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OFFICE OF THE
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Opinion No. 00-139

Applicability of Hospital Liens Under the Criminal Injuries Compensation Act

## QUESTIONS

1. As a result of the enactment of Tenn. Code Ann. §29-13-111(d), do the hospital lien statutes apply to criminal injuries compensation awards?

2. If the answer to question (1) is yes:

(A) Does Tenn. Code Ann. §29-13-111(d) permit the Criminal Injuries Compensation Program to pay the claimant the total amount of the criminal injuries compensation award despite the filing of a hospital lien if the claimant's "other eligible losses and expenses" exceed the maximum allowable award?

(B) If the answer to question (2)(A) is yes, may the Criminal Injuries Compensation Program pay the claimant pursuant to Tenn. Code Ann. §29-13-111(d) without obtaining a release of the hospital lien?

(C) Assuming multiple health care providers exist and the remaining compensation is inadequate to pay the entire indebtedness, is the Criminal Injuries Compensation Program required to first satisfy the hospital lien from the remaining compensation before paying any other health care providers?

(D) Assuming a hospital lien is filed but the claimant does not request payment of medical or hospital expenses in the claimant's application for criminal injuries compensation (and does not provide the medical and hospital records to prove relatedness), does the Criminal Injuries Compensation Program have to honor the lien?

(E) If a hospital lien is received by the Criminal Injuries Compensation Program but no application for compensation has been filed by or on behalf of the victim, how long does the Program have to keep the file open due to the lien?

(F) The hospital lien statutes provide at Tenn. Code Ann. §29-22-102(c):

> The filing of the claim shall be notice thereof to all persons, firms or corporations who may be liable on account of such illness or injuries, whether or not they are named in the claim

or lien and whether or not a copy of the claim shall have been received by them.

If the Criminal Injuries Compensation Program does not receive actual notice of a hospital lien (i.e., received a copy of the lien) and pays the maximum compensation allowable under the Criminal Injuries Compensation Act, could the Program be liable to the lienholder for the hospital care and treatment rendered by the hospital to the victim?

## OPINIONS

Pursuant to Tenn. Code Ann. §29-13-111(d) criminal injuries compensation awards are no longer subject to hospital liens arising under Tenn. Code Ann. §29-22-101.

## ANALYSIS

In Op. Tenn. Atty. Gen. 88-29 (February 10, 1988), this Office opined that criminal injuries compensation awards are subject to hospital liens arising under Tenn. Code Ann. §29-22-101. This opinion was based upon the wording of Tenn. Code Ann. §29-13-111(e):

> No award pursuant to this chapter [Criminal Injuries Compensation Act of 1976] shall be subject to execution or attachment other than for expenses resulting from the injury or death which is the basis of the claim.

In 1993 Tenn. Code Ann. §29-13-111 was amended to add:

> (d)(1) Notwithstanding any provision of this part [title 29, chapter 13, part 1] to the contrary, if the claimant has outstanding health care, funeral or burial expenses resulting from the injury or death which was the basis of the claim and if any compensation remains after making provision for the payment of all other eligible losses and expenses to the claimant, the division or commission may, in their discretion, make the remaining compensation payable to the health care or funeral provider.
>
> (2) Where multiple health care or funeral providers exist and the remaining compensation is inadequate to pay the entire indebtedness, the division or commission may divide the remaining compensation equally among the providers or, in the division or commission's discretion, apportion the remaining compensation among the providers in accordance with the claimant's instructions.

Chap. 494 of the Public Acts of 1993.

Tenn. Code Ann. §29-13-111(e) which appears to provide that hospital liens are applicable to

criminal injuries compensation awards is irreconcilable with Tenn. Code Ann. §29-13-111(d). Tenn. Code Ann. §29-13-111(d) outlines a payment priority as between the claimant and health care and funeral providers and as between health care and funeral providers. Permitting hospitals to obtain a higher priority by filing a lien is antithetical to the statutory scheme outlined in subsection (d). Deference must be afforded subsection (d) as it was added later in time than subsection (e) and provides expressly that its provisions control "notwithstanding any provision of this part [title 29, chapter 13, part 1] to the contrary." Where two acts conflict and cannot be reconciled, the prior act will be repealed or amended by implication to the extent of the inconsistency between them. *Brewer v. Lincoln Brass Works, Inc*., 991 S.W.2d 226, 229 (Tenn. 1999).

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