

# Bill as Introduced

HB 577-FN - AS INTRODUCED

2009 SESSION

09-0999

05/03

HOUSE

**577-FN**

AN ACT

relative to recovery of public assistance and third party liability.

SPONSORS:

Rep. DiFruscia, Rock 4

COMMITTEE:

Health, Human Services and Elderly Affairs

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ANALYSIS

This bill establishes criteria for the apportionment and recovery of medical assistance from Medicaid recipients who receive damages or other financial settlements from third party liability claims.

This bill is a request of the department of health and human services.

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Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nine*

AN ACT relative to recovery of public assistance and third party liability.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Recovery of Assistance. Amend RSA 167:14-a to read as follows:

2 167:14-a Recovery of Assistance.

3 I. Any person who is a recipient of financial assistance, medical assistance, old age  
4 assistance, aid to the needy blind, Medicaid for employed adults with disabilities, or aid to the  
5 permanently and totally disabled shall, by [his] acceptance of such assistance, be deemed to have  
6 assigned any claim or right of action against any person or party to the commissioner of health and  
7 human services, to the extent that such assistance is furnished. ***Upon assignment, the recipient***  
8 ***has a duty to cooperate with the commissioner of health and human services to enable the***  
9 ***commissioner to obtain payment. Cooperation includes, but is not limited to, identifying***  
10 ***and providing information to assist in pursuing third parties who may be liable to pay for***  
11 ***care and services in accordance with 42 C.F.R. section 433.145. Any information provided***  
12 ***to the commissioner by the recipient shall be subject to a Medicaid assignment privilege,***  
13 ***such that the material shall remain subject to the attorney-client privilege and work***  
14 ***product privilege, notwithstanding the fact that it has been shared with the commissioner.***  
15 ***The Medicaid assignment privilege shall not prevent the commissioner from using the***  
16 ***information in a petition for equitable apportionment, with an accompanying motion to***  
17 ***seal if applicable and desired by the recipient.***

18 II. Whenever a recipient of financial assistance, medical assistance, old age assistance, aid  
19 to the needy blind, Medicaid for employed adults with disabilities, or aid to the permanently and  
20 totally disabled shall have a legally cognizable claim against any person or party for expenses or  
21 support and the department of health and human services has already furnished assistance to such  
22 recipient, the amount of assistance furnished may be recovered in an action brought in the name of  
23 the state from such person or party against whom the recipient has a legally cognizable claim for  
24 expenses or support. ***The commissioner of health and human services may intervene in any***  
25 ***pending suit brought by the recipient against any person or party against whom the***  
26 ***recipient has a legally cognizable claim for expenses or support. Whether the***  
27 ***commissioner of health and human services decides to file suit independently, to intervene,***  
28 ***or to file a petition of equitable apportionment shall be solely within the commissioner's***  
29 ***discretion.***

30 II-a. The commissioner ***of health and human services*** may recover the amount of medical  
31 assistance furnished to a dependent child from the child's responsible parents to the extent

1 authorized under *Title XIX and Title XXI* of the Social Security Act. In such cases, the amount of  
 2 assistance furnished and subject to reimbursement shall include, but not be limited to, expenditures  
 3 for medical care and health insurance premiums and other expenditures paid by the state for  
 4 enrollment or other fees for participation in the program. *Any third-party payment for future*  
 5 *medical expenses for the care of a dependent child through age 21 shall be paid to the*  
 6 *responsible parents, subject to the commissioner's lien.*

7 *II-b.(a) Any action brought by the commissioner of health and human services*  
 8 *under this section shall be commenced within 7 years of the date the cause of action arises.*

9 *(b) Notwithstanding subparagraph (a), if a recipient has commenced an action*  
 10 *to recover damages for an injury for which benefits are provided and has not provided*  
 11 *notice of the action to the commissioner, or if medical services were provided to a minor,*  
 12 *the commissioner may commence an action under this section within the later of 7 years of*  
 13 *the date the cause of action arises or 2 years from the date the commissioner discovers the*  
 14 *settlement or judgment, or 2 years from the date the minor obtains the age of 21, whichever*  
 15 *is later.*

16 *(c) If the underlying claim could have been commenced outside the state,*  
 17 *jurisdiction shall also lie in Merrimack county superior court.*

18 III. The state medical assistance program is the payor of last resort and shall provide  
 19 medical coverage only when there are no other available resources. Whenever a recipient of medical  
 20 assistance shall receive a settlement or an award from a liable third person or party, such recipient  
 21 shall repay the amount of medical assistance furnished by the state to the extent that the amount of  
 22 the recovery makes repayment possible. If a recipient of medical assistance receives a settlement or  
 23 an award from a third party, the settlement or award is subject to disbursement as provided in  
 24 paragraphs III-a and IV.

25 III-a. The commissioner of health and human services may recover the full amount of  
 26 medical assistance furnished by the state if there are proceeds available for such recovery after the  
 27 deduction of reasonable ~~[attorneys']~~ *attorney's fees*~~[,]~~ *and* litigation costs~~[, claims by other creditors,~~  
 28 ~~and 10 percent of the remaining net settlement amount for the recipient of medical assistance. Any~~  
 29 ~~balance remaining after the state has recovered the full amount due shall be available to the~~  
 30 ~~recipient of medical assistance].~~ *The Medicaid lien shall be discharged from settlement funds*  
 31 *reasonably attributed to payment of medical expenses based on the commercial value of the*  
 32 *services provided.* No ~~[attorneys']~~ *attorney's fees* shall be deducted from the amount due the state  
 33 from such award or settlement. The commissioner may waive or reduce the amount due the state for  
 34 good cause upon written request from a recipient or recipient's attorney. The acceptance of any  
 35 waiver or the payment of any reduced amount due shall create a rebuttable presumption that the  
 36 apportionment was equitable in any action brought pursuant to paragraph IV. *If there are other*  
 37 *medical service creditors stemming from the same incident or accident, the commissioner*

