, often times greatly overstated. Medicare/Medicaid is not entitled to recover on medical benefits that are not related to the incident that is the subject of the personal injury claims. This is frequently an issue since many of those injured in accidents had previous medical issues for which they were receiving and continue to receive Medicare/Medicaid benefits.

Medicare/Medicaid will often issue a lien that covers all medical benefits received by the plaintiff following the accident. Though the plaintiff may be receiving treatment for the accident related injuries, he or she will still be receiving benefits for other medical conditions during this time period. It is therefore important to go through the lien item by item to insure that Medicare/Medicaid is not claiming a lien on unrelated medical benefits.

Once these unrelated benefits are identified, Medicare/Medicaid will reduce the lien accordingly. In some cases, these unrelated medical expenses may form the bulk of the lien. A careful review of the Medicare/Medicaid lien can result in substantial savings to the plaintiff. In short, a reduction of the Medicare/Medicaid lien results in a dollar for dollar increase in the funds received by the plaintiff from the settlement or verdict. Likewise, each dollar paid to Medicare/Medicaid reduces the amount received by the plaintiff making it very important to carefully review and evaluate every item claimed on the Medicare/Medicaid lien.

**Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958**

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