

DECEDENT'S SISTER MUST REPAY HEALTH FUND FOR MEDICAL CLAIMS

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Employee Benefits

A sister brought a wrongful death action against a medical clinic claiming that the clinic was negligent in treating of her deceased brother's lung cancer. The brother was a participant in a union health and welfare fund, and the fund paid for his medical treatment. The sister settled her claim with the clinic and the fund sued her, her legal counsel and the clinic, alleging that the fund had a right to a portion of the settlement that was attributable to medical expenses the fund had paid which was almost \$237,000. The Court of Appeals for the Eighth Circuit upheld the lower court's decision that the fund could assert its right of subrogation against the settlement. The defendants argued that the medical claims were not part of the settlement paid by the clinic. However, citing the determinations made by the lower court, the Eight Circuit found that the original claim made against the clinic included medical claims and the settlement agreements were ambiguous as to whether medical claims were part of the settlement. The opinion also rejected that the defense claim that medical expenses should be limited to the additional expenses caused by the clinic's alleged negligence. The Eighth Circuit found that the subrogation interest applied to any recovery for medical expenses. *Mackey v. Johnson* (8th Cir. 2017).