STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

MARKUS SMITH,

Petitioner,

vs. Case No. 19-3235MTR

AGENCY FOR HEALTH CARE ADMINISTRATION,

Respondent.
_____/

FINAL ORDER

Pursuant to notice, a formal administrative hearing was conducted before Administrative Law Judge Garnett W. Chisenhall of the Division of Administrative Hearings ("DOAH") via video teleconference at sites in Lakeland and Tallahassee, Florida, on July 18, 2019.

APPEARANCES

For Petitioner: Edward Blake Paul, Esquire
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For Respondent: Alexander R. Boler, Esquire
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STATEMENT OF THE ISSUE

The issue to be determined is the amount Respondent, Agency for Health Care Administration ("AHCA"), is to be reimbursed for

medical expenses paid on behalf of Markus Smith ("Petitioner" or "Mr. Smith") pursuant to section 409.910, Florida Statutes (2018),[1/] from settlement proceeds he received from a third party.

PRELIMINARY STATEMENT

If a Medicaid recipient receives a personal injury settlement from a third party, then section 409.910 mandates that those settlement proceeds shall be used to reimburse the Medicaid program for medical expenses paid on the Medicaid recipient's behalf. This mandate is facilitated by a statutory lien in AHCA's favor on the settlement proceeds, and federal law mandates that Medicaid's lien only applies to past medical expenses that the Medicaid recipient actually recovered through the settlement. When a Medicaid recipient's settlement proceeds are less than the recipient's total damages (which consists of multiple components, such as past medical expenses, economic damages, and noneconomic damages), a question can arise as to how much of the past medical expenses were actually recovered by the Medicaid recipient and thus subject to the Medicaid lien. Section 409.910(11)(f), sets forth a formula to determine the amount Medicaid shall recover from the settlement proceeds, and section 409.910(17)(b) provides that a Medicaid recipient can request a formal administrative hearing to demonstrate that the past medical expenses actually recovered through the settlement were less than the amount calculated via section 409.910(11)(f).

On June 14, 2019, Mr. Smith filed a "Petition to Determine Subrogation Interest" ("the Petition") to challenge AHCA's imposition of a $36,596.54 lien on Mr. Smith's $100,000.00 settlement proceeds. Because Mr. Smith valued his total damages as being at least $1,000,000.00, he asserted in the Petition that:

> [T]he sum of $10,000 of the settlement amount is properly allocated to Markus Smith's past medical expenses based on the devastating and permanent injuries he sustained in the above referenced traffic crash. As a result, and pursuant to Section 409.910, F.S. and the Florida Supreme Court's opinion in *Giraldo v. Agency for Health Care Administration*, 248 So. 3d 52 (Fla. 2018), AHCA's lien only attaches to $10,000 of the total settlement.

The parties filed a Joint Pre-hearing Stipulation identifying stipulated facts for which no further proof would be necessary. Those stipulated facts have been accepted and considered in the preparation of this Final Order.

The final hearing was held as scheduled on July 18, 2019. Petitioner's Exhibits 1 through 23 were accepted into evidence, and AHCA's hearsay objection to Petitioner's Exhibit 21 was noted by the undersigned. However, AHCA based Finding of Fact 8 in its Proposed Recommended Order on Petitioner's Exhibit 21. Accordingly, AHCA's hearsay objection is deemed to be withdrawn.

Mr. Smith testified on his own behalf and presented the testimony of Nellie Carter Smith and David Dismuke. Mr. Smith's

attorney identified Mr. Dismuke as an expert witness but did not explicitly identify Mr. Dismuke as an expert in a particular field. Nevertheless, there is no doubt that he was being offered as an expert in the valuation of personal injury claims, and AHCA did not object to Mr. Dismuke testifying about the total amount of damages incurred by Mr. Smith.

AHCA did not call any witnesses and did not offer any exhibits into evidence.

The parties filed timely Proposed Final Orders that were considered in the preparation of this Final Order.

FINDINGS OF FACT

The following Findings of Fact are based on exhibits accepted into evidence, admitted facts set forth in the pre-hearing stipulation, and matters subject to official recognition.

