

Kim Stanger

Partner
208.383.3913
Boise
kcstanger@hollandhart.com

Idaho Medical Lien Statute: Important Changes

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Since 2020, healthcare providers have struggled to reconcile Idaho's medical lien law with the Idaho Patient Act (IPACT). The lien statute allows healthcare providers who render treatment to a person injured by the acts of a third party to file a lien against the liable third party to recover their fees; to be effective, the lien had to be filed within 90 days of the last date of services.[1] But filing a medical lien constituted an "extraordinary collection action" under IPACT, and IPACT generally prohibited taking such actions until after the 90-day period for filing the medical lien expired.[2] Net result: providers had to choose between the lien or potential IPACT penalties.

Effective March 28, 2024, the Idaho legislature resolved the dilemma by permitting compliant medical liens so long as they are filed under new time limits in the lien statute.

Idaho Medical Lien Statute. As discussed more fully in our February 2, 2015, health law update, "Idaho's Medical Lien Statute," Idaho allows hospitals, nursing facilities, and other providers to file a lien "for the reasonable charges for … care, treatment and maintenance of an injured person, … on account of injuries" caused by another person,[3] *e.g.,* automobile injuries or other situations giving rise to personal injury lawsuits.

To perfect the lien (*i.e.*, to make it enforceable), the healthcare provider must file the claim of lien with the relevant county recorder[4] within the statutory time period. That deadline now depends on whether the patient has a "third party payor," which is defined as "a health carrier [or] a self-funded plan … includ[ing] multiple third-party payors when applicable."[5]

> (a) In the case of a patient who has no third-party payor, [the] lien … must be filed before or within ninety (90) days after either the date the patient was discharged from the hospital or the last day services were provided to the patient as a result of the

> injury, whichever is later.
>
> (b) In the case of a patient who has a third-party payor, [the] lien … may be filed during the ninety (90) day period after either the date the patient was discharged from the hospital or the last day services were provided to the patient as a result of the injury but only after all contracted billing adjustments for the services as ordinarily used with that third-party payor are made, provided that such lien may additionally be filed during the thirty (30) days after the hospital [or other provider] has received payment from the third-party payor.[6]

Thus, if the patient is insured by a carrier or through a self-funded plan, the hospital or other provider may, if it so chooses, wait until the third-party payor pays before filing a lien so long as the provider files the lien within 30 days of the payor's payment.

The provider must still comply with the other requirements for a valid lien. For example, the filed statement of lien must contain the information required by the statute, including:

> the name and address of such patient, as it shall appear on the records of such hospital [or other provider], the name and location of such hospital [or provider], and the name and address of the officer or agent of such hospital [or

> provider] filing the lien, the dates of admission to and discharge of such patient therefrom, the amount claimed to be due for such hospital [or other medical] care, and, to the best of claimant's knowledge, the names and addresses of all persons, firms, or corporations claimed by such injured person or the legal representative of such person, to be liable for damages arising from such injuries….[7]

The provider must mail copies of the statement of lien to the persons who are liable for the injuries within one (1) day after filing the lien.[8] If not resolved before, the provider must bring an action to enforce the lien within two (2) years after the lien was filed.[9]

IPACT. As discussed more fully in our April 5, 2022, health law update, "Idaho Patient Act Changes," IPACT requires healthcare providers to timely submit claims to third-party payors and provide certain consolidated statements and/or notices to patients before initiating an "extraordinary collection action," which is defined as:

> (i) Prior to sixty (60) days from the patient's receipt of the final notice before extraordinary collection action, selling, transferring, or assigning any amount of a patient's debt to any third party, or otherwise authorizing any third party to collect the debt in a name other than the name of the health care

provider;

(ii) Reporting adverse information about the patient to a consumer reporting agency; or

(iii) Except as provided in paragraph (c) of this subsection, commencing any judicial or legal action or filing or recording any document in relation thereto, including but not limited to:

1. Placing a lien on a person's property or assets;
2. Attaching or seizing a person's bank account or any other personal property;
3. Initiating a civil action against any person;

or

4. Garnishing an individual's wages.[10]

Subsection (c) now permits providers to timely file medical liens under § 45-7401 *et seq*:

> A provider authorized to file a lien to secure payment of the reasonable value of services provided to an injured patient pursuant to [I.C. § 45-701], is not prevented from filing such a lien by [IPACT], but must do so pursuant to the timeline and provisions of chapter 7, title 45, Idaho Code.[11]

Conclusion. The IPACT and medical lien changes are a win for providers and should facilitate collections in cases involving third-party liability so long as the new timelines are satisfied. Providers should amend their collection policies and practices accordingly.

[1] Idaho Code § 45-701 *et seq.*

[2] I.C. § 48-303 *et seq.*

[3] I.C. § 45-701.

[4] The statement of lien must be filed in the office of the recorder of the county in which the hospital or nursing facility is located, or where the healthcare provider rendered services. I.C. §§ 45-702, -704A, and -704B.

[5] I.C. § 45-702(2), referencing I.C. § 48-303.

[6] I.C. § 45-702(2), emphasis added.

[7] I.C. § 45-702(2), -704A, and -704B.

[8] I.C. §§ 45-702(2), -704A, and -704B.

[9] I.C. §§ 45-704, -704A, and -704B.

[10] I.C. § 48-303(3)(a), emphasis added.

[11] I.C. § 48-303(3)(c).

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