S T A T E O F N E W Y O R K

6219

2009-2010 Regular Sessions

I N A S S E M B L Y

February 26, 2009

Introduced by M. of A. BARRA -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law and the workers' compensation law, in relation to liens for public assistance and care on workers' compensation benefit claims

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The closing paragraph of section 104-b of the social services law, as added by chapter 382 of the laws of 1964 and such section as renumbered by chapter 550 of the laws of 1971, is amended to read as follows:

This section shall [not] apply to any claim or award which is or may be allowed pursuant to the provisions of the [workmen's] WORKERS' compensation law [or] BUT SHALL NOT APPLY TO CLAIMS OR AWARDS PURSUANT TO the volunteer [firemen's] FIREFIGHTERS' benefit law OR THE VOLUNTEER AMBULANCE WORKERS' BENEFIT LAW.

S 2. Section 33 of the workers' compensation law, as amended by chapter 275 of the laws of 1988, is amended to read as follows:

S 33. Assignments; exemptions. Compensation or benefits due under this chapter shall not be assigned, released or commuted except as provided by this chapter, and shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived provided, however, that compensation or benefits other than payments pursuant to section thirteen of this chapter shall be subject to application to an income execution or order for support enforcement pursuant to section fifty-two hundred forty-one or fifty-two hundred forty-two of the civil practice law and rules; AND FURTHER PROVIDED, HOWEVER, THAT COMPENSATION AND/OR BENEFITS SHALL BE SUBJECT TO ANY CLAIM OR ACTION FOR PUBLIC ASSISTANCE AND CARE PURSUANT TO SECTION ONE HUNDRED FOUR-B OF THE SOCIAL SERVICES LAW WHICH IS FILED BY A SOCIAL SERVICES OFFICIAL WITH THE BOARD

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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FOR REIMBURSEMENT OUT OF THE PROCEEDS OF THE AWARD FOR THAT PORTION OF THE COVERED PERIOD FOR WHICH PUBLIC ASSISTANCE AND CARE WAS PAID TO OR ON BEHALF OF THE EMPLOYEE. A WORKERS' COMPENSATION INSURER OR SELF INSURED EMPLOYER LIABLE FOR PAYMENT OF THE AWARD MUST RECEIVE, BEFORE SUCH AWARD IS MADE, A COPY OF THE CLAIM FOR REIMBURSEMENT FROM THE BOARD CHAIRMAN OR THE SOCIAL SERVICES OFFICIAL WHO PAID PUBLIC ASSISTANCE AND CARE OR THE BOARD'S DECISION AND AWARD MUST DIRECT SUCH REIMBURSEMENT THEREFROM. Compensation and benefits shall be paid only to employees or their dependents, except as hereinafter in this chapter provided. In the case of the death of an injured employee to whom there was due at the time of his or her death any compensation under the provisions of this chapter, the amount of such compensation shall be payable to the surviving spouse, if there be one, or, if none, to the surviving child or children of the deceased under the age of eighteen years, and if there be no surviving spouse or children, then to the dependents of such deceased employee or to any of them as the board may direct, and if there be no surviving spouse, children or dependents of such deceased employee, then to his estate. An award for disability may be made after the death of the injured employee.

S 3. Paragraph 1 of subdivision (d) of section 13 of the workers' compensation law, as amended by chapter 419 of the laws of 2000, is amended to read as follows:

(1) In the event that an insurer [or], health benefits plan OR A SOCIAL SERVICES DISTRICT makes payments for medical and/or hospital services for or on behalf of an injured employee they shall be entitled to be reimbursed for such payments by the carrier or employer within the limits of the medical and hospital fee schedules if the board determines that the claim is compensable. For the purposes of this section, an insurer or health benefits plan includes a medical expense indemnity corporation, a health or hospital service corporation, a commercial insurance company licensed to write accident and health insurance in the state of New York, A SOCIAL SERVICES DISTRICT, a health maintenance organization operating in accordance with article forty-three of the insurance law or article forty-four of the public health law, or a self-insured or self-funded health care benefits plan operated by, or on behalf of, any business, municipality or other entity (including an employee welfare fund as defined in article forty-four of the insurance law or any other union trust fund or union health benefits plan). Notwithstanding any other provision of law, in no event shall the carrier or employer be required to reimburse the insurer [or], health benefits plan OR A SOCIAL SERVICES DISTRICT, in an amount greater than the amount paid for medical and hospital services for or on behalf of the injured employer by such corporation or company[;] OR A SOCIAL SERVICES DISTRICT, provided, however, if the carrier or employer does not reimburse the insurer [or], health benefits plan OR A SOCIAL SERVICES DISTRICT, within thirty days after the board determines that the claim is compensable, the carrier or employer shall reimburse the insurer [or], health benefits plan OR A SOCIAL SERVICES DISTRICT, at the amount the carrier or employer would be obligated to reimburse the hospital or other provider of medical services if the carrier or employer made payment directly to the provider of medical and/or hospital services pursuant to this chapter (or, in the case of inpatient hospital services, pursuant to paragraphs (b) and (b-1) of subdivision one of section twenty-eight hundred seven-c of the public health law). Upon reimbursement to the insurer [or], health benefits plan OR A SOCIAL SERVICES DISTRICT, pursuant to this subdivision, the carrier or employer

shall be relieved of liability for the medical and/or hospital services for which payment has been made by the insurer [or], health benefits plan OR A SOCIAL SERVICES DISTRICT.

S 4. This act shall take effect January 1, 2010.