

IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO. CACE24008198 DIVISION: 09 JUDGE: Levenson, Jeffrey R (09)

Electra Adams

Plaintiff(s) / Petitioner(s)

v.

Osmany Garcia, et al

Defendant(s) / Respondent(s)

_____/

**ORDER ON DEFENDANTS' MOTION IN LIMINE REGARDING ADMISSIBLE
EVIDENCE OF PAST AND FUTURE EXPENSES FOR MEDICAL TREATMENT OR
SERVICES**

THIS CAUSE came before the Court on July 8, 2025, to consider Defendants' Motion in Limine Regarding Admissible Evidence of Past and Future Expenses for Medical Treatment or Services.

Having considered the parties' motion practice, oral argument, and the plain text of section 768.0427(2), Florida Statutes, the Court ORDERS and ADJUDGES that Defendants' Motion is **DENIED**.

In support, the Court determines and reasons as follows:

1. Given that the filing of this case post-dates the March 24, 2023, effective date of HB 837, the Court is required to interpret and apply the plain text of section 768.0427(2), Florida Statutes (2024).
2. Under the statute, as is relevant here, admissible evidence offered to prove the reasonable amount of "unpaid charges for incurred medical treatment or services **shall include, but is not limited to,**"¹ the evidence stated in section 768.0427(2)(b)(3) – *i.e.*, "evidence of 120 percent of the Medicare reimbursement rate in effect on the date of the claimant's incurred medical treatment or services, or, if there is no applicable Medicare rate for a service, 170 percent of the applicable state Medicaid

- rate” – **and**, under section 768.0427(2)(b)(5), “[**a**ny evidence of reasonable amounts billed to the claimant for medically necessary treatment or medically necessary services provided to the claimant.”
3. Thus, section 768.0427(2) is not phrased in terms of evidence that the plaintiff must submit. Instead, it is phrased in terms of evidence that is available for any litigant (plaintiff or defendant) to “**prove**” – *i.e.* establish the truth of by satisfactory evidence² – the plaintiff’s reasonable amount of medical expenses.
 4. And, among the categories of admissible evidence available to either side regarding past medical expenses, section 768.0427(2)(b)(5) provides that such evidence “shall include, but is not limited to” “[**a**ny evidence of reasonable amounts billed to the claimant for medically necessary treatment or medically necessary services provided to the claimant.”
 5. As such, the proof available to the litigants regarding past medical expenses is not (as Defendants contend) limited solely to a specified percentage of an applicable Medicare or Medicaid reimbursement rate.
 6. Rather, under a reading of the statute which gives meaning to all of its language, Plaintiff may introduce her medical bills as evidence of reasonable amounts billed per section 768.0427(2)(b)(5).
 7. And, per section 768.0427(2)(b)(3), Defendants may introduce admissible evidence establishing “120 percent of the Medicare reimbursement rate in effect on the date of the claimant’s incurred medical treatment or services, or, if there is no applicable Medicare rate for a service, 170 percent of the applicable state Medicaid rate” for the given medical expense, but Plaintiff is not required to do so.
 8. Under the circumstances involved here, section 768.0427(2)(c)(2)-(3) reflects materially similar parameters for future medical expenses by indicating that the parties may offer admissible evidence

as to “120 percent of the Medicare reimbursement rate in effect at the time of trial for the medical treatment or services the claimant will receive, or, if there is no applicable Medicare rate for a service, 170 percent of the applicable state Medicaid rate,” but then concludes by providing that the admissible evidence on future medical expenses “shall include, but is not limited to ... [a]ny evidence of reasonable future amounts to be billed to the claimant for medically necessary treatment or medically necessary services.”

9. Thus, section 768.0427(2) -for both past and future medical expenses -does not limit the parties to evidence of only a specified percentage of an applicable Medicare or Medicaid reimbursement rate. Instead, the admissible evidence available to the parties also includes “[a]ny evidence of reasonable amounts billed to the claimant for [past] medically necessary treatment or medically necessary services” and “[a]ny evidence of reasonable future amounts to be billed to the claimant for medically necessary treatment or medically necessary services.”

10. This Court enforces the statute as written.

DONE AND ORDERED in Chambers at Broward County, Florida on 9th day of July, 2025.


CACE24008198 07-09-2025 11:00 AM

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Hon. Jeffrey Levenson
CIRCUIT COURT JUDGE
Electronically Signed by Jeffrey Levenson

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