1 *shall not receive less than a pro rata share of the amount due based on the commercial*  
2 *value of the services provided.*

3 *III-b. Prior to settlement or trial, a liable third party shall verify with the plaintiff*  
4 *that arrangements have been made for payment of any Medicaid liens. If the third party*  
5 *fails to make such verification, the commissioner may continue to hold the third party*  
6 *liable for payment of the lien. Jurisdiction for such proceeding shall lie in Merrimack*  
7 *county superior court.*

8 *IV.(a) A disbursement of any award, judgment, or settlement shall not be made to a*  
9 *recipient without the recipient or the recipient's attorney first providing at least [30] 60-days but no*  
10 *more than 120-days written notice of any scheduled trial, alternative dispute resolution hearing, or*  
11 *settlement to the commissioner of health and human services that the recipient has a claim which*  
12 *could result in a recovery from a third party or obtaining from the commissioner a written release of*  
13 *any obligation owed to the state for medical assistance provided to the recipient. The written*  
14 *notice shall identify the date, time, location, case caption, and the name of the judge or*  
15 *other decision maker or facilitator, sufficient to provide the commissioner with a*  
16 *meaningful opportunity to participate. The commissioner shall notify the recipient or the*  
17 *recipient's attorney of the amount of the commissioner's claim within 21 days of the commissioner's*  
18 *receipt of the notice. If a dispute arises between the recipient and the commissioner of health and*  
19 *human services as to the settlement of any claim that arises under this section, the third party or*  
20 *the recipient's attorney shall withhold from disbursement to the recipient or to any legal instrument*  
21 *created for the benefit of the recipient, an amount equal to the commissioner's claim. Either party*  
22 *may apply to the superior court or the district court in which an action based upon the recipient's*  
23 *claim could have been commenced for an order to determine an equitable apportionment between the*  
24 *commissioner and the recipient of the amount withheld. An order of apportionment has the effect of*  
25 *a judgment. The obligation of a third party under this paragraph to withhold all or part of a*  
26 *disbursement is conditional upon the receipt by the third party of written notice from the*  
27 *commissioner, the recipient, or the recipient's attorney that the commissioner is asserting a claim.*

28 *(b) When settlement funds are apportioned between the recipient and the*  
29 *commissioner, Medicaid shall be treated as a collateral source. The portion of the gross*  
30 *settlement reasonably attributed to medical expenses shall include that portion of the*  
31 *settlement reasonably attributed to past medical costs and anticipated future medical*  
32 *expenses. There shall be a rebuttable presumption that the portion of the gross settlement*  
33 *reasonably attributed to payment of the Medicaid lien is 1/3 of the gross settlement. In no*  
34 *event shall the commissioner's claim exceed 1/2 of the recipient's recovery, after deducting*  
35 *attorney's fees, litigation costs, and medical expenses paid by the recipient. If the portion*  
36 *of the gross settlement reasonably attributed to medical expenses exceeds the*

1 *commissioner's lien, the balance shall be available to other medical service lien holders*  
2 *and the recipient.*

3 *(c) Third party payment of past medical expenses, from the third party or from*  
4 *gross settlement funds, shall discharge the lien from the date of the incident or accident*  
5 *through the settlement of the underlying civil action.*

6 *(d) If a recipient pursues a civil action against a third party and chooses not to*  
7 *include as damages services the Medicaid program has provided, the recipient, or the*  
8 *recipient's attorney, shall explicitly and prominently notify the commissioner that the*  
9 *recipient has elected not to seek compensation for services the Medicaid program has*  
10 *provided.*

11 *V. After notice and a hearing, the commissioner may impose an administrative*  
12 *penalty of up to \$5,000 per violation upon any person who willfully fails to comply with the*  
13 *obligations of this section.*

14 ~~[V.]~~ VI. All property, real or personal, in a revocable trust is subject to recovery by the  
15 department for recovery for any medical assistance provided the decedent. Upon the death of the  
16 grantor, the department shall provide the trustee with a statement containing the amount of medical  
17 assistance which was provided to the decedent.

18 ~~[VI.]~~ VII.(a) For purposes of recovering the costs of medical assistance, the estate of a  
19 recipient shall include all property, real or personal, which at the time of a recipient's death was held  
20 by the recipient in joint tenancy with rights of survivorship, tenancy in common, or life estate for all  
21 such title or interest established on or after July 1, 2005. Recovery shall be limited to the value of  
22 the recipient's ownership interest and in no case shall such amount exceed the total amount of  
23 medical assistance provided to the deceased recipient, nor shall recovery extend to any interest in  
24 property, real or personal, for which a non-recipient owner paid fair market value at the time said  
25 ownership interest was acquired.

26 (b) No sooner than 45 days from the death of the recipient, the department shall provide  
27 the other joint owner or owners notice of the department's claim. Written notice shall include a  
28 description of all categories of individuals exempt from recovery by reason of familial status as  
29 allowed under 42 U.S.C. section 1396p(b)(2) and RSA 167:16-a, IV, as well as the availability and  
30 method of requesting a hardship waiver. Within 30 days of the receipt of notification of the  
31 department's claim, the joint owner or owners shall acknowledge receipt of the department's claim  
32 and, provided that there shall not be undue hardship imposed upon the surviving joint owner or  
33 owners, either tender an amount equal to the deceased recipient's interest in the identified property  
34 and/or financial instrument to the state of New Hampshire toward the deceased's medical assistance  
35 bill, but such amount shall not exceed the total amount of medical assistance provided to the  
36 deceased recipient, or enter into a binding agreement to make such payment as soon as is  
37 practicable. If the joint owner or owners refuse to acknowledge receipt of the department's claim or

1 to tender payment or fail to fulfill the agreement to pay without good cause, as required by this  
2 paragraph, the commissioner may bring an action in superior court or probate court, as the case may  
3 be, to compel such payment. Nothing in this paragraph shall be interpreted or applied so as to  
4 violate RSA 167:16-a or 42 U.S.C. section 1396p(b)(2)(A) and (B) prohibiting recovery when the  
5 recipient is survived by a spouse, minor children, or disabled children or when the recipient is  
6 survived by either siblings or children under certain circumstances.

