

# **Be Prepared – Legislative Changes Taking Effect in 2021**

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# La. R.S. § 9:2800.27

- Recoverable past medical expenses
- Collateral sources
- Limitations
- Evidence

# Health Insurance Issuer

“Health insurance issuer” means any health insurance coverage through a policy or certificate of insurance subject to regulation of insurance under state law, a health maintenance organization, an employer-sponsored health plan, the Office of Group Benefits, or an equivalent federal or state health plan.

# Medical Provider

“Medical provider” means any healthcare provider, hospital, ambulance service, or their heirs or assignees.

# Cost Sharing

“Cost sharing” means copayments, coinsurance, deductibles, and any other amounts which have been paid or are owed by the claimant to a medical provider.

# **Contracted Medical Provider**

“Contracted medical provider” means any in-network medical provider that has entered into a contract or agreement directly with a health insurance issuer or with a health insurance issuer through a network of providers for the provision of covered healthcare services at a pre-negotiated rate, or any medical provider that has billed and received payment for covered healthcare services from Medicare when the provider is a participating provider in those programs.

## **Cost of Procurement**

“Cost of procurement” means the cost paid by or on behalf of the claimant to procure the benefit paid by a health insurance issuer or Medicare and the cost of procurement of the award of medical expenses, including but not limited to contracted attorney fees and health insurance premiums paid.

In cases where a claimant's medical expenses have been paid, in whole or in part, by a health insurance issuer or Medicare to a contracted medical provider, the claimant's recovery of medical expenses is limited to the amount actually paid to the contracted medical provider by the health insurance issuer or Medicare, and any applicable cost sharing amounts paid or owed by the claimant, and not the amount billed.

The court shall award to the claimant forty percent of the difference between the amount billed and the amount actually paid to the contracted medical provider by a health insurance issuer or Medicare in consideration of the claimant's cost of procurement, provided that this amount shall be reduced if the defendant proves that the recovery of the costs of procurement would make the award unreasonable.

The determination of this award shall be made only in accordance with the provisions of Subsection F of this Section.

In cases where a claimant's medical expenses have been paid, in whole or in part, by Medicaid to a medical provider, the claimant's recovery of medical expenses actually paid by Medicaid is limited to the amount actually paid to the medical provider by Medicaid, and any applicable cost sharing amounts paid or owed by the claimant, and not the amount billed.

The recovery of past medical expenses other than those provided by Subsection B or C of this Section shall be limited to amounts paid to a medical provider by or on behalf of the claimant, and amounts remaining owed to a medical provider, including medical expenses secured by a contractual or statutory privilege, lien, or guarantee.

§2800.27(D)

The determination of this award shall be made only in accordance with Subsection F of this Section.

In cases where a claimant's medical expenses are paid pursuant to the Louisiana Workers' Compensation Law as provided in R.S. 23:1020.1 et seq., a claimant's recovery of medical expenses is limited to the amount paid under the medical payment fee schedule of the Louisiana Workers' Compensation Law.

§2800.27(F)

In a jury trial, only after a jury verdict is rendered may the court receive evidence related to the limitations of recoverable past medical expenses provided by Subsection B or D of this Section.

§2800.27(F)

The jury shall be informed only of the amount billed by a medical provider for medical treatment.

§2800.27(F)

Whether any person, health insurance issuer, or Medicare has paid or has agreed to pay, in whole or in part, any of a claimant's medical expenses, shall not be disclosed to the jury.

§2800.27(F)

In trial to the court alone, the court may consider such evidence.

§2800.27(G)

This Section shall not apply in cases brought pursuant to R.S. 40:1231.1 et seq., R.S. 40:1237.1 et seq., or R.S. 13:5101 et seq.