

GENERAL ASSEMBLY OF NORTH CAROLINA
1985 SESSION

CHAPTER 508
SENATE BILL 347

AN ACT TO AMEND THE LAW REGARDING PAYMENT OF COSTS IN
DEPARTMENT OF HUMAN RESOURCES INSTITUTIONS.

The General Assembly of North Carolina enacts:

Section 1. Article 7 of Chapter 143 of the General Statutes is amended by rewriting the title of the Article to read:

"Persons Admitted to Department of Human Resources Institutions to Pay Costs."

Sec. 2. G.S. 143-117 is rewritten to read:

"§ 143-117. **Institutions included.**—All persons admitted to the following institutions operated by the Department of Human Resources are required to pay the actual cost of their care, treatment, training and maintenance at these institutions: Lenox Baker Children's Hospital, regional psychiatric hospitals, special care centers, regional mental retardation centers, schools for emotionally disturbed children, and alcoholic rehabilitation centers."

Sec. 3. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-117.1. **Definitions.**—As used in this Article, the following terms have the meaning specified unless the content clearly implies otherwise:

- (1) 'Persons admitted' means clients of Lenox Baker Children's Hospital, regional psychiatric hospitals, State special care centers, regional mental retardation centers, schools for emotionally disturbed children, and alcoholic rehabilitation centers, including clients who may be treated on an outpatient basis.
- (2) 'Care' means care, treatment, training, maintenance, habilitation and rehabilitation of a person admitted to institutions covered by this Article.
- (3) 'Department' means the Department of Human Resources.
- (4) 'Secretary' means the Secretary of Human Resources."

Sec. 4. G.S. 143-118(a) is rewritten to read:

"(a) The Secretary shall determine and fix the actual cost of care to be paid by and for each person admitted to an institution. The Secretary is given full and final authority to fix a general rate of charge based on said actual cost of providing care, to be paid by persons admitted able to pay the rate or charge, or, in cases where indigent persons admitted are later found to be nonindigent, then cost for their care shall be paid in one or more payments based on the rate of charge in effect for the period or periods of time during which the persons admitted were receiving care in the institutions."

Sec. 5. G.S. 143-118(b) and (c) are repealed.

Sec. 6. G.S. 143-118 is further amended by adding two new subsections to read:

"(d) The Secretary shall ascertain which of the persons admitted or persons legally responsible for them are financially able to pay the cost fixed.

(e) The Secretary is empowered to enter into contracts of compromise of accounts owing to the institution for past, present or future care at the institutions, including but not limited to the authority to enter into a contract to charge nothing, which contract shall be binding on the respective institution under the terms and for the period specified in the contract. The rates set by the compromise shall be determined in the discretion of the Secretary by the ability to pay of the person admitted or the person legally responsible for his support. This subsection shall not be construed as mandatory and if a contract is not entered into or terminates or if the obligor defaults in the payment of a compromise account or any installment, then the full actual cost of care shall be assessed against the person admitted."

Sec. 7. G.S. 143-119 is rewritten to read:

"§ 143-119. **Payments.**—(a) The cost of care when fixed by the Secretary shall be paid by the person admitted or by the person legally responsible for payment. The payment of the cost of care constitutes a valid expenditure of funds held by a fiduciary of a person admitted, including Clerks of Court, and a receipt for payment of such costs shall be a valid voucher in the fiduciary's settlement of his accounts of his trust.

(b) Immediately upon the determination of the cost, the person admitted or the person legally responsible for paying the cost shall be notified of the amount due and a statement shall be rendered on a monthly basis.

(c) If the person admitted or the person legally responsible for paying the cost is not able to pay the total cost due on a monthly basis, the Secretary may arrange for the payment of a portion of the cost monthly and extend the payments until the costs are paid or may arrange for any other method of payment.

(d) The institutions shall maintain a list of all unpaid accounts for audit by the State auditors.