7       2 Reference Change; Confidentiality of Department of Revenue Administration Records. Amend  
8 RSA 21-J:14, V(d)(8) to read as follows:

9               (8) An officer or employee of the department of health and human services in the  
10 performance of duties under RSA 167:14-a, [V] VI, which disclosure shall be limited to the report of  
11 the trust and a copy of the trust document, including any list of beneficiaries, filed in accordance  
12 with RSA 87:20.

13       3 Effective Date. This act shall take effect January 1, 2010.

LBAO  
09-0999  
01/21/09

**HB 577-FN - FISCAL NOTE**

AN ACT           relative to recovery of public assistance and third party liability.

**FISCAL IMPACT:**

The Department of Health and Human Services states this bill would increase state general fund revenue by \$520,050 in FY 2010 and each year thereafter. This bill would have no fiscal impact on state, county, and local expenditures, or county and local revenue.

**METHODOLOGY:**

The Department of Health and Human Services (DHHS) states this bill would modify the Recovery of Assistance statute, which among other things would set a rebuttable presumption that it is reasonable to allocate one-third of the recipient's recovery from liable third persons to the re-payment of Medicaid expenditures on behalf of that recipient for injuries due to the tortuous acts of another. The bill would also statutorily clarify that DHHS is entitled to base its recovery on the reasonable cost of the services provided to the recipient, though DHHS would never recover more than its lien. The Department states medical lien amounts in FY 2008 totaled \$1,548,804, of which \$508,703 was recovered. As a result, the presumed additional funds recovered by this bill is estimated at \$1,040,101. Recoveries are split 50/50 with the federal government, which would result in an increase in state general fund revenue of approximately \$520,050.



# Amendments

Amendment to HB 577-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Recovery of Assistance. Amend RSA 167:14-a, III-a and IV to read as follows:

4 III-a. The commissioner of health and human services may recover the full amount of  
5 medical assistance furnished by the state [~~if there are proceeds available for such recovery after the~~  
6 ~~deduction of reasonable attorneys' fees, litigation costs, claims by other creditors, and 10 percent of~~  
7 ~~the remaining net settlement amount for the recipient of medical assistance. Any balance remaining~~  
8 ~~after the state has recovered the full amount due shall be available to the recipient of medical~~  
9 ~~assistance. No attorneys' fees shall be deducted from the amount due the state from such award or~~  
10 ~~settlement]~~ **from the portion of any settlement or judgment reasonably attributable to**  
11 **medical expenses.** The commissioner may waive or reduce the amount due the state for good cause  
12 upon written request from a recipient or recipient's attorney. The acceptance of any waiver or the  
13 payment of any reduced amount due shall create a rebuttable presumption that the apportionment  
14 was equitable in any action brought pursuant to paragraph IV.

15 IV. A disbursement of any award, judgment, or settlement shall not be made to a recipient  
16 without the recipient or the recipient's attorney first providing at least 30-days written notice of any  
17 scheduled trial, alternative dispute resolution hearing, or settlement to the commissioner of health  
18 and human services that the recipient has a claim which could result in a recovery from a third party  
19 or obtaining from the commissioner a written release of any obligation owed to the state for medical  
20 assistance provided to the recipient. The commissioner shall notify the recipient or the recipient's  
21 attorney of the amount of the commissioner's claim within 21 days of the notice. If a dispute arises  
22 between the recipient and the commissioner of health and human services as to the settlement of  
23 any claim that arises under this section, the third party or the recipient's attorney shall withhold  
24 from disbursement to the recipient or to any legal instrument created for the benefit of the recipient,  
25 an amount equal to the commissioner's claim. Either party may apply to the superior court or the  
26 district court in which an action based upon the recipient's claim could have been commenced for an  
27 order to determine an equitable apportionment between the commissioner and the recipient of the  
28 amount withheld. **The court shall have broad discretion to apportion the amount withheld**  
29 **as justice may require.** An order of apportionment has the effect of a judgment. The obligation of  
30 a third party under this paragraph to withhold all or part of a disbursement is conditional upon the  
31 receipt by the third party of written notice from the commissioner, the recipient, or the recipient's  
32 attorney that the commissioner is asserting a claim.

**Amendment to HB 577-FN**

**- Page 2 -**

1        2 Effective Date. This act shall take effect upon its passage.

2009-2376h

AMENDED ANALYSIS

This bill permits the department of health and human services to recover medical assistance costs from the portion of settlements or judgments reasonably attributed to medical expenses. The bill also clarifies the court's discretion to apportion the amount withheld from such awards.

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**Amendment to HB 577-FN**  
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**Amendment to HB 577-FN**  
**- Page 3 -**

2009-2376h

**AMENDED ANALYSIS**

This bill permits the department of health and human services to recover medical assistance costs from the portion of settlements or judgments reasonably attributed to medical expenses. The bill also clarifies the court's discretion to apportion the amount withheld from such awards.

# Committee Minutes

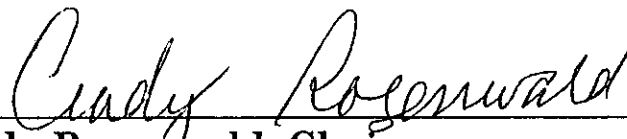
**HOUSE COMMITTEE ON  
HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS**

**BILL NUMBER:** HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** March 18, 2009

**THE COMMITTEE HAS VOTED TO RETAIN THIS BILL.**

A handwritten signature in cursive script that reads "Cindy Rosenwald". The signature is written in black ink and is positioned above a horizontal line.

