

# NY Anti-Subrogation Law and Health Insurance Carriers – still with the sticky fingers!

The right to recover for already reimbursed medical expenses has been governed in New York by CPLR 4545 that basically prevents 'double dipping' of proving an expense and having it included in the eventual award while a health insurance carrier already paid the bill. OK, that sounds fair.

But up until last November, the health insurance carriers of the world were trying to balance their books on the backs of injured people who frequently do not even have an adequate source of compensation for the pain and suffering - like limited auto or home owner policies that are inadequate to properly compensate a seriously injured person! Now we have a new law, General Obligation Law ? 5-335, effective November 12, 2009. It was supposed to put an end to the greedy health insurers trying to come between the injured person and their fair compensation at settlement time. It does work and has been a fine addition to the arsenal we have to get money to our clients, but it has exceptions, like Government (Medicare and Medicaid) programs with statutory rights, workers' compensation and certain "ERISA-funded" plans. So of course what do the health insurance carriers say?? - EVERYONE is "ERISA-funded"! Somehow they can come up with an angle to tie in an employer's plan.

It will be months and indeed years for the details to be worked out in court decisions. However, you should be sure if you are injured that you have someone ready to do battle with the health insurance carriers after the jury comes in or the settlement is otherwise reached.

I remember the early years of the Employee Retirement Income Security Act; (ERISA). At the time I was attending law school at night and working for an insurance company where the laws moniker was commonly renamed **Every Ridiculous Idea Since Adam**. That was in the 1970s and it was basically meant to protect employees who moved from one company to another, or were let go right before retirement. Not surprisingly the insurance lobby is trying to use it AGAINST employees.

If you are injured and have bills covered by health insurance via your employment do not just accept the fact that the carrier has to be repaid. Very often it is well worth the fight!

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