

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT  
IN AND FOR MANATEE COUNTY, FLORIDA  
CIVIL DIVISION D**

**PETERSON VEILLARD and  
MANATEE OCCE,  
Plaintiffs,**

**vs.**

**CASE NO.: 2024-CA-43**

**CAROLE M. VORK,  
Defendant.**

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**ORDER GRANTING DEFENDANT'S MOTION IN LIMINE**

**THIS CAUSE** having come before the Court pursuant to the Defendant's Motion in Limine, more specifically entitled Motion in Limine As To Evidence Admissible At Trial To Prove the Amount of Plaintiff's Damages for Past and Future Medical Treatment or Services, said motion having filed on July 2, 2025, and the Court having reviewed and considered said motion, having reviewed and considered the Plaintiff's Response in Opposition, said response having been filed on September 18, 2025 specifically entitled Response to Defendant's Motion in Limine as to Evidence Admissible at Trial to Prove the Amount of Plaintiff's Damages for Past and Future Medical Treatment, having considered multiple orders both granting and denying similar motions, having considered the argument of counsel, the case law provided, and being otherwise fully advised in the premises, the Court finds as follows:

Although the accident at the center of this cause occurred in January of 2023, the case itself was filed after March 24, 2023, and therefore Fla. Stat. 768.0427(2) is applicable and, in this Court's estimation, required. It appears from the Plaintiffs' answers at deposition that, at the time of their treatment, they had Obamacare for health insurance. According to defense counsel, none of the Plaintiffs medical bills for their care and treatment were submitted to their insurance carrier.

As an initial matter, this Court finds that the plain language of this statute is unambiguous, straightforward and mandatory. The Court points specifically to the use of the word “shall” in section (2)(b) and 2(c), which, in this Court’s estimation, places the burden of production of evidence as to the prescribed applicable health insurance provider rates on the Plaintiff, who is seeking the uncovered medical expenses and future medical expenses as damages.

Based upon the foregoing, Fla. Stat. section 768.0427(2)(b)(1) requires that admissible evidence of the Plaintiffs’ medical bills at trial must include evidence of “the amount which such health care coverage for the claimant’s incurred medical treatment or services, plus the claimant’s share of medical expenses under the insurance contract”. The “such insurance carrier” in this case would evidently be Obamacare. The reference to the phrase “but not limited to”, of course, clearly indicates that the Plaintiffs may additionally offer any evidence of the reasonable amounts billed to them for medically necessary treatment and services beyond those indicated in section (2)(b)(1) , subject to objection and admissibility.

Additionally, Fla. Stat. 768.0427(2)(c), referring to future medical expenses, care and treatment requires the Plaintiff to introduce “evidence of the amount for which the future charges of health care providers could be satisfied if submitted to such health care coverage”. Again, the Plaintiff may also offer into evidence any other evidence of the reasonable amounts charged by his health care providers.

Finally, although the trial date is still several weeks away, the Court would be inclined to agree with the Draft Jury Instructions for Discussion found on page 8 of Leon County Circuit Court Judge Stephanie Clark’s February 13, 2025 Order entitled Order on Motions in Limine Regarding Medical Expenses (attached hereto). Although

not specifically wedded to those particular instructions, they appear to address the appropriate jury inquiry and effectuates the plain language of this statute.

Based upon the foregoing, therefore, it is hereby

**ORDERED AND ADJUDGED** that:

1. The Defendant's Motion in Limine Pursuant to Fla. Stat. 768.0427 is **GRANTED**.
2. Compliance with Fla. Stat. 768.0427(2)(b)(1)&(2)(c) is a condition precedent to the admissibility of the Plaintiff's medical expense evidence and the burden is on the Plaintiff to comply and produce such evidence prior to trial.

**DONE AND ORDERED** in Manatee County, Florida, this 8<sup>th</sup> day of October, 2025.



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**EDWARD NICHOLAS**  
**CIRCUIT JUDGE**

**Copies furnished to:**

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**THE SECOND CIRCUIT COURT, LEON COUNTY, FLORIDA**

Shane Brewster, Plaintiff,

v.