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**Cindy Rosenwald, Chairman**



# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** March 3, 2009

**LOB ROOM:** 205      **Time Public Hearing Called to Order:** 10:19 AM

**Time Adjourned:** 11:28 AM

(please circle if present)

**Committee Members:** Reps. Rosenwald, Donovan, French, Schulze, Tilton, Butcher, Bridgham, E. Merrick, T. Russell, DiPentima, Miller, Batula, C. McMahon, Pilliod, Emerson, Case, Millham, Wells, Cebrowski, and Kotowski.

**Bill Sponsors:** Rep. DiFruscia, Rock 4

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**Representative Peter Batula.** He introduced this bill that was requested by Department of Health and Human Services.

**\*Attorney Jennifer Jones, DHHS – supports.** See written testimony. The department is impacted in the Medicaid budget. Alborn ruling regarding recovers does exist. Presumption that one third of recovery be placed against the Medicaid costs. Looking to receive a reasonable recovery. Car accidents, the person driving the car would be the liable person. Medicaid malpractice, typically insurance companies. There is now a third party method of getting payment. Can recover only what is medically involved. Medicaid cannot recover other costs. Making a method of exchanging information and then using the information, especially when trying to recover dollars. More often than not the recovery is not one third of the amount. DHHS recovers from Medicaid and fifty percent of the amount recovered goes to the general fund and fifty percent goes to the Federal government. The bill will affect every case. Ms. Jones will submit sample cases.

**Jared Green, New Hampshire Association for Justice – opposes.** This is a statewide association for lawyers for injured people. The present system isn't broken. A significant amount of money has been returned to the state. The Alborn case stated that recovery is allowed only for medical expenses. Some of the provisions of this bill do not comply with the Alborn decision. The one third provision is arbitrary. Recovery is always reduced. Any settlement is always reduced. No one gets 100 percent on the dollar. This bill makes it more complicated and it could harm the Medicaid recovery. He may not take cases where it doesn't seem worthwhile. Medicaid will lose dollars. Alborn case said it only applied to past medical expenses. This bill doesn't affect the lawyers payment.

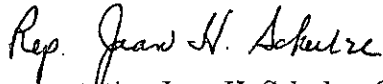
**Ralph Holmes, New Hampshire Association for Justice – opposes.** \$3 billion is fundamentally unfair and may be unconstitutional. The language of the bill needs to be cleaned up.

Page 2  
HB 577-FN

**John Laboe, NAELA – opposes.** He is representing the elderly and this bill is disturbing. The state wants to reevaluate what the costs are. When a person receives payment they are off the Medicaid rolls until the money is gone.

**Sarah Dustin – opposes.** She is representing low income single parents.

Respectfully submitted,

A handwritten signature in cursive script that reads "Rep. Joan H. Schulze".

Representative Joan H. Schulze, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 577-FN

BILL TITLE: relative to recovery of public assistance and third party liability.

DATE: 3/3/2009

LOB ROOM: 205

Time Public Hearing Called to Order: 10:19 AM

Time Adjourned: 11:28 AM

(please circle if present)

Committee Members: Reps. Rosenwald, Donovan, French, Schulze, Filton, Butcher, Bridgham, E. Merrick, T. Russell, DiPentima, Miller, Batula, C. McMahon, Lillioe, Emerson, Case, Millham, Wells, Cebrowski and Kotowski.

Bill Sponsors: Rep. DiFruscia, Rock 4

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Rep. Batula - introduced this bill requested by the dept  
\* Atty Jennifer Jones - supports the bill. Dept is impacted in Medicaid budget Albarn (sp?) ruling regarding recovery fees exist. Presumptive that 1/3 of recovery be placed against the Medicaid costs. Looking to receive a reasonable recovery. Car accidents, person driving car would be liable person Medicaid malpractice, typically insurance companies. There is now a third party method of getting payment. Can recover only what is medically involved - Medicaid can not recover other costs. Making a method of exchanging information and then using the information, especially when trying to recover dollars. More often than not the recovery is not 1/3 of the amount. He (DHHS) recovers for Medicaid 50% of the amount recovered goes to the general fund and 50% goes to Federal Gov't.

The bill will affect every case. Ms. Jones will submit sample cases.

Jared Green attorney. N.H. Assoc of Justice & Statewide association for lawyers for injured people opposes this bill. The present system isn't broken. A significant amount of money has been returned to the state.

The Albarn case stated that recovery is allowed only for medical expenses. Some of the provisions of this bill do not comply with the Albarn decision. The 1/3 provision is arbitrary. Recovery is always reduced. Any settlement is always reduced. No one gets 100% on the dollar. This bill makes it more complicated it could harm the Medicaid recovery. He may not take cases where it doesn't seem worthwhile. Medicaid will lose dollars. Albarn case said only it applies to past medical expenses. This bill doesn't affect lawyers payment.

Ralph Holmes opposes the bill

#38 (111B) is fundamentally unfair + maybe unconstitutional. The language of the bill needs to be cleaned up.

John Laboe represents elderly NAELA

This bill is disturbing. State wants to reevaluate what the costs are. When a person receives payment they are off the Medicaid rolls. until money is gone.