Facts Pertaining to the Underlying Personal Injury Litigation and the Medicaid Lien

1. On February 12, 2018, Mr. Smith was 26 years old and working for $11.00 an hour as a custodian for E&A Cleaning at All Saints Academy, in Winter Haven, Florida. While leaving the school just before 9:00 a.m., Mr. Smith came to a traffic light at the school's entrance. When the light turned green and Mr. Smith moved into the intersection, another car ran the red light and slammed into the driver's side of Mr. Smith's vehicle.

2. Mr. Smith was severely injured and transported to Lakeland Regional Medical Center where he stayed until approximately April 13, 2019.

3. Mr. Smith's injuries included, but were not limited to, a collapsed lung, altered mental state, intracerebral hemorrhage, traumatic subdural hematoma, traumatic subarachnoid hemorrhage with loss of consciousness, traumatic intraventricular hemorrhage, lumbar transverse process fracture, and a left ankle fracture.

4. Mr. Smith required surgery to repair his left ankle, and he now walks with a severe limp. He experiences a constant, dull ache in his left ankle and is unable to walk any significant distance without experiencing severe pain.

5. It is very difficult for Mr. Smith to stand, and he has a constant fear of falling because his balance is "terrible."

6. Mr. Smith is left-handed, and the accident left him with very limited use of his left hand.

7. Since the accident, Mr. Smith's vision has been blurry, and he suffers from double vision. He believes that his impaired vision would prevent him from obtaining a driver's license.

8. As described above in paragraph 3, Mr. Smith suffered a brain injury during the accident, and there was some bleeding inside his skull. He now has difficulty forming long-term

memories and often records conversations so that he has a record of what was said.

9. Since the accident, Mr. Smith has been struggling with anger and depression. He has difficulty controlling his anger and is prone to random outbursts of rage. He has experienced suicidal thoughts and asked his current caretaker if she would kill him, if he gave her a knife.

10. Since being released from the hospital, Mr. Smith has not received any physical or occupational therapy. He was receiving some mental health treatment and taking medicine to treat his depression and memory issues. However, he cites a lack of transportation as to why he is no longer receiving any care.

11. Mr. Smith has not worked since the accident, and the Social Security Administration has determined that he is disabled.

12. After leaving the hospital, Mr. Smith stayed with his girlfriend. After they separated, Mr. Smith lived with his father. Since November of 2018, he has been living with his father's ex-wife in Georgia.

13. Mr. Smith, through counsel, filed a lawsuit against the driver and owner of the car that slammed into him. They settled Mr. Smith's claims for the available policy limits of $100,000.00. There was no other liable person or other insurance available to Mr. Smith to compensate him for his injuries.

14. AHCA provided $74,312.38 in Medicaid benefits to Mr. Smith and determined through the formula in section 409.910(11)(f), that $36,596.54 of Ms. Smith's settlement proceeds was subject to the Medicaid lien.

15. Mr. Smith, through counsel, deposited the entire settlement proceeds of $100,000.00 into an interest bearing account pending resolution of AHCA's interest.

Valuation of the Personal Injury Claim

16. David Dismuke was identified as Mr. Smith's expert witness. Since 2012, Mr. Dismuke has been a board-certified trial lawyer, and approximately one percent of attorneys in Florida possess that credential. That designation essentially means that an attorney can represent that he or she is an expert in civil trial practice.

17. Mr. Dismuke has his own law practice and has handled at least 34 civil jury trials. Over the course of his 18-year legal career, he has assessed the value of at least 2,000 personal injury cases, including ones involving brain injuries.

18. Mr. Dismuke also has extensive experience in valuing the individual components of a damages award:

> Q: Before we get to this final opinion, Mr. Dismuke, in your practice, have you had to allocate portions of settlements between past medical expenses, usual medical expenses, and the other elements of damages?

A: Many times.

Q: And for what purpose would you do that sort of allocation?

A: We do it, we do it frequently. We do it often times in situations just like this, where we're trying to determine what an appropriate amount would be for either a Medicare or Medicaid lien, health insurance liens, we deal with it in situations, and we have lien issues on almost every case.

Q: And do you also do it when you are trying to help clients figure out how, and in what manner, to structure their settlements, so they can have enough money for their future medical expenses and pay their old medical expenses?

A: Yes, we do. And in fact to make another point, every single case I have to allocate [] the value [of past medical expenses], that's one element of damages, what the value of future [medical expenses] is, that's another element of damages, past lost wages, another element of damages, future lost wages, another element of damages, pain and suffering, inconvenience, you know, the noneconomic stuff. Every case we make these, we make these determinations. That's how we come to total value on every case that we settle or get a verdict on.