Case: 2023CA002412

Mandy Petroski-Moore, and  
Mason Moore, Defendants./

**Order on Motions in Limine Regarding Medical Expenses**

This matter is before the court to address:

"Defendant's Motion in Limine and Memorandum of Law Regarding Applicability of Section 768.0427, Florida Statutes to Plaintiff's Past and Future Medical Expenses" filed January 27, 2025; and

"Plaintiff's Motion in Limine to Allow Evidence of Reasonable and Customary Medical Bills and, If Defendant Submits evidence of Medicare Rates, to Allow Plaintiff to Argue that He is Not a Medicare Recipient Nor Eligible to Be One" filed January 28, 2025.

The court conducted a hearing on the motions by remote technology on January 29, 2025 and is adequately advised.

**The Parties Concede that Section 768.0427(2023) Applies**

The Amended Complaint, filed October 30, 2023, alleges a collision of May 20, 2023 and seeks to recover personal injury damages including "expense of hospitalization, medical and nursing care and treatment. . . ." Section 768.0427 was enacted March 24, 2023 and became effective upon becoming law. 2023 Laws of Florida 14 § 30. So, Section 768.0427 applies to this action by its terms.

**The Issue: § 768.0427(2) and a Plaintiff without Health Insurance**

Both parties agree that the plaintiff had no insurance coverage for medical expenses except for \$10,000 of personal injury protection coverage that has been paid.

As an initial matter, the court's analysis is limited by the record, as will be seen. The question put by these motions is proof of medical expenses, but

**EXHIBIT 3**

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no proof of any medical expenses is of record. Likewise, § 768.0427(2) addresses evidence of insurance rates (including Medicare and Medicaid) for medical expenses, but no proof of such rates is of record. To that extent, this ruling is made in the abstract. As a consequence, the effect of this order must be limited to the facts more or less agreed upon by the parties as the court understands them.

Neither party presently asserts that the court is constitutionally limited in applying § 768.0427(1), although this order briefly addresses potential separation of powers concerns.

Section 768.0427(2) provides (emphasis added):

**(2) ADMISSIBLE EVIDENCE OF MEDICAL TREATMENT OR SERVICE EXPENSES.—Evidence offered to prove the amount of damages for past or future medical treatment or services in a personal injury or wrongful death action is admissible as provided in this subsection.**

**(a) Evidence offered to prove the amount of damages for past medical treatment or services that have been satisfied is limited to evidence of the amount actually paid, regardless of the source of payment.**

**(b) Evidence offered to prove the amount necessary to satisfy unpaid charges for incurred medical treatment or services shall include, but is not limited to, evidence as provided in this paragraph.**

**1. If the claimant has health care coverage other than Medicare or Medicaid, evidence of the amount which such health care coverage is obligated to pay the health care provider to satisfy the charges for the claimant's incurred medical treatment or services, plus the claimant's share of medical expenses under the insurance contract or regulation.**

**2. If the claimant has health care coverage but obtains treatment under a letter of protection or otherwise does not submit charges for any health care provider's medical**

treatment or services to health care coverage, evidence of the amount the claimant's health care coverage would pay the health care provider to satisfy the past unpaid medical charges under the insurance contract or regulation, plus the claimant's share of medical expenses under the insurance contract or regulation, had the claimant obtained medical services or treatment pursuant to the health care coverage.

**3. If the claimant does not have health care coverage or has health care coverage through Medicare or Medicaid, 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.**

**4. If the claimant obtains medical treatment or services under a letter of protection and the health care provider subsequently transfers the right to receive payment under the letter of protection to a third party, evidence of the amount the third party paid or agreed to pay the health care provider in exchange for the right to receive payment pursuant to the letter of protection.**

**5. Any evidence of reasonable amounts billed to the claimant for medically necessary treatment or medically necessary services provided to the claimant.**

**(c) Evidence offered to prove the amount of damages for any future medical treatment or services the claimant will receive shall include, but is not limited to, evidence as provided in this paragraph.**

**1. If the claimant has health care coverage other than Medicare or Medicaid, or is eligible for any such health care coverage, evidence of the amount for which the future charges of health care providers could be satisfied**

if submitted to such health care coverage, plus the claimant's share of medical expenses under the insurance contract or regulation.