Sarah Dustin opposes this bill speaks for low income single parents

Sub-committee  
Butcher  
Miller  
Russell  
Batula  
Cebrowski

# Sub-Committee Actions



HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** March 9, 2009

**Subcommittee Members:** Reps. S. Butcher, P. Batula, T. Russell, K. Miller, J. Cebrowski

**Comments and Recommendations:** Voted to retain the bill.

**Amendments:**

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. T. Russell

Seconded by Rep. P. Batula

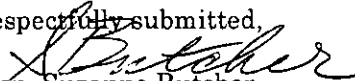
Vote: 5-0

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,  
  
Rep. Suzanne Butcher  
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** 3/9/2009

**Subcommittee Members:** Reps. *Butcher, Batula, Russell, Miller, Cebrowski*

**Comments and Recommendations:**

**Amendments:**

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. *Russell*  
Seconded by Rep. *Batula*  
Vote: *5-0*

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.  
Seconded by Rep.  
Vote:

Respectfully submitted,

Rep.  
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** November 10, 2009

**Subcommittee Members:** Reps. Butcher, Schulze, Tilton, and Case

**Comments and Recommendations:**

**Amendments:**

Sponsor: Rep. Butcher	OLS Document #:	2009	2376h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

**Motions:** OTP, OTPA, JTL, Retained (Please circle one.)

Moved by Rep. Tilton

Seconded by Rep. Case

Vote: 4-0

**Motions:** OTP, OTPA, JTL, Retained (Please circle one.)

Moved by Rep. Schulze

Seconded by Rep. Case

Vote: 4-0

Respectfully submitted,

Rep. Suzanne Butcher  
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** November 10, 2009

**Subcommittee Members:** Reps. Butcher, Schulze, Wilton, and Case

**Comments and Recommendations:**

**Amendments:**

Sponsor: Rep. *Butcher* OLS Document #: *2376h*  
Sponsor: Rep. OLS Document #:  
Sponsor: Rep. OLS Document #:

*Amendment*  
**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)  
Moved by Rep. *Wilton*  
Seconded by Rep. *Case*  
Vote: *4-0*

*2*  
**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)  
Moved by Rep. *Schulze*  
Seconded by Rep. *Case*  
Vote: *4-0*

Respectfully submitted,

Rep. *Butcher*  
Subcommittee Chairman/Clerk  
*Suzanne Butcher*

Amendment to HB 577-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2  
3 1 Recovery of Assistance. Amend RSA 167:14-a, III-a and IV to read as follows:

4 III-a. The commissioner of health and human services may recover the full amount of  
5 medical assistance furnished by the state ~~[if there are proceeds available for such recovery after the~~  
6 ~~deduction of reasonable attorneys' fees, litigation costs, claims by other creditors, and 10 percent of~~  
7 ~~the remaining net settlement amount for the recipient of medical assistance. Any balance remaining~~  
8 ~~after the state has recovered the full amount due shall be available to the recipient of medical~~  
9 ~~assistance. No attorneys' fees shall be deducted from the amount due the state from such award or~~  
10 ~~settlement]~~ **from the portion of any settlement or judgment reasonably attributable to**  
11 **medical expenses.** The commissioner may waive or reduce the amount due the state for good cause  
12 upon written request from a recipient or recipient's attorney. The acceptance of any waiver or the  
13 payment of any reduced amount due shall create a rebuttable presumption that the apportionment  
14 was equitable in any action brought pursuant to paragraph IV.

15 IV. A disbursement of any award, judgment, or settlement shall not be made to a recipient  
16 without the recipient or the recipient's attorney first providing at least 30-days written notice of any  
17 scheduled trial, alternative dispute resolution hearing, or settlement to the commissioner of health  
18 and human services that the recipient has a claim which could result in a recovery from a third party  
19 or obtaining from the commissioner a written release of any obligation owed to the state for medical  
20 assistance provided to the recipient. The commissioner shall notify the recipient or the recipient's  
21 attorney of the amount of the commissioner's claim within 21 days of the notice. If a dispute arises  
22 between the recipient and the commissioner of health and human services as to the settlement of  
23 any claim that arises under this section, the third party or the recipient's attorney shall withhold  
24 from disbursement to the recipient or to any legal instrument created for the benefit of the recipient,  
25 an amount equal to the commissioner's claim. Either party may apply to the superior court or the  
26 district court in which an action based upon the recipient's claim could have been commenced for an  
27 order to determine an equitable apportionment between the commissioner and the recipient of the  
28 amount withheld. **The court shall have broad discretion to apportion the amount withheld**  
29 **as justice may require.** An order of apportionment has the effect of a judgment. The obligation of  
30 a third party under this paragraph to withhold all or part of a disbursement is conditional upon the  
31 receipt by the third party of written notice from the commissioner, the recipient, or the recipient's  
32 attorney that the commissioner is asserting a claim.

**Amendment to HB 577-FN**  
**- Page 2 -**

1        2 Effective Date. This act shall take effect upon its passage.

**Amendment to HB 577-FN**  
**- Page 3 -**

2009-2376h

**AMENDED ANALYSIS**

This bill permits the department of health and human services to recover medical assistance costs from the portion of settlements or judgments reasonably attributed to medical expenses. The bill also clarifies the court's discretion to apportion the amount withheld from such awards.

# Sub-Committee Minutes

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** August 6, 2009

**Subcommittee Members:** Reps. Butcher, Schultze, and Case

**Comments and Recommendations:** Also attending: C. E. Browski, G. Richardson, and DiFruscia. Reconvene 9/9/09 at 1:00.

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Susan Butcher  
Subcommittee Chairman/Clerk



**HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS**

**SUBCOMMITTEE WORK SESSION ON HB 577-FN**

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:**

**Subcommittee Members:** Reps. Butcher, Schulze, and Case

**Comments and Recommendations:**

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. Suzanne Butcher  
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 577-FN

BILL TITLE: relative to recovery of public assistance and third party liability.