(e) The Secretary may discharge from the institution persons admitted who have been found able to pay but who refuse to pay costs fixed against them, unless the person was committed by an order of a court of competent jurisdiction."

Sec. 8. G.S. 143-120 is repealed. Sec. 9. G.S. 143-121 is rewritten to read:

"§ 143-121. **Action to recover costs.**—(a) Immediately upon the fixing of the amount of actual cost, a cause of action shall accrue for the costs in favor of the State for the use of the institution in which the person admitted received care against the person admitted or person legally responsible for paying the costs.

(b) The State for the use of the institution may sue upon the cause of action in the courts of Wake County, in the courts of the county in which the institution is located, or in the courts of the county where the defendant resides.

(c) In any action to recover the cost of care, a verified and itemized statement of the account signed by the reimbursement director of the institution showing the period of time during which the person admitted was receiving care in the institution, the daily

or monthly rate of charge fixed by the Secretary, the total amount due on the account, and the proper credits for any payments which may have been made on the account, shall be filed with the complaint and shall constitute a prima facie case. The State shall be entitled to a judgment in the case in the absence of allegation and proof on the part of the person admitted or person legally responsible for paying the costs that the verified and itemized statement is not correct because of:

- (1) An error in the calculation of the amount due predicated upon the rate of charge fixed by the Secretary;
- (2) An error as to the period of time during which the person admitted received care in the institution; or
- (3) An error in not properly crediting the account with any payment which may have been made.

(d) The provisions of this Article directing the Secretary to determine which of the persons admitted are nonindigent and able to pay for their care, notify the person admitted or person legally responsible for the cost of his care of the amount due, to render a statement of the amount due monthly, to discharge persons admitted found able to pay but who refuse to pay and all of the other provisions relating to the manner in which the Secretary shall assess and collect costs are directory and not mandatory. The failure of the Secretary to perform any of these provisions shall not affect the right of the State to recover in any action brought for the cost of care against the person admitted, a person legally responsible for the cost of his care, or his estate if he has died."

Sec. 10. Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-121.1. Ratification of past acts.—The past acts of the Secretary, boards of directors of the institutions and the North Carolina Hospital Board of Control in fixing the rate to be paid by persons admitted are hereby in every respect ratified and validated, and on all claims and causes of action now pending or which hereafter may be made or begun for the payment of the past indebtedness for care, the rates fixed by the party authorized to fix rates at the time the care was provided shall prevail and collections shall be made in accordance with those rates unless the Secretary enters into a contract compromising the account."

Sec. 11. G.S. 143-122, 143-123, 143-124, 143-125, 143-126, and 143-126.1 are rewritten to read:

"§ 143-122. No limitation of action.—No statute of limitation shall apply to or constitute a defense to any cause of action asserted by the State under this Article and all statutes containing limitations which might apply to these actions are hereby repealed as to all such causes of action for costs previously incurred and now remaining unpaid.

"§ 143-123. Power to admit indigent persons.—(a) This Article shall not be construed to limit the authority of the institutions to provide care to all indigent persons who are otherwise entitled to admission in any of the institutions.

(b) If at any time any person admitted and determined to be indigent shall succeed to or inherit, or acquire, in any manner, property or otherwise be reputed to be

solvent, then the State shall have the full right and authority to collect and sue for the entire cost of care without hinderance of any statute of limitations.

"§ 143-124. Suit by Attorney General.—At the request of the institution, all actions and suits shall be prosecuted by the Attorney General. The institution shall have the right to select the venue of the action.

"§ 143-125. Judgment; never barred.—Any judgment obtained by the State under this Article shall never be barred by any statute of limitation but shall to the extent unpaid continue in force; and, at the request of the Attorney General or the director of the institution, the clerk shall issue an execution.

"§ 143-126. Death of a person admitted; lien on estate.—(a) In the event of the death of person admitted, leaving any cost of care unpaid, then the unpaid cost shall constitute a lien on all property, both real and personal of the decedent and shall be payable from the decedent's estate as a fourth class claim after the payment of taxes to the State or its subdivisions.