2. If the claimant does not have health care coverage or has health care coverage through Medicare or Medicaid, or is eligible for such health care coverage, evidence of 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.

3. Any evidence of reasonable future amounts to be billed to the claimant for medically necessary treatment or medically necessary services.

(d) This subsection does not impose an affirmative duty upon any party to seek a reduction in billed charges to which the party is not contractually entitled.

(e) Individual contracts between providers and authorized commercial insurers or authorized health maintenance organizations are not subject to discovery or disclosure and are not admissible into evidence.

### **Discussion**

By this order the court solely resolves issues of statutory interpretation. Thus, the familiar canons of interpretation apply. No interpretation is necessary if the intent is clear from the language of the statute. The words of the statute are given their ordinary meaning. Interpreting a legal text begins, "and for good reason often end, with its words. . . . And we give the words of the [text] their plain, usual, ordinary, and commonly accepted meanings at the time they were written." City of Tallahassee v. PBA, Inc., 375 So.3d 178 (Fla. 2023). "To discern that ordinary meaning ... words must be read and interpreted in their context, not in isolation." Id.

[J]udges must exhaust all the textual and structural clues that bear on the meaning of a disputed text. That is because the plainness or

ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole. . . . It would be a mistake to think that our law of statutory interpretation requires interpreters to make a threshold determination of whether a term has a "plain" or "clear" meaning in isolation, without considering the statutory context and without the aid of whatever canons might shed light on the interpretive issues in dispute.

Conage v. United States, 346 So.3d 594, 598 (Fla. 2022) (citations omitted). It is the intent of the language for which the court is responsible, much less so the intent of legislators or legislative staff.

Although the issue is not raised, it seems to me that the legislature was within its authority to adopt these provisions and the statute does not pose obvious separation of powers concerns. First, no statute is presumed to be unconstitutional and this subject matter seems appropriate for legislative policy-making. Medical expenses are subject to many uncertainties and the court needs little evidence to characterize the U.S. healthcare finance systems and processes as exceedingly complex. The legislature is possessed of many resources to consider such complexity as a policy matter that courts are not. These provisions permit jurors to consider a more specific record of relevant factors of which jurors are undoubtedly aware – some people have private health insurance, some people have public health insurance, some people have no health insurance. This statute attempts to give the jury information to reconcile competing concerns in the context of the plaintiff's specific circumstances. The purpose of this paragraph is to record the court's impression and is not intended to finally resolve the separation of powers issue should either party choose to raise it.

**§ 768.0427(2)(a) Means What It Says.**

As both parties seem to concede, application of (2)(a) is straightforward. It states:

Evidence offered to prove the amount of damages for past medical treatment or services that have been satisfied is limited to evidence of the amount actually paid, regardless of the source of payment.

No evidence to prove the amount of damages for medical treatment or services satisfied by personal injury protection coverage shall be offered or admitted into evidence other than the amount actually paid by personal injury protection coverage. In other words, plaintiff will prove no uncovered damages for such expenses.

**§ 768.0427(2)(b)(3): "Evidence Offered" "Shall Include" is Mandatory.**

Section 768.0427(2)(b)(3) addresses the specific circumstance the parties represented exists for this plaintiff – a complete absence of health insurance. It states:

**(b) Evidence offered to prove the amount necessary to satisfy unpaid charges for incurred medical treatment or services shall include, but is not limited to, evidence as provided in this paragraph. . . .**

**3. If the claimant does not have health care coverage or has health care coverage through Medicare or Medicaid, 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.**

Plaintiff argues that the "shall include" phrase in § 768.0427(2)(b) means that "admissible evidence" shall include the referenced Medicare and Medicaid rates. The defendants argue that the statute means that the evidence "shall include" such rates in order for the jury to award any damages for unpaid charges for medical treatment or services.

The defendants reading of the statute is the more literally accurate and consistent with the plain meaning.