DATE: August 6, 2009

Subcommittee Members: Reps. BUTCHER, SCHULTZE, CASE  
ALSO: CEBROWSKI, G. RICHARDSON, DIFRUSCIA

Comments and Recommendations:

RECONVENE 9/9/09 1:00

JUDICIARY COMMITTEE

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

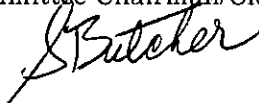
Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.  
Subcommittee Chairman/Clerk



**Amendment to HB577****Strike prior bill and replace.**

When an individual receives medical benefits from the Department of ..... the amount of medical payments made is a medical lien. All injured persons, whose injury was a result of a bodily injury claim, and who have reached resolution of their liability case, shall have said settlement approved by a Superior Court or District Court judge. The District or Superior Court judge has authority to accept, reject or recommend adjustments to said disbursements, as justice will require.

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** September 9, 2009

**Subcommittee Members:** Reps. Butcher, Schulze, <sup>J. Tilton and</sup> and Case.  
*Also attending: Reps. Richardson and Di Trussia (Judiciary Committee)*

**Comments and Recommendations:** Agreed on language. I will get it drafted, subcommittee will meet to vote just before committee Executive Session.

**Amendments:**

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.  
Seconded by Rep.  
Vote:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.  
Seconded by Rep.  
Vote:

Respectfully submitted,

Rep. Suzanne Butcher  
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** September 9, 2009

**Subcommittee Members:** Reps. Butcher, Schulze, and Case

**Comments and Recommendations:** *Agreed on language, I will get it drafted, subcommittee will meet to vote just before full committee spec session.*

**Amendments:**

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.  
Subcommittee Chairman/Clerk

*S. Butcher*

Name Org email phone

Jay K. Tilton

John H. Schurze

Janet Monahan NH Medical Society janet.monahan@nhms.org

Jared R. Green NHAJ jgreen@arbd.com 224-1909  
647-0300

Ellen Shemitz NHAJ eshemitz@nhaj.org 224-7077

John Laboe NAELA jlaboe@laboe-law.com 224-8700

JENNIFER JONES DHHS JENNIFER.JONES@DHHS.STATE.NH.US 271-30

Francesca Stabile DHHS Francesca.Stabile@dhhs.state.nh.us

John Williams DHHS ~~john~~ jwilliam@dhhs.state.nh.us

HOWARD ZIBEL JUDICIAL BRANCH HZIBEL@COURTS.STATE.NH.US

John Kenison NHAJ jkenison@8004LAW.com

Debra Vandenberg Legis. Solutions DBEEK@aol.com

# Testimony

## Rosenwald, Cindy

---

**From:** adifruscia@aol.com  
**Sent:** Tuesday, March 03, 2009 3:42 PM  
**To:** Rosenwald, Cindy; Donovan, Tom; joanschulze@verizon.net; Bridgham, Bob; DiPentima, Rich; McMahon, Charles; Case, Frank; Cebrowski, John; Tilton, Joy; Merrick, Evalyn; katemiller@metrocast.net; Pilliod, James; Millham, Alida; Kotowski, Frank; Butcher, Suzanne; Russell, Trinka; Batula, Peter; Emerson, Susan; Wells, Roger  
**Subject:** HB577

To the Members of the Health, Human Services & Elderly Affairs Committee,

Please accept my apologies for missing this morning's hearing on HB577.

I was detained in Court in Massachusetts, and could not make it to Concord in time.

Had I appeared, I would have testified that the Department is entitled to reimbursement from third party settlements for medical services rendered as the result of the negligence of another party (third party.) The intent of the Bill is simply to make consistent recovery from those individuals who caused the injury so that the State of New Hampshire could be reimbursed for medical services rendered as a direct and causal result of the negligence or wrongful acts.

The victim who received the medical care would be entitled to pain and suffering as a result of the wrongdoing. Pain and suffering is not subject to a lien.

The Bill as submitted must be amended as follows:

1. Paragraph 2, strike the words "expenses or support" and insert the words "medical expenses only." Strike the last sentence, "whether the Commissioner of Health and Human Services..."
2. Paragraph 2a, strike the last sentence, "...with reference to future medical expenses..."
3. Paragraph 11B (a) to be stricken and "Statute of Limitations three years from the date of the cause of action" inserted.
4. Paragraph II-b.(b) is to be stricken.
5. Paragraph III-a strike the words "reasonably attributed to payment of medical expenses based on the commercial value of the services provided" and insert the words "actual cost of medical services"
6. Paragraph III-a strike the words "no attorney's fees" and insert "attorney's fees shall be deducted"
7. Paragraph IV.b strike the whole paragraph and insert a new paragraph, "In no event shall the Commissioner's claim exceed one-third of the recipient's recovery, after deducting attorney's fees, litigation costs and medical expenses paid by the recipient.
8. Paragraph V, strike the words "Five thousand" and insert "one thousand"

I wish to thank the Committee for their indulgence. If you wish me to submit a formal amendment to the Bill, I will do so.

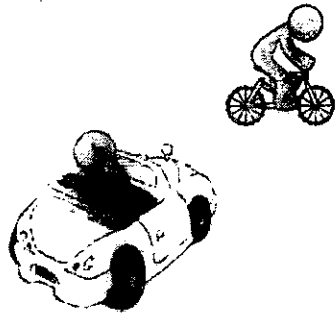
Regards,

Rep. Anthony DiFruscia

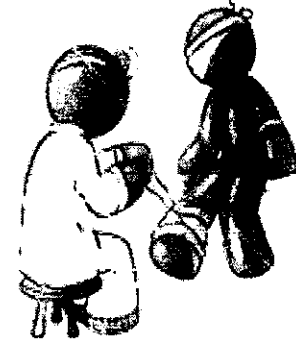
DiFruscia Law Offices  
302 Broadway  
Methuen, MA 01844