Q: And even on the ones that you settle for less than full value, are you still performing that same evaluation of the allocation of the various elements of damages?

A: Yes sir.

19. Mr. Dismuke has similar experience with Medicare set asides:

Q: Now, another area where you allocate between elements of damages is where you require a Medicare set aside, isn't that true?

A: That's correct.

Q: Now, tell the court what a Medicare set aside is?

A: A Medicare set aside is something that we put in place to protect the future interest of Medicare for when there's a settlement. So we receive a large settlement that the person is still going to require future medical care, so we have to evaluate what is a reasonable amount of that settlement to set aside to protect Medicare's future interests, so the client doesn't just get a windfall from the settlement.

Q: And have you done that?

A: Multiple times.

Q: And that requires you to evaluate the total settlement and allocate between past medical expenses, future medical expenses, pain and suffering and other elements of damages?

A: That's correct.

20. In Mr. Dismuke's opinion, Mr. Smith's total damages easily amount to $1 million and could be as high as $2 to $3 million.

21. Mr. Dismuke values Mr. Smith's lost wages at no less than $750,000.00. While Mr. Smith is not currently receiving medical treatment, Mr. Dismuke believes those expenses would amount to hundreds of thousands of dollars and possibly millions

of dollars. However, the damages resulting from Mr. Smith's pain and suffering would be the largest component of his total damages.

22. Mr. Dismuke believes that Mr. Smith's past medical expenses would be the smallest component of his total damages given Mr. Smith's age, future needs, and lost wages.

23. With regard to allocating $10,000.00 of Mr. Smith's total recovery to past medical expenses, Mr. Dismuke testified that a "$10,000 allocation of the $100,000 settlement is perfectly reasonable if not, more than generous, given the past [medical expenses] in this case of around $70,000. So setting forth ten percent of that is a generous allocation for past medical expenses."

Findings Regarding the Testimony Presented at the Final Hearing

24. The undersigned finds that the testimony from Mr. Dismuke was compelling and persuasive as to the total damages incurred by Mr. Smith. While attaching a value to the damages that a plaintiff could reasonably expect to receive from a jury is not an exact science, Mr. Dismuke's considerable experience with litigating personal injury lawsuits makes him a very compelling witness regarding the valuation of damages suffered by an injured party such as Mr. Smith.

25. The undersigned also finds that Mr. Dismuke was qualified to present expert testimony as to how a damages award

should be allocated among its components, such as past medical expenses, economic damages, and noneconomic damages.[2/]

26. AHCA offered no evidence to counter Mr. Dismuke's opinions regarding Mr. Smith's total damages or the past medical expenses he recovered.

27. Accordingly, it is found that the preponderance of the evidence demonstrates that the total value of Mr. Smith's personal injury claim is no less than $1 million and that the $100,000.00 settlement resulted in him recovering no more than 10 percent of his past medical expenses. In addition, the preponderance of the evidence demonstrates that $10,000.00 amounts to a fair and reasonable determination of the past medical expenses actually recovered by Mr. Smith and payable to AHCA.

CONCLUSIONS OF LAW

28. The Division of Administrative Hearings has jurisdiction over the subject matter and the parties in this case pursuant to sections 120.569, 120.57(1) and 409.910(17), Florida Statutes.

29. AHCA is the agency authorized to administer Florida's Medicaid program. § 409.902, Fla. Stat.

30. The Medicaid program "provide[s] federal financial assistance to States that choose to reimburse certain costs of

medical treatment for needy persons." Harris v. McRae, 448 U.S. 297, 301 (1980).

31. "The Medicaid program is a cooperative one. The Federal Government pays between 50 percent and 83 percent of the costs a state incurs for patient care. In return, the State pays its portion of the costs and complies with certain statutory requirements for making eligibility determinations, collecting and maintaining information, and administering the program." Estate of Hernandez v. Ag. for Health Care Admin., 190 So. 3d 139, 141-42 (Fla. 3rd DCA 2016)(internal citations omitted).

32. Though participation is optional, once a state elects to participate in the Medicaid program, it must comply with federal requirements. Harris, 448 U.S. at 301.

