Who Pays Medical Bills After a Car Accident in Washington State?

Part II. Understanding Subrogation in Car Accident Claims in Washington

In Part I of this series, we discussed how medical bills often get paid initially after a Washington car accident. A first-party payer, such as PIP, private health insurance, Medicaid, Medicare, or L&I, may cover accident-related medical costs while the personal injury claim is still pending. If the injured victim also has a claim against a negligent driver or another at-fault party, that claim may include medical expenses, lost income, pain and suffering, and other damages. If the case later resolves through settlement or judgment, the payer that covered the medical bills may seek reimbursement for some or all of the benefits it paid.

That is where subrogation comes into play. Broadly explained, subrogation is the legal concept that may allow an insurance company, government benefit program, or workers' compensation payer to recover money from a personal injury settlement after it has paid accident-related bills. In Part II of this series on who pays medical bills after a crash, our Vancouver car accident lawyer explains what subrogation means, why it matters, and how repayment rights can affect a Washington personal injury recovery.

The Subrogation Process Depends on Who Paid the Bills

Subrogation is the legal mechanism that allows an entity, such as your health insurance company or auto insurance company, to seek reimbursement for bills that it paid. The concept is simple. If PIP, health insurance, Medicare, Medicaid, or L&I paid medical expenses related to a Washington car accident, and someone else is to blame for causing the accident, and the injured victim recovers compensation, the insurer may then claim some amount of reimbursement. This process is generally referred to as subrogation.

For example, imagine you received a $5,000 hospital bill for a car crash injury. Your private health insurance covered the bill. As part of your personal injury claim, you then seek to recover these expenses and other damages related to your case. If you are successful, you will get to keep your settlement. But you won't get to keep the $5,000 that was paid by your insurer. Instead, your insurer will claim that you are required to reimburse them for these expenses, because you didn't pay them. In other words, you cannot double dip.

While the basic idea may sound relatively simple, the legal details can be quite complex. Different payers have different rights. In some cases, the terms and conditions of an insurance policy matter. In other cases, the issue turns on state law, federal law, public-benefit rules, or workers' compensation statutes.

For example, some repayment claims may be reduced if the injured victim was not made whole or if the payer must share attorney fees and costs. Other claims may be harder to reduce because of federal law, statutory formulas, or controlling plan language. That is why subrogation should never be treated as a generic settlement deduction. In a Washington car accident claim, the source of payment matters and so do the applicable laws. Depending on these variables, the amount of money you are required to reimburse could be a little, a lot, or nothing at all.

Why Subrogation Must Be Reviewed Before Settlement

When PIP, health insurance, Medicare, Medicaid, or L&I pays an accident-related medical bill, that can help to solve the immediate problem you are faced with: paying your bills. It can stop a bill from going to collections, allow treatment to continue, and/or reduce the amount the injured victim must pay out of pocket while the case is pending. However, in many Washington car accident claims, the payer may later claim a right to recover some or all of what it paid if the injured victim eventually obtains money in their personal injury claim.

That distinction matters at settlement. A $100,000 settlement is not automatically $100,000 to the injured victim. Unpaid medical bills, PIP reimbursement claims, health plan reimbursement claims, Medicare conditional payment recovery, Medicaid recovery, and/or L&I statutory reimbursement can all affect the final distribution. Some repayment claims may be negotiable. Some may be reduced because the payer must share attorney fees and costs. Some may depend on whether the injured victim was fully compensated. Others may follow federal rules, statutory formulas, or plan language that leaves considerably less room to compromise.

A subrogation analysis should ideally happen before settlement, but this is not always possible. You do not want to be surprised by an insurance company or government entity trying to claim a portion of your settlement. Instead, you should try your best to prepare. An experienced Vancouver car accident lawyer can identify who paid the bills, confirm the amount paid, determine the legal basis for any claimed recovery right, and evaluate whether the claim can be reduced or challenged. Subrogation claims that are reduced or eliminated translate directly into more money in your pocket. Therefore, this process is extremely important and can save you a significant amount of money.

An Overview of the Made Whole Doctrine in Washington

Washington's made-whole doctrine comes from the 1978 case *Thiringer v. American Motors Insurance Co*. In Thiringer, the Washington Supreme Court held that an insurer may be reimbursed only from the excess remaining after the insured has been fully compensated for the loss. That rule matters in car accident cases because the available settlement fund may be too small to cover all damages, especially when the at-fault driver has low liability limits or the injured victim has serious injuries.

