

# Subrogation & Recovery

State Health Plan 101 Webinar

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# Topics We Will Discuss

- Subrogation: What Is It?
- Subrogation & Recovery Authorization
- Subrogation Vendors
- How It Works
- Settlement Calculations
- Wage Garnishment FAQs
- Contacts



# Subrogation: What Is It?

- Subrogation is the assumption by a third party of another party's legal right to collect a debt or damages.
- The State Health Plan has the right to recover medical and pharmacy expenditures where a third party is liable for an injury incident, such as medical malpractice, worker's compensation, class action suits, product liability cases or auto accidents.
- The Plan protects member funds by paying only those claims for which it is responsible.



# Subrogation & Recovery Authorization

- If the Plan pays claims that are the responsibility of a third party, then, by state law, the Plan has a right to recover those payments.
- The Plan's lien will not exceed 50 percent of the total damages recovered by the Plan member, exclusive of the member's reasonable cost of collection.
- That cost is determined by the Plan.



# Subrogation Vendors

- The State Health Plan has contracted with a new subrogation vendor, The Rawlings Company, LLC (Rawlings) effective January 1, 2021, for its subrogation services.
- If you have any new cases beginning January 1, 2021, please contact Rawlings with any questions at 877-229-0872. You or your duly authorized representative can also email [NCStatemanualreferrals@rawlingscompany.com](mailto:NCStatemanualreferrals@rawlingscompany.com) with any subrogation requests.
- Please note: Health Management Systems Inc. (HMS) will still be working cases that have not been resolved by December 31, 2020. HMS will work on these older cases until December 31, 2021. You can still contact HMS with any questions at 800-294-2757.



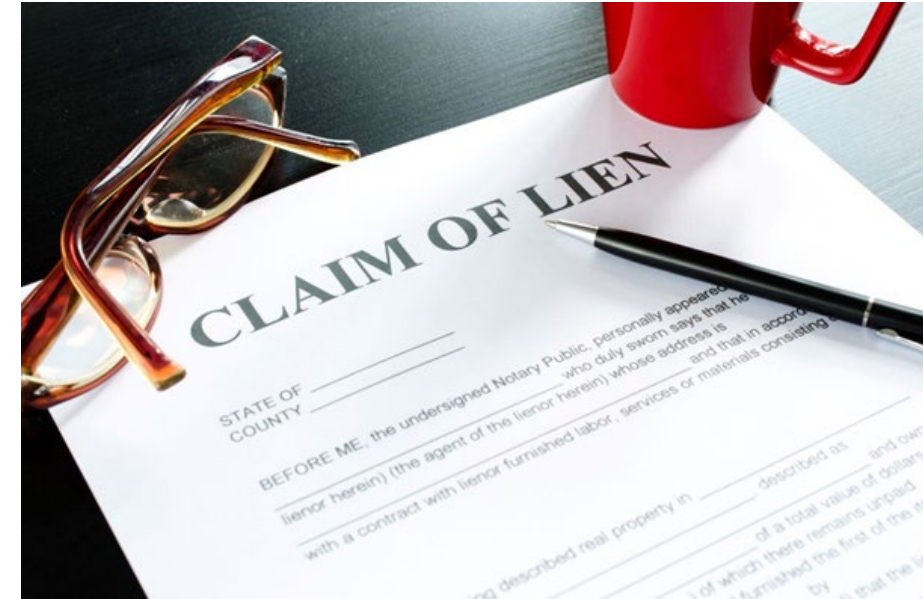
# How It Works

- If you have been involved in a car accident, medical malpractice incident, product defect incident, or some other event which resulted in an injury, the Plan has the right to recover medical and pharmacy expenditures when a third party is liable.
- If a liable third party pays YOU damages and the Plan is not informed, then YOU may be responsible for reimbursing the Plan.
- You can avoid this situation by calling The Rawlings Company, LLC (Rawlings), the Plan's vendor to pursue third-party subrogation recoveries.



# Settlement Calculations

- The Plan's lien is established in statute. Pursuant to [N.C.G.S. § 135-48.37](#), the Plan's lien calculation is made independent of the existence of other liens.
- Subsection (a) states that the Plan has the **right to first recovery** on any amounts recovered.
- Subsection (d) states that the Plan's lien may not exceed **fifty percent (50%)** of the total damages recovered by the Plan member, exclusive of the Plan member's reasonable costs of collection.



# Settlement Calculations Example

- Actual Plan lien less than 50% cap:
  - *Gross Settlement Amount: \$60,000*
  - *Attorney's Fees: \$20,000*
  - *Reasonable Costs: \$2,000*
  - *Medicare Lien: \$5,000*
  - *Actual Plan Lien: \$3,000*
- **Please note: This is just an example for illustrative purposes only.**
- For more calculation examples, visit the Plan's website at [www.shpnc.org](http://www.shpnc.org), click on "Employee Benefits," and scroll down to "Subrogation and Recovery."

