

## SETTLEMENT OR JUDGMENT DISBURSAL CHECKLIST FOR PAYMENT OF MEDICAL BILLS OR LIENS

- Is the client in bankruptcy? If so, it may be necessary to obtain relief from the bankruptcy stay before moving to dismiss in a state court action. See *In re Enyedi*, 371 BR 327 (Bankr. N.D. Ill. 2007). Also see Personal Injury Claims and Bankruptcy, PLF *In Brief*, February 2008. Available online at [www.osbplf.org](http://www.osbplf.org). Further, the bankruptcy trustee should sign the fee agreement as a client and must consent to any settlement of the legal claim.
- Did the client receive benefits from a workers' compensation insurer, Medicaid, Medicare, or another source of any public benefits? If so, there may be a lien against the settlement proceeds. Determine the client's benefit status and ascertain lien amounts, if any. Also, for any benefits received from the Crime Victims Compensation Fund, etc. determine if you must obtain approval of any settlement, and any lien claimed.
- Will you need court approval of the settlement?
- Have you discussed the possibility of a structured settlement with your client and asked if they are interested in obtaining information about potential future payment streams?
- Does your client need to consider a Special Needs Trust (or, Pooled Trust if they are over 65 years of age) to protect against being disqualified from receiving public benefit in the future?
- Does your client qualify for an ABLE account? This is another venue to protect against the loss of public benefits.
- If your client is a Medicare recipient or will they soon be Medicare eligible (either by reaching the age of 65 or by having been a Social Security Disability Income recipient for the requisite period of time) have you obtained a Conditional Payment Letter and Final Demand from Medicare? Have you determined whether you must fund a Medicare Set-Aside for future medical treatment and, if so, what is the amount needed?
- Clearly mark files when a notice of lien is received in a client's case. A red stamp on the outside of the filing stating "LIEN FILED" works well. If you are using case management software, make a prominent note in the client's electronic record.
- If a notice of lien has been filed, contact the courthouse in the county where the lien was filed to see if the lien has been satisfied. If not, call the lien holder to verify the amount of the lien and list that amount, along with the date called and the name of the personal spoken with, on your list of bills.
- Obtain client's consent in writing to negotiate and pay all outstanding medical bills out of any settlement or judgment obtained for the client. (Explain the benefits of doing it in this manner.)

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- Review any applicable health insurance policy for lien and/or subrogation repayment language. Does the plan discount for attorney's fees and costs? It is governed by ERISA?
- Keep a running list of all bills incurred by the client as they are received in the office. Keep all bills in a separate envelope in the file.
- Have the client review all bills prior to final disbursement to see if any are missing.
- Prior to final disbursement, make a list of all bills (doctor, telephone number, and amount) and a list of any hospital (or other) liens (name, date of filing, and amount).
- Call each doctor or medical care provider to verify amount owed. Document your list of bills with the date called, the person spoken with, and the amount of the bill.
- Obtain confirmation, in writing from each provider as to the amounts owed, especially if they are zero.
- Send a cover letter to the medical provider with each payment confirming the date the provider was called, the person spoken to, and the amount reported as due.
- Pay any outstanding liens and make sure a satisfaction of lien is recorded. For contractual liens or reimbursement rights, obtain written confirmation from the insurer, etc. that their interest has been satisfied.
- Have you discussed with your client whether their settlement is confidential and the potential consequences of breaching a confidentiality clause?
- Does the settlement involve a minor? If so, does it comply with ORS 126.725?
- Send a final statement to client outlining all payments made from the judgment or settlement including a detailed accounting for the reimbursement of any litigation costs you have advanced on the case, repayment of medical bills, and attorney's fees.

### **IMPORTANT NOTICES**

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