



Ohio Revised Code

Section 3903.42 Priority of distribution of claims.

Effective: March 22, 2012

Legislation: House Bill 250 - 129th General Assembly

The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(A) Class 1. The costs and expenses of administration, including but not limited to the following:

(1) The actual and necessary costs of preserving or recovering the assets of the insurer;

(2) Compensation for all services rendered in the liquidation;

(3) Any necessary filing fees;

(4) The fees and mileage payable to witnesses;

(5) Reasonable attorney's fees;

(6) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

(B) Class 2. All claims under policies for losses incurred, including third party claims, all claims of contracted providers against a medicaid health insuring corporation for covered health care services provided to medicaid recipients, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages



recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to an employee shall be treated as a gratuity. Claims under nonassessable policies for unearned premium or other premium refunds.

(C) Class 3. Claims of the federal government.

(D) Class 4. Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and represent payment for services performed within one year before the filing of the complaint for liquidation. Officers and directors shall not be entitled to the benefit of this priority. Such priority shall be in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(E) Class 5. Claims of general creditors.

(F) Class 6. Claims of any state or local government. Claims, including those of any state or local governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under division (J) of this section.

(G) Class 7. Claims filed late or any other claims other than claims under divisions (H), (I), and (J) of this section.

(H) Class 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(I) Class 9. Interest at the legal rate compounded annually on all claims in the classes prescribed in divisions (A) to (H) of this section, except for claims of the federal government, from the date of the order for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the interest or dividend is declared, according to the terms of a plan proposed by the



liquidator and approved by the court supervising the liquidation. The liquidator, with the approval of the court, may make reasonable approximate computations of interest to be paid under this division.

(J) Class 10. The claims of shareholders or other owners.

If any provision of this section or the application of any provision of this section to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section, and to this end the provisions are severable.

(K) As used in sections 3903.42 and 3903.421 of the Revised Code, "contracted provider" and "medicaid recipient" have the same meanings as in section 3903.14 of the Revised Code.