

HOUSE No. 935

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to Conform Private with Public Subrogation Policy..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 111 of the General Laws is hereby amended by inserting the following Section
2 70D ½:

3 Notwithstanding the provisions of Section 70A through 70D of this Chapter, and
4 notwithstanding any contractual term to the contrary, no health maintenance organization or
5 group or individual medical insurer or disability insurer which has provided benefits for covered
6 services to a person insured in an accident shall have a lien or right of reimbursement or
7 subrogation claim or claims of recoupment no matter how designated upon any recovery or sum
8 had or collected or to be collected, whether by judgment or by settlement or compromise from
9 another person as damages on account of such injuries, for more than the proportionate share of
10 said recovery or sum subject to its lien, right or reimbursement, subrogation claim or claims of
11 recoupment which the amount of benefits so provided for covered services bears to the complete
12 value of the injured person's tort damages.

13 Either the entity which provided benefits or the injured person may petition the court in
14 which the accident case is pending, or in a court in which such case could be properly filed had

15 settlement not been attained before commencement of suit, for a determination of the
16 reasonableness of the settlement and the fair allocation of amounts payable thereunder. A hearing
17 on such petition shall adhere to the same procedural requirement as are provided in Section 15 of
18 chapter 152 of the General Laws.