33. One condition for receipt of federal Medicaid funds is that states must seek reimbursement for medical expenses incurred on behalf of Medicaid recipients who later recover from legally liable third parties. See Ark. Dep't of Health & Human Servs. v. Ahlborn, 547 U.S. 268, 276 (2006); see also Estate of Hernandez, 190 So. 3d at 142 (noting that one such requirement is that "each participating state implement a third party liability provision which requires the state to seek reimbursement for Medicaid expenditures from third parties who are liable for medical treatment provided to a Medicaid recipient").

34. Consistent with this federal requirement, the Florida Legislature enacted section 409.910, designated as the "Medicaid Third-Party Liability Act," which authorizes and requires the state to be reimbursed for Medicaid funds paid for a recipient's medical care when that recipient later receives a personal injury judgment, award, or settlement from a third party. Smith v. Ag. for Health Care Admin., 24 So. 3d 590 (Fla. 5th DCA 2009); see also Davis v. Roberts, 130 So. 3d 264, 266 (Fla. 5th DCA 2013)(stating that in order "[t]o comply with federal directives the Florida legislature enacted section 409.910, Florida Statutes, which authorizes the State to recover from a personal injury settlement money that the State paid for the plaintiff's medical care prior to recovery.").

35. Section 409.910(1) sets forth the Florida Legislature's clear intent that Medicaid be repaid in full for medical care furnished to Medicaid recipients by providing that:

> It is the intent of the Legislature that Medicaid be the payor of last resort for medically necessary goods and services furnished to Medicaid recipients. All other sources of payment for medical care are primary to medical assistance provided by Medicaid. If benefits of a liable third party are discovered or become available after medical assistance has been provided by Medicaid, it is the intent of the Legislature that Medicaid be repaid in full and prior to any other person, program, or entity. Medicaid is to be repaid in full from, and to the extent of, any third-party benefits, regardless of whether a recipient is made

> whole or other creditors paid. Principles of common law and equity as to assignment, lien, and subrogation are abrogated to the extent necessary to ensure full recovery by Medicaid from third-party resources. It is intended that if the resources of a liable third party become available at any time, the public treasury should not bear the burden of medical assistance to the extent of such resources.

36. In addition, the Florida Legislature has authorized AHCA to recover the monies paid from any third party, the recipient, the provider of the recipient's medical services, and any person who received the third-party benefits. § 409.910(7), Fla. Stat.

37. AHCA's efforts to recover the full amount paid for medical assistance is facilitated by section 409.910(6)(a), which provides that AHCA:

> [I]s automatically subrogated to any rights that an applicant, recipient, or legal representative has to any third-party benefit for the full amount of medical assistance provided by Medicaid. Recovery pursuant to the subrogation rights created hereby shall not be reduced, prorated, or applied to only a portion of a judgment, award, or settlement, but is to provide full recovery by the agency from any and all third-party benefits. Equities of a recipient, his or her legal representative, a recipient's creditors, or health care providers shall not defeat, reduce, or prorate recovery by the agency as to its subrogation rights granted under this paragraph.

See also § 409.910(6)(b)2., Fla. Stat. (providing that AHCA "is a bona fide assignee for value in the assigned right, title, or

interest, and takes vested legal and equitable title free and clear of latent equities in a third person. Equities of a recipient, the recipient's legal representative, his or her creditors, or health care providers shall not defeat or reduce recovery by the agency as to the assignment granted under this paragraph").

38. AHCA's efforts are also facilitated by the fact that AHCA has "an automatic lien for the full amount of medical assistance provided by Medicaid to or on behalf of the recipient for medical care furnished as a result of any covered injury or illness by which a third party is or may be liable, upon the collateral, as defined in s. 409.901." § 409.910(6)(c), Fla. Stat.

39. The amount to be recovered by AHCA from a judgment, award, or settlement from a third party is determined by a formula in section 409.910(11)(f). Ag. for Health Care Admin. v. Riley, 119 So. 3d 514, 515 n.3 (Fla. 2d DCA 2013).

