

Types of Liens Appropriate for Outsourcing and Those That Aren't

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Introduction

Determining which healthcare liens to outsource and which to handle internally can be a crucial decision for personal injury law firms. Outsourcing is often advantageous for healthcare liens that require specialized knowledge and extensive negotiation. However, some liens may better resolved in-house due to their specific characteristics or the nature of the relationship with the lienholder.

Liens Suitable for Outsourcing

Medicare Conditional Payments: These repayment obligations often involve complex regulatory requirements and detailed negotiation processes. To get a significant reduction, typically a compromise or waiver must be sought which is an intricate process with specific deadlines that must be followed.

Medicare Advantage (Part C) Liens: Similar to traditional Medicare Conditional Payments, these require specialized knowledge to navigate the unique aspects of Medicare Advantage plans especially given potential double damages as well as personal liability.

Medicaid Third Party Liability: These liens involve complex regulatory requirements that vary state to state. Detailed negotiation processes are likely given the necessity of seeking an *Ahlborn* type of reduction. This applies to Medicaid HMO liens as well.

Employer-Sponsored Health Plan (ERISA) Liens: ERISA liens are governed by federal law and often involve detailed plan documents and subrogation provisions. A deep understanding of what to look for within these documents, to get the best possible reduction, is critical. Outsourcing these liens is always advantageous due to the technical legal expertise required to resolve them.

Federal Employee Health Benefits Act (FEHBA) Liens: These liens involve federal regulations that can be intricate and challenging to interpret. Specialized firms can efficiently handle these complexities.

Military Health Plan Liens: Military health plan liens are governed by specific federal laws and benefit from specialized handling. Each branch of the military has different processes that can be difficult to navigate.

Private Health Insurance Liens: These liens are governed primarily by the terms of the insurance policy and state contract law. The intricate relationship between both requires specialized knowledge gained from decades of subrogation experience.

Hospital and Provider Liens: When dealing with hospital or provider liens, outsourcing can help manage the extensive documentation and negotiation required to reduce these substantial claims. Without knowing the true cost of care, these liens often aren't negotiated on equal footing.

Multi-Jurisdictional Liens: Cases Involving Multiple States: When a personal injury case involves medical treatment in multiple states, it can be beneficial to outsource lien resolution to firms with multi-jurisdictional expertise, particularly for law firms not in the state of originating lien.

Liens Typically Not Appropriate for Outsourcing

“Small” Liens: Small liens of \$2,000 or less may not make sense in certain situations to outsource. Law firms can often handle these liens more efficiently in-house. However, Synergy does accept liens of any size for resolution, so it becomes a decision for the firm to make in terms of whether or not a “smaller” lien is appropriate to outsource (for a small administrative fee).

Local Providers with Ongoing Relationships: For liens involving local providers with whom the law firm has established relationships, it is often better to handle these liens in-house. This approach can help maintain goodwill and may result in more favorable negotiations based on the existing relationship between the provider and the firm.

Workers' Compensation Liens: Workers' compensation liens involve state-specific laws and can often be resolved more effectively by attorneys familiar with local workers' compensation practices and regulations. In many states, these liens are not negotiable.

Medicaid Estate Recovery Liens: Medicaid estate recovery liens are asserted against the entire estate once a Medicaid beneficiary has passed regardless of any third party liability case. These liens are typically managed by state agencies with unique procedures and requirements. Given the local differences, law firms who understand the state-specific nuances can handle these liens more effectively in-house.

Child Support Liens: Child support liens on personal injury settlements are primarily governed by state law, with each state having specific statutes and regulations addressing how these liens are enforced.

Pre-Settlement Funding Liens: Pre-settlement funding liens are primarily governed by state contract law, as they involve agreements between the plaintiff and the funding company. Some states have specific regulations or consumer protection laws that address pre-settlement funding practices, but the legal framework is largely shaped by the terms of the contract between the parties involved.

Conclusion

Deciding whether to outsource lien resolution depends on the type and complexity of the lien, as well as the law firm's existing relationships and expertise. By understanding and evaluating lien types, personal injury law firms can make informed decisions that balance cost-efficiency, expertise, and client satisfaction when deciding whether to outsource. This strategic approach ensures that the right lien types are outsourced to specialized professionals, while certain liens are handled in-house (if desired).

Recognizing which liens to outsource and which to handle in-house highlights the inherent challenges personal injury law firms face in managing liens. These challenges underscore the complexity and demanding nature of lien resolution.