

§ 130A-13. Application for eligibility for Department medical payment program constitutes assignment to the State of right to third party benefits.

(a) Notwithstanding any other provisions of law, by applying for financial eligibility for any Department medical payment program administered under this Chapter, the recipient patient or responsible party for the recipient patient shall be deemed to have made an assignment to the State of the right to third party benefits, contractual or otherwise, to which he may be entitled to the extent of the amount of the Department's payment on behalf of the recipient patient. Any attorney retained by the recipient patient shall be compensated for his services in accordance with the following schedule and in the following order of priority from any amount of such third party benefits obtained on behalf of the recipient by settlement, with judgment against, or otherwise from a third party:

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

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

(b) The Department shall establish a third party resources collection unit that is adequate to ensure collection of third party resources.

(c) The Commission may adopt rules necessary to implement this section.

(d) Notwithstanding any other law to the contrary, in all actions brought by the State pursuant to subsection (a) of this section to obtain reimbursement for payments for medical services, liability shall be determined on the basis of the same laws and standards, including bases for liability and applicable defenses, as would be applicable if the action were brought by the individual on whose behalf the medical services were rendered. (1989, c. 483, s. 1; 1995, c. 508, s. 1.)