(b) Upon the death of person admitted, the Department shall file a verified statement of account containing the following:

- (1) The name of the person admitted;
- (2) The date of death of the person admitted;
- (3) The inclusive dates of the provision of care;
- (4) The name of the institution providing care; and
- (5) The amount of the unpaid balance.

The statement shall be filed in the office of the clerk of superior court in the county of residence of the deceased person admitted and in the county or counties in which real property is located in which the decedent owns an interest. The statement shall be docketed and indexed by the clerk.

(c) From the time of docketing, the statement shall be and constitute due notice of a lien against all real property then owned in whole or in part by the decedent and lying in such county to the extent of the total amount of the unpaid balance for the decedent's care as evidenced by the verified statement of account. Payments made by a fiduciary including those made by a clerk of superior court, in full or partial satisfaction of such lien, shall constitute a valid expenditure as provided in G.S. 143-119.

(d) No action to enforce such lien may be brought more than three years from the date of death of the person admitted. The failure to bring such action or the failure of the Department to file such statement shall not be a complete bar against recovery but shall only extinguish the lien and priority established by it.

(e) Upon receipt of the unpaid balance by the institution or Department or upon agreement of compromise of such unpaid balance, the Department shall notify the clerks of superior court in the counties where the lien has been recorded that the unpaid balance has been paid, and the clerks shall cancel the lien of record.

"§ 143-126.1. Lien on property for unpaid balance due institution.—(a) There is hereby created a general lien on both the real and personal property of any person admitted who is receiving or who has received care in any of the institutions operated by the Department of Human Resources to the extent of the total amount of the unpaid

balance shown on the verified statement of account for charges from and after July 1, 1967.

(b) Such general lien for the unpaid balance for care at the institutions shall apply to the property, both real and personal, of the person admitted whether held by him or his trustee or guardian.

(c) At the time deemed suitable in the discretion of the Department, there may be filed a verified statement of account containing the following:

- (1) The name of the person admitted; (2) The inclusive dates of the provision of care and a statement that care is continuing if applicable;
- (3) The name of the institution providing care; and
- (4) The amount of the unpaid balance.

The statement may be filed in the office of the clerk of superior court in the county of residence of the person admitted and in each county or counties where real property in which the patient owns an interest is found. The statement shall be docketed and indexed by the clerk.

(d) From the time of docketing, the statement shall be and constitute due notice of a lien against the real property then owned or thereafter acquired by the patient and lying in such county to the extent of the total amount of the unpaid balance for the person admitted's care as evidenced by the verified statement of account for charges from and after July 1, 1967. Payments made by a fiduciary, including those made by a clerk of superior court, in full or partial satisfaction of such lien, shall constitute a valid expenditure as provided in G.S. 143-119.

(e) The lien thus established shall take priority over all other liens subsequently acquired and shall continue from the date of filing until satisfied. No action to enforce such lien may be brought more than three years from the last date of filing of such lien nor more than three years after the death of any person admitted. The failure to bring such action or the failure of the Department to file said statement shall not be a complete bar against recovery but shall only extinguish the lien and priority established by it.

(f) Upon receipt of the full unpaid balance by the institution or Department or upon agreement of compromise of such unpaid balance, the Department shall notify the clerks of superior court in the counties where the lien has been docketed that the unpaid balance has been paid, and the clerks shall cancel the lien of record.

(g) Notwithstanding the foregoing provisions, no such lien shall be enforceable against any funds paid by the State to a person admitted after judgment or settlement of a claim for damages arising out of the negligent injury of such person at any of the institutions during the life of person admitted. Upon the death of the person admitted, any remaining proceeds of a judgment or settlement under this subsection in the hands of the deceased shall become a general asset of the estate and subject to any lien of the State."

Sec. 12. This act shall become effective October 1, 1985.

In the General Assembly read three times and ratified, this the 1st day of July, 1985.