40. Section 409.910(11)(f) provides:

> Notwithstanding any provision in this section to the contrary, in the event of an action in tort against a third party in which the recipient or his or her legal representative is a party which results in a judgment, award, or settlement from a third party, the amount recovered shall be distributed as follows:
>
> 1. After attorney's fees and taxable costs as defined by the Florida Rules of Civil

> Procedure, one-half of the remaining recovery shall be paid to the agency up to the total amount of medical assistance provided by Medicaid.
>
> 2. The remaining amount of the recovery shall be paid to the recipient.
>
> 3. For purposes of calculating the agency's recovery of medical assistance benefits paid, the fee for services of an attorney retained by the recipient or his or her legal representative shall be calculated at 25 percent of the judgment, award, or settlement.
>
> 4. Notwithstanding any provision of this section to the contrary, the agency shall be entitled to all medical coverage benefits up to the total amount of medical assistance provided by Medicaid. For purposes of this paragraph, "medical coverage" means any benefits under health insurance, a health maintenance organization, a preferred provider arrangement, or a prepaid health clinic, and the portion of benefits designated for medical payments under coverage for workers' compensation, personal injury protection, and casualty.

41. In the instant case, applying the formula in section 409.910(11)(f) to the $100,000.00 settlement results in AHCA being owed $36,596.54 in order to satisfy the lien.

42. As noted above, section 409.910(6)(a) and (b)2., prohibits the Medicaid lien from being reduced because of equitable considerations. However, when AHCA has not participated in or approved a settlement, the administrative procedure created by section 409.910(17)(b) serves as a means for determining whether a lesser portion of a total recovery should

be allocated as reimbursement for medical expenses in lieu of the amount calculated by application of the formula in section 409.910(11)(f).

43. Section 409.910(17)(b) provides, in pertinent part, that:

> A recipient may contest the amount designated as recovered medical expense damages payable to the agency pursuant to the formula specified in paragraph (11)(f) by filing a petition under chapter 120 within 21 days after the date of payment of funds to the agency or after the date of placing the full amount of the third-party benefits in the trust account for the benefit of the agency pursuant to paragraph (a) . . . . In order to successfully challenge the amount payable to the agency, the recipient must prove, by clear and convincing evidence,[3/] that a lesser portion of the total recovery should be allocated as reimbursement for past and future medical expenses[4/] than the amount calculated by the agency pursuant to the formula set forth in paragraph (11)(f) or that Medicaid provided a lesser amount of medical assistance than that asserted by the agency.

44. Therefore, the formula in section 409.910(11)(f), provides an initial determination of AHCA's recovery for medical expenses paid on a Medicaid recipient's behalf, and section 409.910(17)(b) sets forth an administrative procedure for adversarial testing of that recovery. See Harrell v. State, 143 So. 3d 478, 480 (Fla. 1st DCA 2014)(stating that petitioner "should be afforded an opportunity to seek the reduction of a Medicaid lien amount established by the statutory default

allocation by demonstrating, with evidence, that the lien amount exceeds the amount recovered for medical expenses").

45. Through the testimony provided by Mr. Dismuke, Mr. Smith proved by a preponderance of the evidence that $10,000.00 of the recovery represents that share of the settlement proceeds fairly and proportionally attributable to a recovery of past medical expenses.

46. While AHCA offered no evidence to counter Mr. Dismuke's testimony, AHCA did argue during the final hearing that Mr. Dismuke was not qualified to render an expert opinion as to what portion of total damages amounts to a recovery of an individual component of damages, such as past medical expenses.

47. Mr. Dismuke's testimony demonstrated that he had considerable experience making such determinations. In addition, if a board-certified personal injury attorney is not qualified to make such determinations, the undersigned is at a loss as to who would be so qualified. See generally Orthopaedic Med. Grp. of Tampa Bay/Stuart A. Goldsmith, P.A. v. Ag. for Health Care Admin., 957 So. 2d 18, 19 (Fla. 1st DCA 2007)(stating that "[t]he determination of a witness's qualifications to express an expert opinion is within the discretion of the ALJ and will not be reversed absent a showing of clear error.").

48. In its Proposed Final Order, AHCA cited Mojica v. Ag. for Health Care Admin., Case No. 17-1966MTR (Fla. DOAH May 3,

2018), in support of an argument that Mr. Smith failed to prove that each element of his damages "was or would have been recovered at the same rate as every other element of damages." In Mojica, the ALJ concluded that:

> The testimony is insufficient to support a finding that the amount allocated to past medical expenses is the amount Petitioner recovered for past medical expenses. Without a breakout of the allocation of the settlement to other elements of damages, the undersigned cannot determine that the amount allocated to past medical expenses is reasonable.