1. Gross Settlement = \$60,000
2. Net Settlement = \$38,000 ( $\$60,000 - \$20,000 - \$2,000$ )
3. Cap on Plan's Lien = \$19,000 ( $\$38,000 \times 50\%$ )
4. Plan's Lien = \$3,000 (actual amount of Plan's lien is less than the cap) – set aside
5. Gross Settlement = \$60,000
6. Subtract Attorney's Fees and Reasonable Costs:  $\$60,000 - \$20,000 - \$2,000 = \$38,000$
7. Subtract Medicare Lien:  $\$38,000 - \$5,000 = \$33,000$  / Distribute \$5,000 to Medicare
8. Subtract Plan's Lien:  $\$33,000 - \$3,000 = \$30,000$  / Distribute \$3,000 to the Plan
9. \$30,000 remaining for the Member and any inferior liens



# Retirement/Disability Offset

- North Carolina law, as amended by Session Law 2017-135, provides that the monthly benefits to a member participating in a State-administered retirement system, the former Disability Salary Continuation Plan, or the Disability Income Plan of North Carolina may be offset to recoup an overpayment of State Health Plan funds, including benefits paid to, or State Health Plan premiums or claims paid on behalf of, any member or beneficiary.
- The amount of the offset from a member's retirement or disability benefits will vary depending on the amount of the debt. If the entire outstanding amount cannot be deducted from one month's benefit, a smaller amount will be deducted each month until the entire outstanding amount is repaid. If you have any questions about this process or the status of a debt or would like to repay any amounts owed, please contact Customer Service at 888-234-2410.

# Department of Revenue Debt Setoff

- Pursuant to [N.C.G.S. §§ 105A-3 and 18C-134](#), the State Health Plan (Plan) is obligated to submit all outstanding member debts to the North Carolina Department of Revenue (NCDOR) for collection. When a debtor files their tax return to claim their refund with NCDOR, the refund is captured and sent to the Plan.
- Depending on the situation, NCDOR may be able to capture sufficient funds to satisfy the entire debt or only a portion – this depends on the total amount of debt owed to the Plan and other agencies and/or the amount of refund the debtor has with NCDOR. In addition to tax refunds, NCDOR will also capture lottery prize payments to satisfy debts owed to the Plan. NCDOR debt setoff will occur in addition to any other collection activities being pursued by the Plan.

# Wage Garnishment FAQs

- What is the basis for the debt?
  - *This debt is for an overpayment of State Health Plan funds, which could include benefits paid to, or premiums or claims paid on behalf of, a Plan member or dependent.*
- What gives the Plan authority to garnish a Plan member's wages?
  - *Pursuant to state law, any payment of benefits or other amount to, or premiums or claims paid on behalf of, any Plan member that is later determined to be an overpayment, an erroneous payment, or a benefit or amount for which the Plan member was ineligible, shall be repaid by the Plan member to the Plan.*
- Can a Plan member repay the Plan for the debt instead of having his or her wages garnished?
  - *Yes, when a Plan member owes a debt to the Plan, the Plan will notify the member of this debt in writing. If the member does not enter into a payment plan acceptable to the Plan within 30 days after the written notice, the Plan will notify the member's employer of the debt. After this initial 30 days, the Plan will only accept the total amount due as satisfying the debt.*

# Contacts



- **For new cases beginning January 1, 2021**, please contact Rawlings with any questions at 877-229-0872. You or your duly authorized representative can also e-mail [NCStatemanualreferrals@rawlingscompany.com](mailto:NCStatemanualreferrals@rawlingscompany.com) with any subrogation requests.
- **For cases that have not been resolved by December 31, 2020**, please contact HMS with any questions at 800-294-2757. HMS will work on these older cases until December 31, 2021.
- For more details, visit the Plan’s website at [www.shpnc.org](http://www.shpnc.org), click on “Employee Benefits,” and scroll down to “Subrogation and Recovery.”

# Thank You!

This presentation is for general information purposes only. If it conflicts with federal or state law, State Health Plan policy or your benefits booklet, those sources will control. Please be advised that while we make every effort to ensure that the information we provide is up to date, it may not be updated in time to reflect a recent change in law or policy. To ensure the accuracy of, and to prevent the undue reliance on, this information, we advise that the content of this material, in its entirety, or any portion thereof, should not be reproduced or broadcast without the express written permission of the State Health Plan.

[www.shpnc.org](http://www.shpnc.org)