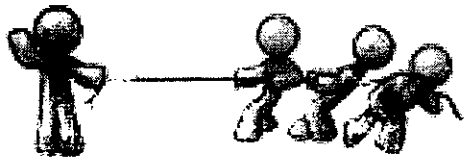
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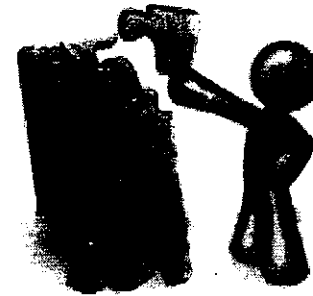
**Medicaid Payments**



**Settlement**



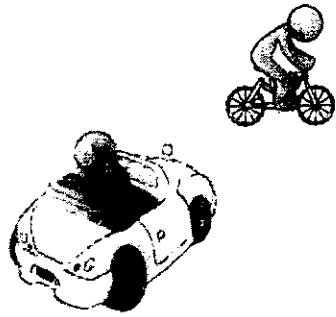
**Recovery**



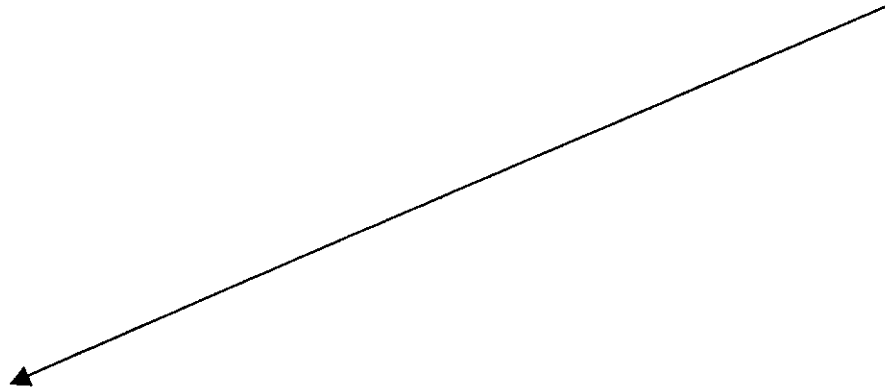
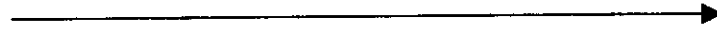
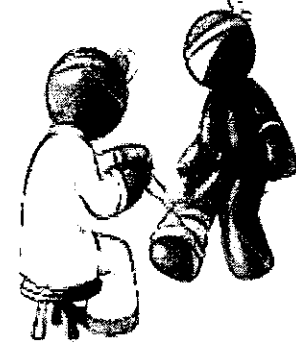
**HB 577 – DHHS, Testimony of Jennifer Jones – March 3, 2009**

HB 577 - FN  
Juli 3/3/09

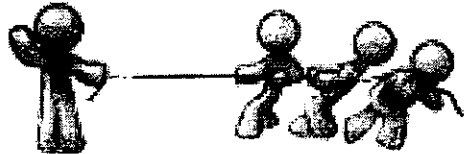
**Accident**



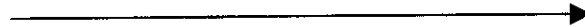
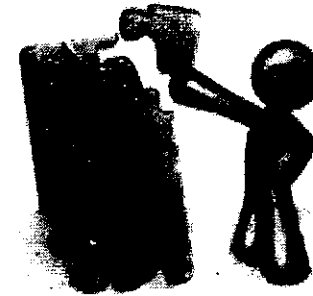
**Medicaid Payments**



**Settlement**



**Recovery**



# Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** March 18, 2009

**LOB ROOM:** 205

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study, Retain (Please circle one.)

Moved by Rep. S. Butcher

Seconded by Rep. P. Batula

Vote: 19-0 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE:**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Joan H. Schulze, Clerk

*Rep. Joan H. Schulze*

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 577-FN

BILL TITLE: relative to recovery of public assistance and third party liability.

DATE: 3/18/09

LOB ROOM: 205

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, IFL, Interim Study (Please circle one.)

Moved by Rep. *Butcher* *Retain*

Seconded by Rep. *Batula*

Vote: *19-0* (Please attach record of roll call vote.)

Motions: OTP, OTP/A, IFL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Joan H. Schulze, Clerk



HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** November 10, 2009

**LOB ROOM:** 205

**Amendments:**

Sponsor: Rep. Butcher OLS Document #: 2009 2376h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Butcher

Seconded by Rep. Case

Vote: 13-2 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Butcher

Seconded by Rep. Case

Vote: 15-0 (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: 15-0**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Joan H. Schulze, Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 577-FN

**BILL TITLE:** relative to recovery of public assistance and third party liability.

**DATE:** November 10, 2009

**LOB ROOM:** 205

Amendments:

Sponsor: Rep. *Butcher*

OLS Document #: *2376 h*

Sponsor: Rep. *Case*

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP OTP/A, ITL, Interim Study (Please circle one.) *Amendment 2376 h*

①

Moved by Rep. *Butcher*

Seconded by Rep. *Case*

Vote: *13-2* (Please attach record of roll call vote.)

②

Motions: OTP OTP/A ITL, Interim Study (Please circle one.)

