

2018 Regular Session

HOUSE BILL NO. 789

BY REPRESENTATIVE THIBAUT

CIVIL/DAMAGES: Provides relative to the collateral source rule

1 AN ACT

2 To enact R.S. 9:2800.25, relative to compensation for medical expenses incurred; to provide  
3 for medical expenses recoverable as damages in civil litigation; to provide for  
4 limitations in the amount of damages recoverable; to provide for applicability to  
5 workers' compensation claims; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2800.25 is hereby enacted to read as follows:

8 §2800.25. Recoverable medical expenses; collateral sources; limitations

9 A. Reductions in medical bills based upon the write-offs or write-downs by  
10 insurance companies or Medicare are not collateral sources and are therefore not  
11 recoverable as damages in civil litigation. In cases where a plaintiff's medical  
12 expenses have been paid by a health insurance company or Medicare, the plaintiff's  
13 recovery of medical expenses is limited to the amount actually paid to the healthcare  
14 provider by the insurer or Medicare, and not the amount billed.

15 B. If a plaintiff does not submit medical bills to an available health insurer  
16 or Medicare for payment, plaintiff's recovery is limited to the amount that would  
17 have been paid by the insurer or Medicare had the medical bills been submitted to  
18 the insurer or Medicare for payment.

19 C. In cases where a plaintiff's medical expenses are paid pursuant to the  
20 Workers' Compensation Law as provided in R.S. 23:1020.1 et seq., a plaintiff's

1 recovery of medical expenses is limited to the amount payable under the medical  
2 payments fee schedule of the Workers' Compensation Law.

3 D. If a plaintiff chooses not to submit medical expenses for payment  
4 pursuant to the Workers' Compensation Law, and the medical expenses were eligible  
5 for payment under the Workers' Compensation Law, then the plaintiff's recovery of  
6 damages for medical expenses is limited to the amount that would have been payable  
7 had the medical expenses been submitted for payment under the provisions of the  
8 Workers' Compensation Law.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 789 Original

2018 Regular Session

Thibaut

**Abstract:** Limits recovery for medical expenses to the amount actually paid by the health insurance company or Medicare to the healthcare provider.

Proposed law provides that reductions in medical bills based upon the write-offs or write-downs by insurance companies or Medicare are not collateral sources and are therefore not recoverable as damages in civil litigation.

Proposed law provides that when a plaintiff's medical expenses have been paid by a health insurance company or Medicare, plaintiff's recovery of medical expenses is limited to the amount actually paid to the healthcare provider by the insurer or Medicare, and not the amount billed.

Proposed law provides that if the plaintiff pays the medical expenses directly to the healthcare provider when health insurance is available, recovery is limited to the amount that would have been paid by the insurer or Medicare.

Proposed law provides that payment for medical expenses is limited to the amount payable under the fee schedule of the present law Workers' Compensation Law when that present law is applicable, and provides that if the plaintiff pays those expenses directly to the healthcare provider, the plaintiff's recovery for medical expenses is limited to the amount that would have been paid under the Workers' Compensation Law fee schedule.

(Adds R.S. 9:2800.25)