

LK Alert

LITTMAN KROOKS
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SPECIAL NEEDS ALERT

This alert gives you important information on issues facing those with special needs and their families. Please see our website www.specialneedsnewyork.com for additional commentaries.

The Supreme Court of the United States holds that Medicaid may only impose a lien on that portion of a tort settlement allocated towards payment of medical costs NOT the entire settlement.

In *Arkansas Department of Health and Human Services et al. v. Ahlborn*, decided on May 1, 2006, Heidi Ahlborn suffered severe and permanent injuries from a car accident and she was unable to afford her medical expenses. The Arkansas Department of Health and Human Services paid medical providers \$215,645.30 in medical assistance rendered to Ms. Ahlborn. Ms. Ahlborn filed a lawsuit seeking recovery of damages resulting from the accident and ultimately received \$550,000. Medicaid asserted a lien against the settlement for \$215,645.30 (the full amount which they paid to medical providers for Ms. Ahlborn's care). Ms. Ahlborn sued Medicaid, asserting that the State's lien violated federal law insofar as its satisfaction would require depletion of compensation for her injuries other than the amount allocated for her past medical expenses.

The Supreme Court held that Medicaid cannot claim more than the portion of the settlement that represents medical expenses. Monies received on account of lawsuit recoveries which are allocable to items such as lost wages and pain and suffering are not subject to the Medicaid lien. In this case, Medicaid was only able to recover \$35,581.47, which was compensation for medical expenses.

This important decision will benefit individuals with special needs and their families nationwide since it is a U.S. Supreme Court case. It will now be critical for a special needs trust attorney to be involved in the settlement process at the earliest possible stage to ensure maximum protection of the settlement proceeds.

Littman Krooks LLP offers legal services in several areas of law, including Special Needs Planning, Special Education Advocacy, Guardianship, Medicaid, Health Care, Estate and Tax planning, Public Benefits, Estate Administration/Probate, and Trusts and Estates. Our offices are located in Midtown Manhattan at 655 Third Avenue, and in White Plains, New York at 81 Main Street.

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