Moved by Rep. *Butcher*

Seconded by Rep. *Case*

Vote: *15-0* (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Joan H. Schulze, Clerk

*Agreed*  
*Consent*



HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

1

Bill #: HB 577-FN Title: Relative to recovery of public assistance and child party liability

PH Date: 03/03/09 Exec Session Date: 11/10/09

Motion: OTP Amendment #: 0376-f

MEMBER	YEAS	NAYS
Rosenwald, Cindy, Chairman	13	
Donovan, Thomas E, V Chairman	1	
French, Barbara C	2	
Schulze, Joan H, Clerk	3	
Tilton, Joy K	4	
Butcher, Suzanne S	5	
Bridgham, Robert G	6	
Merrick, Evalyn S	-	-
Russell, Trinkia T	-	
DiPentima, Rich T	7	
Miller, Kate W	8	
Batula, Peter L	9	
McMahon, Charles E	-	-
Pilliod, James P	10	
Emerson, Susan	-	-
Case, Frank G	11	
Millham, Alida I	12	
Wells, Roger G	-	-
Cebrowski, John W		1
Kotowski, Frank R		2
	13	2

TOTAL VOTE:  
Printed: 1/12/2009

HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

2

Bill #: HB 577-FN Title: Relative to recovery of public assistance and third party liability

PH Date: 03/03/09 Exec Session Date: 11/10/09

Motion: OTP/A Amendment #: 02376 h

MEMBER	YEAS	NAYS
Rosenwald, Cindy, Chairman	15	
Donovan, Thomas E, V Chairman	1	
French, Barbara C	2	
Schulze, Joan H, Clerk	3	
Tilton, Joy K	4	
Butcher, Suzanne S	5	
Bridgham, Robert G	6	
Merrick, Evalyn S	-	
Russell, Trinkia T	-	
DiPentima, Rich T	7	
Miller, Kate W	8	
Batula, Peter L	9	
McMahon, Charles E	-	
Pilliod, James P	10	
Emerson, Susan	-	
Case, Frank G	11	
Millham, Alida I	12	
Wells, Roger G	-	
Cebrowski, John W	13	1
Kotowski, Frank R	14	
	15	0

# Committee Report

**CONSENT CALENDAR**

**November 12, 2009**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS to which was referred HB577-FN,**

**AN ACT relative to recovery of public assistance and third party liability. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.**

**Rep. Suzanne S Butcher**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>HEALTH, HUMAN SERVICES &amp; ELDERLY AFFAIRS</b>
Bill Number:	<b>HB577-FN</b>
Title:	<b>relative to recovery of public assistance and third party liability.</b>
Date:	<b>November 12, 2009</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT</b>

### STATEMENT OF INTENT

RSA 167:14-a, II-a deals with recovery of assistance when (a) a person is injured, (b) their medical expenses are covered by Medicaid, and (c) in a settlement the responsible party compensates for the injury. In such cases, part of the settlement must reimburse Medicaid. Under current New Hampshire law, Medicaid may recover the full amount of medical assistance provided, leaving only 10% of the net settlement for the injured party. The Supreme Court found a similar percentage provision in another state unconstitutional. HB 577 remedies this, removing the presumptive percentage. It states that the state may recover medical expenses only from the portion of the settlement attributable to medical expenses and that the court shall have discretion to apportion the amount as justice may require. This is similar to the way such cases are handled in workers compensation.

Vote 15-0.

Rep. Suzanne S Butcher  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS

**HB577-FN**, relative to recovery of public assistance and third party liability. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Suzanne S Butcher for HEALTH, HUMAN SERVICES & ELDERLY AFFAIRS. RSA 167:14-a, II-a deals with recovery of assistance when (a) a person is injured, (b) their medical expenses are covered by Medicaid, and (c) in a settlement the responsible party compensates for the injury. In such cases, part of the settlement must reimburse Medicaid. Under current New Hampshire law, Medicaid may recover the full amount of medical assistance provided, leaving only 10% of the net settlement for the injured party. The Supreme Court found a similar percentage provision in another state unconstitutional. HB 577 remedies this, removing the presumptive percentage. It states that the state may recover medical expenses only from the portion of the settlement attributable to medical expenses and that the court shall have discretion to apportion the amount as justice may require. This is similar to the way such cases are handled in workers compensation. **Vote 15-0.**

Original: House Clerk  
Cc: Committee Bill File

HB 577-FN

OTP/A

RSA 167:14-a, II-a deals with recovery of assistance when (a) a person is injured, (b) their medical expenses are covered by Medicaid, and (c) in a settlement the responsible party compensates for the injury. In such cases, part of the settlement must reimburse Medicaid. Under current New Hampshire law, Medicaid may recover the full amount of medical assistance provided, leaving only 10% of the net settlement for the injured party. The Supreme Court found a similar percentage provision in another state unconstitutional. HB 577 remedies this, removing the presumptive percentage. It states that the state may recover medical expenses only from the portion of the settlement attributable to medical expenses and that the court shall have discretion to apportion the amount as justice may require. This is similar to the way such cases are handled in workers compensation.

Suzanne Butcher



15-0





**YAHOO!** MAIL  
Classic

**RE: blurb for HB577**

Sunday, October 25, 2009 9:31 PM

**From:**

"Cindy Rosenwald" <Cindy.Rosenwald@leg.state.nh.us>

**To:**

"Suzanne Butcher" <suzannebutchernh@yahoo.com>

Excellent!

\*\*\*\*\*

Representative Cindy Rosenwald

Committee Chair

Health, Human Services and Elderly Affairs

New Hampshire House of Representatives

603.271.3580 (office)

603.595.9896 (home)

**From:** Suzanne Butcher [mailto:suzannebutchernh@yahoo.com]

**Sent:** Sunday, October 25, 2009 6:08 PM

**To:** CindyRosenwald

**Subject:** blurb for HB577

Cindy,

Presuming exec session on HB577 goes smoothly, here's a blurb:

RSA 167:14-a, II-a deals with recovery of assistance when (a) a person is injured, (b) their medical expenses are covered by Medicaid, and (c) in a settlement the responsible party compensates for the injury. In such cases, part of the settlement must reimburse Medicaid. Under current New Hampshire law, Medicaid may recover the full amount of medical assistance provided, leaving only 10% of the net settlement for the injured party. The Supreme Court found a similar percentage provision in another state unconstitutional. HB577 remedies this, removing the presumptive percentage. It states that the state may recover medical expenses only from the portion of the settlement attributable to medical expenses and that the court shall have discretion to apportion the amount as justice may require. This is similar to the way such cases are handled in workers compensation.

Suzanne