The effect of the literal language is to place a burden of production of evidence of the prescribed multiple of Medicare or Medicaid rates on the plaintiff seeking uncovered medical expenses as damages. The court expects that the parties will undertake a good faith effort to stipulate to the applicable rates out of respect for the jurors' time and responsibilities.

The plaintiff argues that it is incongruous for the plaintiff to be required to admit evidence with which it disagrees. But the import of this statute is that Medicare and Medicaid establish at least a starting point for a reasonable consideration of medical expense damages. As will be discussed below, the statute contemplates that the evidence of the mandated multiple of Medicare and Medicaid rates may be inadequate in a given case, but it is for the plaintiff to demonstrate by other admissible evidence why such rates are the starting point but may not be the end point of the consideration – and again, this order is entered in the abstract with no information as to the applicable Medicare or Medicaid rates or what the plaintiff contends to be “the reasonable amounts billed to the claimant for medically necessary treatment or medically necessary services.”

Any incongruity seems easily reconciled with a jury instruction based on the language of the statute.

**§ 768.0427(2)(b)(5) “but is not limited to” Means What it Says.**  
§768.0427(2)(b)(5) states: “Evidence offered to prove the amount necessary to satisfy unpaid charges for incurred medical treatment or services shall include, but is not limited to . . . (5) Any evidence of reasonable amounts billed to the claimant for medically necessary treatment or medically necessary services provided to the claimant.”

This plain language permits evidence of unpaid charges different than the Medicaid and Medicare rates mandated by 768.0427(2)(b)(3). Limited by the foundational prerequisites – necessary and reasonable – evidence different than the public rates is admissible if the proposed evidence otherwise satisfies the requirements of the evidence code.

**The Court Suggests a Stipulation of the Applicable Medicaid and Medicare Rates and an Explanatory Jury Instruction**

At the risk of exposing the court's bottomless well of ignorance associated with healthcare finance, the court suggests that in the context of a single plaintiff involved in a personal injury action, the parties should consider a stipulation of the Medicaid and Medicare Rates applicable to the claimant's medical treatment or services. The parties would then be free to offer evidence of other treatment, services or rates, but the statute would be satisfied.

Once the universe of evidence of stipulated and contested rates are before the jury, it would be for the parties to argue and the jury to resolve what damages are proved, if any, guided by an appropriate jury instruction.

The court suggests the following instruction as a starting point:

### **Draft Jury Instructions for Discussion**

#### **501.15 Personal Injury and Property Damages: Introduction**

You should award Mr. Brewster an amount of money that the greater weight of the evidence shows will fairly and adequately compensate him for his loss, injury or damage, including any damage Mr. Brewster is reasonably certain to incur or experience in the future. You shall consider the following elements:

#### **Medical Expenses**

The reasonable [value] [or] [expense] of [hospitalization and] medical [and nursing] care and treatment necessarily or reasonably obtained by (claimant) in the past [or to be so obtained in the future].

#### **Evidence of Medicare or Medicaid Reimbursement Rates**

The parties stipulated and the court now instructs you that in determining the reasonable value or expense of such care and treatment you must consider the following rates derived from Medicare or Medicaid reimbursement rates for the following specified medical treatments or services incurred by Mr. Brewster:

#### **PARTIES TO SUPPLY APPLICABLE REIMBURSEMENT RATES**

#### **Other Evidence of Medical Expenses**

You are not required to award damages solely based on the Medicare or Medicaid Reimbursement Rates listed above.

You may base your determination of past medical expense damages on any evidence of reasonable amounts billed to the claimant for medically necessary treatment or medically necessary services provided to Mr. Brewster.

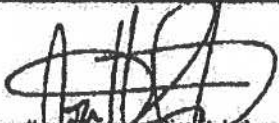
You may base your determination of future medical expense damages, if any, on any evidence of reasonable future amounts to be billed to Mr. Brewster for medically necessary treatment or medically necessary services.

It is up to you to determine damages based on all the evidence in the case.

In summary, the court intends to apply the plain language of this statute. The draft jury instruction language set out above is intended to effectuate that determination.

IT IS SO ORDERED in chambers at Tallahassee, Leon County, Florida on Thursday, February 13, 2025.

[REDACTED]

  
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