49. However, the Mojica ALJ's rejection of using the percentage of a petitioner's total recovery to calculate the recovery of past medical expenses appears to have been driven by a determination that the petitioner attributed an unreasonably low valuation to her economic damages. Id. (finding that "[g]iven the expert testimony of the extent of Petitioner's injuries, her need for round-the-clock assistance with all activities of daily living, the costs of future doctor visits, attendant care, and other considerations factored into Petitioner's Life Care Plan, it is not reasonable that Petitioner's economic damages (other than past medical expenses) would have been valued at a mere $5 million. In fact, this flies in the face of the economist's determination, based on the Life Care Plan, that the present value of Petitioner's economic

damages was in excess of $25 million. This exposes the flaw in Petitioner's method of allocating damages.").

50. The instant case is distinguishable from Mojica because no such flaw is readily apparent in Mr. Dismuke's assessment of damages. Nor was such a flaw identified in AHCA's Proposed Final Order.

51. In the Joint Pre-hearing Stipulation and his Proposed Final Order, Mr. Smith argues that AHCA's reimbursement should be limited to $2,846.54. Mr. Smith's calculation starts with the $10,000.00 recovered for past medical expenses and then subtracts attorney's fees of $2,500.00 and taxable costs of $1,806.91. The resulting amount of $5,693.09 is then divided by two to reach $2,846.54. However, this computation appears to be based on a misapprehension of the formula set forth in section 409.910(11)(f). As noted above, that formula starts with the total amount recovered from a third party and then deducts attorney's fees and costs to reach a figure that is divided by two in order to calculate how much of a settlement is subject to the Medicaid lien. A petitioner can then challenge that calculation via the process set forth in section 409.910(17)(b).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the Agency for Health Care

Administration is entitled to $10,000.00 in satisfaction of its Medicaid lien.

DONE AND ORDERED this 6th day of September, 2019, in Tallahassee, Leon County, Florida.

Garnett Chisenhall

G. W. CHISENHALL
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 6th day of September, 2019.

ENDNOTES

[1/] Unless stated otherwise, all statutory references will be to the 2018 version of the Florida Statutes. That version of the Florida Statutes was in effect when Mr. Smith settled his personal injury claim. See Cabrera v. Ag. for Health Care Admin., Case No. 17-4557MTR (Fla. DOAH Jan. 23, 2018)(citing Suarez v. Port Charlotte HMA, 171 So. 3d 740 (Fla. 2d DCA 2015)).

[2/] While AHCA acknowledged that Mr. Dismuke had a background in determining the value of damages, AHCA argued during the final hearing that he had no "expertise or ability to determine a proper allocation of a settlement." In other words, AHCA argued that Mr. Dismuke was not qualified to offer an opinion as to what portion of Mr. Smith's total recovery amounted to his recovery of past medical expenses. The undersigned overruled the objection during the final hearing without prejudice to AHCA renewing that objection in its proposed final order. AHCA did renew the objection, and it is further addressed in the Conclusions of Law.

[3/] The Northern District of Florida ruled that the Medicaid Act prohibits AHCA from requiring a Medicaid recipient to affirmatively disprove section 409.910(11)(f)'s formula-based allocation with clear and convincing evidence. Gallardo v. Dudek, 263 F. Supp. 3d 1247 (N.D. Fla. April 18, 2017). However, section 120.57(1)(j) contains a default provision regarding the burden of proof and provides that "findings of fact shall be based on a preponderance of the evidence, except in penal or licensure disciplinary proceedings or except as otherwise provided by statute." A preponderance of the evidence is defined as "the greater weight of the evidence," or evidence that "more likely than not tends to prove a certain proposition." S. Fla. Water Mgmt. v. RLI Live Oak, LLC, 139 So. 3d 869, 871 (Fla. 2014).

[4/] The Florida Supreme Court recently ruled that "federal law allows AHCA to lien only the past medical expenses portion of a Medicaid beneficiary's third-party tort recovery to satisfy its Medicaid lien." Giraldo v. Ag. for Health Care Admin., 248 So. 3d 53, 56 (Fla. 2018).

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy of the notice, accompanied by any filing fees prescribed by law, with the clerk of the District Court of Appeal in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law.