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FISCAL IMPACT REPORT

SPONSOR <u>Anyanonu</u>	LAST UPDATED _____ ORIGINAL DATE <u>3/7/2025</u>
SHORT TITLE <u>Service Provider Lien Restrictions</u>	BILL NUMBER <u>House Bill 495</u>
	ANALYST <u>Gygi</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
AOC	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to House Bill 97 and Senate Bill 319

Sources of Information

LFC Files

Agency Analysis Received From

Administrative Office of the Courts (AOC)
 Regulation and Licensing Department (RLD)
 Workers' Compensation Administration (WCA)

SUMMARY

Synopsis of House Bill 495

House Bill 495 (HB495) amends state law regarding hospital liens (Section 48-8 NMSA 1978) by replacing the term “hospital” in current statute with “service provider,” creating a lien in favor of a “service provider” that provides medical care to an injured individual, except one injured as a result of a workers’ compensation accident.

Service provider is defined in HB495 as:

A natural person, corporation, company, trust, partnership, incorporated or unincorporated or cooperative association, hospital or other legal entity permitted by law to provide care to an injured patient and that provides care to that patient. A service provider shall be licensed to provide that care when a license is required. The care provided to the injured patient shall be provided in the normal course of business.

The bill requires the service provider to proportionally share under the common fund doctrine attorney fees and costs incurred in obtaining the settlement or judgment. It further deletes language that a hospital may recover attorney fees and recording costs if the hospital files suit to

enforce a lien and adds new language to address hold harmless agreements between a patient and person or entity making payments on behalf of patient.

HB495 also amends the Motor Vehicle Code (Section 66-5-103 NMSA 1978) regarding rights of subrogation.¹ The bill provides that uninsured motorist coverage may permit the issuing insurer to recover proceeds against third parties in subrogation and requires an action brought to recover proceeds paid to:

- Include any insured party or party who received payment from the uninsured motorist coverage as a named plaintiff therein; no action in subrogation shall be permitted absent the inclusion of the insureds and any beneficiaries to the uninsured motorist coverage as named parties;
- Require claims made against any third party be proven by a preponderance of the evidence;
- Be triable to a jury upon request of any party; and
- Not permit either the fact that uninsured motorist coverage benefits were paid or the amount of any such payment to be admissible in any action to recover damages against a third party.

The bill further provides legal immunity from third-party subrogation to an underinsured driver who is minimally insured in accordance with New Mexico state law for any benefits paid in excess of the underinsured limits.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

There is no appropriation with HB495. Should the bill be enacted, the Administrative Office of the Courts (AOC) indicates there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. The agency also anticipates broadening the types of providers that can bring liens will increase caseloads for the courts but the associated costs are not quantified.

There are no fiscal implications for the Workers' Compensation Administration (WCA); the bill does not impact a worker's ability to receive workers' compensation benefits. The Regulation and Licensing Department (RLD) also reports no fiscal impact.

SIGNIFICANT ISSUES

HB495 expands the class of entities that may assert a lien against a personal injury action from a "hospital" (current law) to "service provider." This change ensures that service providers receive payment for services provided from a settlement or judgement and establishes a process to sue the third-party processor if they don't receive payment. The bill's definition of "service provider" specifies that only licensed and authorized persons and entities providing patient care fall within its scope.

¹ Subrogation is a legal process that allows an insurance company that pays a policyholder for a loss to seek reimbursement from the at-fault party.

HB495 and current law both exempt workers' compensation benefits from a hospital or "service provider" lien. The bill limits the cause of action by a service provider to enforce its lien to the party or parties receiving payment of money. Current law specifies the lien enforcement action is to be filed against the party making the payment of money.

Uninsured and Underinsured Motorist Coverage. The LFC fiscal impact report for the related Senate Bill 319 explains:

Uninsured (UM) and underinsured motorist coverage (UMI) are insurance policies that help cover expenses and damage caused by either an at-fault uninsured driver or by a driver whose insurance limits are too low to fully cover costs. Current statutes allow drivers to reject such coverage. Like most states, New Mexico requires all drivers to have motor vehicle liability insurance. Without insurance coverage, drivers are at risk of being liable for the total costs of damages that they may never be able to pay.

New Mexico has the 4th highest rate of uninsured motorists in the nation. According to the Federal Highway Administration, there are 1.5 million drivers in New Mexico. Of those drivers, the Insurance Research Council estimates that 21.8 percent, or 322 thousand drivers, are uninsured. New Mexico's uninsured rate is significantly higher than the national average of 12.6 percent.

PERFORMANCE IMPLICATIONS

AOC notes the courts are participating in performance-based budgeting; HB495 may impact the following performance measures of the district courts:

- Cases disposed of as a percent of cases filed, and
- Percent change in case filings by case type.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB495 relates to House Bill 97 and Senate Bill 319, both of which amend the same section of the Motor Vehicle Code (Section 66-5-301 NMSA 1978) to require all insurance policies include uninsured and underinsured motorist coverage.

HB495 nearly duplicates House Bill 317, introduced in the 2023 session.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Only hospitals will have a cause of action to assert a lien against settlements in accident cases involving individuals not covered by workers' compensation.