

By: Stevens

To: Insurance

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 645

1 Amend by striking all after the enacting clause and inserting
2 in lieu thereof the following:
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4 SECTION 1. The following shall be codified as Section
5 25-15-18, Mississippi Code of 1972:

6 ~~25-15-18.~~ (1) If medical assistance is provided to an
7 employee or dependent under this article for injuries, disease or
8 sickness caused under circumstances creating a cause of action in
9 favor of the employee or eligible dependent against any person,
10 firm or corporation, then the board, or its designee, shall be
11 entitled to recover the proceeds that may result from the exercise
12 of any rights of recovery which the employee or dependent may have
13 against any such person, firm or corporation to the extent of the
14 actual amount of the medical payments made by the plan on behalf
15 of the employee or dependent. However, any benefits received by
16 the employee or dependent from uninsured motorist insurance
17 coverage are exempted from the subrogation rights of the board
18 provided herein. The employee or dependent shall execute and
19 deliver instruments and papers to do whatever is necessary to
20 secure such rights and shall do nothing after the medical
21 assistance is provided to prejudice the subrogation rights of the
22 board.

23 The board, or its designee, may compromise or settle any such
24 claim and execute a release of any claim it has by virtue of this
25 section.

26 (2) The acceptance of medical assistance under this article
27 or making of a claim thereunder shall not affect the right of the
28 employee, dependent or his legal representative to recover the
29 medical assistance payments made by the plan as an element of
30 special damages in any action at law; however, a copy of the
31 pleadings shall be mailed certified to the board, or its designee,
32 at the time of the institution of suit, and proof of such notice
33 shall be filed of record in such action. The board, at any time
34 before the trial on the facts, may join in such action or may
35 intervene therein. Any amount recovered by an employee, dependent
36 or legal representative shall be applied in the order as follows:

37 (a) The reasonable cost of the collection, including
38 attorney's fees, as approved and allowed by the court having
39 jurisdiction based upon admissible evidence or, in case of
40 settlement without suit, by the board, or its designee;

41 (b) The remainder of the recovery shall be divided
42 equally between the employee, dependent or legal representative
43 and the plan, subject to recovery of the maximum expenditure by
44 the plan.

45 (3) No compromise of any claim by the employee, dependent or
46 his legal representative shall be binding upon or affect the
47 rights of the board against the third party unless the board, or
48 its designee, has entered into the compromise. Any compromise
49 effected by the employee, dependent or legal representative with
50 the third party in the absence of advance notification to and

51approval by the board, or its designee, shall constitute
52conclusive evidence of the liability of the third party, and the
53board, or its designee, in litigating its claim against the third
54party shall be required only to prove the amount and correctness
55of its claim relating to such injury, disease or sickness. It is
56further provided that should the employee, dependent or his legal
57representative fail to notify the board, or its designee, of the
58institution of legal proceedings against a third party for which
59the board has a cause of action, the facts relating to negligence
60and the liability of the third party, if judgment is rendered for
61the employee or dependent, shall constitute conclusive evidence of
62liability in a subsequent action maintained by the board, or its
63designee, and only the amount and correctness of the board's claim
64relating to the injuries, disease or sickness shall be tried
65before the court. The board shall be authorized in bringing such
66action against the third party and his insurer jointly or against
67the insurer alone.

68 (4) The third party or insurer of the third party may
69inquire directly with the claims administrator, acting as designee
70of the board, on the status or existence of any relevant
71subrogation lien.

72 (5) Nothing herein shall be construed to diminish or
73otherwise restrict the subrogation right of the board against a
74third party for medical assistance paid by the plan on behalf of
75the employee or dependent as a result of injuries, disease or
76sickness caused under circumstances creating a cause of action in
77favor of the employee or dependent against such a third party.

78 SECTION 2. This act shall take effect and be in force from
79and after July 1, 2000.

80 **Further, amend by striking the title in its entirety and**
81 **inserting in lieu thereof the following:**
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84 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION
8525-15-18, MISSISSIPPI CODE OF 1972, TO PROVIDE SUBROGATION RIGHTS
86UNDER THE STATE AND SCHOOL EMPLOYEES HEALTH INSURANCE PLAN; TO
87EXEMPT THE BENEFITS OF ANY UNINSURED MOTORIST INSURANCE COVERAGE
88FROM THE SUBROGATION RIGHTS PROVIDED IN THIS ACT; AND FOR RELATED
89PURPOSES.