

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 786

Short Title: Voc. Rehab. Subrogation Change/AB.

(Public)

Sponsors: Senators Martin of Guilford; and Cooper.

Referred to: Judiciary.

April 10, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE SUBROGATION RIGHTS REQUIREMENTS FOR THE
2 DIVISION OF VOCATIONAL REHABILITATION TO CONFORM WITH
3 MEDICAID SUBROGATION.
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 143-547(a) reads as rewritten:

7 "(a) Notwithstanding any other provisions of law, to the extent of
8 payments under this Article, the State Vocational Rehabilitation program shall be
9 subrogated to all rights of recovery, contractual or otherwise, of the beneficiary of the
10 assistance, or his personal representative, his heirs, or the administrator or executor of his
11 estate, against any ~~person; provided, however, that any person.~~ Any attorney retained by the
12 beneficiary of the assistance shall shall, out of the proceeds obtained on behalf of the
13 beneficiary by settlement with, judgment against, or otherwise from a third party by
14 reason of injury or death, distribute to the Division the amount of assistance paid by the
15 Division on behalf of or to the beneficiary, as prorated with the claims of those persons
16 having medical subrogation rights or medical liens against the amount received or
17 recovered, but the amount paid to the Division shall not exceed one-third of the gross
18 amount obtained or recovered. ~~be compensated for his services in accordance with the~~
19 ~~following schedule and in the following order of priority from any amount obtained on behalf of~~

1 the beneficiary by settlement with, judgment against, or otherwise from a third party by reason of
2 such injury or death:

- 3 (1) ~~First to the payment of any court costs taxed by the judgment;~~
4 (2) ~~Second to the payment of the fee of the attorney representing the~~
5 ~~beneficiary making the settlement or obtaining the judgment, but this~~
6 ~~fee shall not exceed one third of the amount obtained or recovered to~~
7 ~~which the right of subrogation applies;~~
8 (3) ~~Third to the payment of the amount of assistance received by the~~
9 ~~beneficiary as prorated with other claims against the amount obtained or~~
10 ~~received from the third party to which the right of subrogation applies,~~
11 ~~but the amount shall not exceed one third of the amount obtained or~~
12 ~~recovered to which the right of subrogation applies; and~~
13 (4) ~~Fourth to the payment of any amount remaining to the beneficiary or his~~
14 ~~personal representative.~~

15 The United States and the State of North Carolina shall be entitled to shares in each net
16 recovery under this section. Their shares shall be promptly paid under this section and
17 their proportionate parts of such sum shall be determined in accordance with the
18 matching formulas in use during the period for which assistance was paid to the
19 recipient."

20 Section 2. This act is effective when it becomes law and applies to claims filed
21 on or after July 1, 1997.