The made-whole doctrine can affect PIP reimbursement, insurer offsets, and many non-statutory insurance reimbursement disputes, but it does not necessarily apply to every repayment question. For example, ERISA plans that are fully self-funded may be governed by federal plan language. Medicare recovery follows federal conditional-payment rules. Medicaid recovery depends on state and federal public-benefit law. L&I reimbursement follows Washington's third-party recovery statute RCW 51.24.060 (and may also be subject to what is called a Tobin allocation).

These are just some of the rules and regulations that govern who gets what following a recovery in a personal injury claim. The parties may still dispute whether the settlement fully compensated the injured victim, whether comparative fault reduced the settlement, whether all categories of damages were included, and whether the insurer must share attorney fees and costs. Therefore, subrogation analyses are highly fact-specific and should be handled by a skilled personal injury attorney who is familiar with the process.

PIP Reimbursement and the Made-Whole Doctrine in Washington Car Accident Claims

The reimbursement rights of a PIP insurer in Washington usually start with *Thiringer*, not with the assumption that the PIP carrier automatically gets paid back in full. Remember, that case sets Washington's "Made Whole" doctrine, which holds that an insurer may recover only from the excess remaining after the insured has been fully compensated.

A PIP carrier may assert a reimbursement claim after paying accident-related medical bills, but the claim is not automatically collectible dollar for dollar. The dispute often turns on whether the injured victim was actually made whole. A low-limit liability settlement, comparative fault dispute, causation dispute, severe injury, or inadequate available insurance can all affect that analysis.

If the PIP insurer acted in bad faith (e.g. by intentionally denying or delaying payment of bills without cause or explanation), this may also present a challenge to their recovery efforts later on, since subrogation is equitable doctrine subject to what is called the unclean hands defense. See, e.g., *Income Investors v. Shelton*, 3 Wn.2d 599, 602 (Wash. 1940) (when a party seeks an equitable recovery, but because their own conduct is unconscionable, unjust, or marked by bad faith, the equitable defense of unclean hands bars them from enforcing an equitable right to recovery) (citing *Macauley v. Elrod*, 16 Ky. L. 549, 28 S.W. 782, 29 S.W. 734; *Portion Pack, Inc. v. Bond*, 44 Wn.2d 161, 170, 265 P.2d 1045 (1954); 1 Am. Jur. 304 § 56; 1 C.J.S. 661, § 29).

Even when reimbursement is allowed, the PIP carrier will usually have to bear a proportionate share of attorneys' fees and costs under Washington's common-fund principles. Thus, while PIP is often the fastest way to get medical bills paid after a crash, it is not the end of the settlement math. If you have questions about PIP coverage, a Vancouver car accident lawyer can help.

Private Health Insurance, ERISA Plans, and Contractual Reimbursement Rights

Private health insurance reimbursement depends first on what kind of plan paid the bills. An individual health policy, a fully insured employer plan, a union plan, a government plan, and a self-funded ERISA plan may not all be governed by the same rules. Washington made-whole principles may provide important protection in some insurance reimbursement disputes, but ERISA can change the analysis.

Employer-sponsored plans governed by ERISA often contain reimbursement or subrogation language that requires repayment from a third-party recovery. If the plan is fully self-funded,

ERISA preemption may limit the application of state-law doctrines that would otherwise protect the injured victim.

In *U.S. Airways, Inc. v. McCutchen*, the United States Supreme Court held that clear ERISA plan terms can control over equitable defenses. Because of this ruling, the plan language may allow dollar-for-dollar recovery. However, equitable principles may fill gaps when the plan is silent. That is why the plan language is so important. To dispute such claims, a Vancouver car accident lawyer can determine whether ERISA applies, obtain plan documents, review the reimbursement language, determine whether the plan is fully self-funded, and evaluate any additional reduction arguments.

