



# Personal Injury Lien Tracking for Paralegals - Insurance Coverage and What to Get From Your Client

Prepared by:  
Elaine Jensen  
Axley Brynelson, LLP



December 2016

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## **PERSONAL INJURY LIEN TRACKING FOR PARALEGALS**

### **Insurance Coverage/What to get from your client:**

It is critical to determine any and all potential insurance coverage that could be applicable in your client's personal injury claim.

First, determine what applicable insurance coverages your client has through their own insurer(s) such as: health insurance, disability insurance; uninsured/underinsured motorist coverage (auto cases) and medical payments coverage (auto cases). When setting up the meeting, you should ask your client to bring insurance cards and/or policies if they have access to them, so that you can obtain copies of that documentation when they come in for the meeting. Additionally, if your client has received any correspondence from any of their insurance providers in relation to this specific claim, they should bring that with them as well. Insurance cards, policies or correspondence with the insurers should provide you with all of the information you will need to identify just what coverages the client has available.

If, at the accident occurred, your client was in the course of his/her employment, you will need to identify the employer's name, address and worker's compensation insurer.

Next, you will need to determine what liability coverage is available to your client. In an auto accident case, the liability carrier is often listed on the accident report, or your client may have already received correspondence from the liability carrier. If so, you can simply correspond with that insurance carrier to inquire as to the coverage available. In the claim stage, the liability carrier may or may not advise as to the amount of coverage. It is not uncommon that the insurer wants to get an idea of what the claimed damages will be before advising of the coverages available.

If there is no liability insurer listed on the accident report or there is no accident, and your client has not been contacted by the liability carrier, you may need to contact the responsible party and inquire as to their applicable liability carrier. This can generally be done with a simple letter identifying who you are and who you represent, and asking the responsible party first if they have insurance and second, to forward the

information to their insurance company. In most situations you will either be advised that there is no insurance or will be contacted by the appropriate insurer. In extreme cases, you may be required to file a lawsuit naming the responsible party in order to obtain the insurance information. This only occurs very rarely, but there are instances where it is unavoidable.

### **Identifying and Verifying Liens:**

Tracking subrogated interests or outstanding medical provider balances is something that I commence upon being retained. We work closely with the client initially to be sure that all medical expenses are being sent to the appropriate insurance carrier which would be the health insurer or medical payments provider. It is common for clients to tell their medical providers that the care is as the result of an accident and then provide the third party liability provider's information for billing purposes. It is extremely rare that a third party liability provider will pay medical expenses as they are incurred. As most of you are aware, medical expenses as a whole are evaluated at the time of settlement consideration. If it is unclear if the providers have the appropriate insurance billing information, I will contact each provider directly to be sure they have the appropriate information. This is a good way to keep things moving and helping to prevent the clients from ending up in a collection situation. Additionally, this is when it may be apparent that the client doesn't have health or med pay insurance, and may have an issue with getting the bills paid in a timely manner. It is important to identify these types of issues in the beginning so that you and your client can work with the providers to avoid a collection situation.

Once the subrogated carriers are identified, a retainer letter is provided to each and we work with them on a regular basis to obtain their subrogated amounts so that we are aware of the amounts being claimed as the case progresses.

When opening our file, we create a sub-file where any and all documentation of subrogated interests or medical liens/outstanding bill information is kept. I also create a form that I title "Subrogation Information" where any notes regarding subrogation or

medical liens are accumulated. Keeping this information in one location and updated as your case progresses, makes the settlement completion process go much more smoothly.

As the file moves towards settlement discussions and/or mediation, I create a document entitled Subro Settlement Memo. Upon completion, this document will clearly identify each and every subrogated claim and outstanding medical bill, as well as any related costs and agreed upon fee percentage amount. The purpose of the Subro Settlement Memo is for the attorney to access when settlement offers are being obtained. The attorney can quickly calculate amounts that will be taken out of the settlement, and identifying the amount the client can expect to net at the close of the case. At the end of the day, it is not necessarily the settlement amount that matters to the client, it is the amount they will get when everything is deducted. At the time of settlement discussions/mediation I do the following:

1. Confirm the current attorney costs on the books;
2. Contact each subrogated provider to be sure we have all updated subrogated interest information;
3. Contact each medical provider to confirm that there are no current lien or outstanding balances;
4. Contact the client to confirm that they are or are not aware of any outstanding balances with any related medical provider, and
5. Add all updated information to the Subro Settlement Memo.

When you have a client with Medicare or Medicaid, remember that it takes longer to get responses from these agencies so you will want to be diligent and stay on top of their interest as the case progresses. Especially when I have a client that I know is obtaining ongoing treatment, I make it a practice to contact Medicare (usually through the portal) and Medicaid to be sure I have their updated information every few months.