Medicare and Medicaid Recovery After Settlement

Medicare is governed by the federal Medicare Secondary Payer statute. Medicare generally does not pay when payment has been or can reasonably be expected from liability insurance, no-fault insurance, or workers' compensation. Medicare may still make conditional payments when the primary payer does not pay promptly, but those payments are conditioned on reimbursement when the primary plan later pays. CMS explains that conditional payments must be addressed, in writing, when a settlement, judgment, award, or other payment is made. These requirements are very strict and can be subject to criminal penalties if they are not followed.

Washington Apple Health also has recovery rights, but the legal source differs. The Washington State Health Care Authority (HCA) states that federal law makes Apple Health a payer of last resort. HCA also states that an attorney who represents an Apple Health client injured by a third party must contact HCA 30 days before disbursing settlement funds and must hold enough money to satisfy HCA's lien until it is resolved.

L&I Third-Party Reimbursement and Tobin Allocation Issues

L&I reimbursement is statutory. When a Washington worker receives workers' compensation benefits and also recovers from a negligent third party, the recovery is generally going to be distributed under RCW 51.24.060. The statute sets a distribution order: attorney fees and costs come off first, the worker receives a statutory share of the balance, L&I or the self-insured employer receives reimbursement for benefits paid, and any remaining balance is distributed under the statute.

There are other, less conventional ways to resolve L&I subrogation claims. For example, if there is a deficient settlement (due to inadequate insurance funds) the Department may elect to waive their subrogation right. But this is the exception to the norm and, like most legal analysis, depends on the facts and unique circumstances of the claim.

Tobin v. Department of Labor & Industries adds another layer of complexity to the subrogation analysis. The Washington Supreme Court held that L&I could not take reimbursement from the portion of a third-party recovery allocated to pain and suffering because workers' compensation does not compensate for that category of damages. That does not mean a settlement label automatically defeats the lien. The allocation must be supported, defensible, and usually addressed before distribution.

Practical Takeaways on Subrogation and Car Accident Medical Bills in Washington

It is normal to have a lot of questions and concerns about how subrogation may (or may not) impact your car accident settlement. You do not have to figure out all of the answers on your own. A top-rated Vancouver auto accident lawyer can take a proactive approach to protect your legal rights and your financial interests. Here are five practical takeaways for subrogation and car accident medical bills in Washington State:

1. **A Paid Medical Bill May Affect Your Settlement:** When PIP, health insurance, Medicare, Medicaid, or L&I pays an accident-related bill, you no longer have the pressure of figuring out how to pay your medical bills, but the subrogation/repayment issue still remains. The payer may claim reimbursement from a settlement or judgment against the at-fault driver, and you need to be prepared to resolve such claims.
2. **The Specific Payer Matters Because the Legal Rules are Different**: Not all forms of subrogation or reimbursement follow the same rules. Some claims start with Washington's made-whole doctrine. Others may be controlled by federal law, plan language, public-benefit rules, or L&I's distribution scheme under RCW 51.24.060.
3. **The Made-Whole Rule is Important, but it is Not Universal**: Washington law generally protects insured people from insurer reimbursement claims unless they have been fully compensated for the loss. That protection can matter when liability limits are insufficient, injuries are serious, or there is a dispute as to fault or causation. But the Made Whole Rule may not apply to every situation, especially when ERISA, Medicare, Medicaid, or L&I are involved.
4. **Attorney Fees and Costs Can Change the Repayment Math**: A payer that benefits from a personal injury lawyer's recovery efforts may have to contribute a proportionate share of attorney fees and costs under what is generally referred to as the Common Fund doctrine. The total reduction can make a major difference in the injured victim's total financial recovery - which is another reason you should consider hiring a lawyer.
5. **Subrogation Should Be Handled Proactively**: A proactive approach is the best approach for subrogation issues. A Vancouver car accident lawyer can identify who paid the bills, confirm the amount paid, determine the legal source of the repayment claim, and evaluate whether any reduction applies. This, in turn, can save you a substantial amount of money.

Contact Our Vancouver Car Accident Lawyer Today

At The Scott Law Firm, PLLC, our Vancouver car accident attorney is committed to fighting for justice and obtaining maximum compensation for injured victims. You do not have to go up against an insurance company alone after a serious crash. If you have any questions about subrogation, or who is responsible for paying your medical bills following a crash, we can help. Contact us today for a free, no obligation initial consultation. From our office in downtown Vancouver, we are well-positioned to handle car accident claims throughout the surrounding region and Southwest Washington.

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