

accident. S.C. CODE ANN. § 38-77-160. Stacking is prohibited if an insured vehicle is not involved in the accident. S.C. CODE ANN. § 38-77-160.

- **Offset** - UIM coverage may be reduced by the amount of liability coverage available to the injured party. Cobb v. Benjamin, 482 S.E.2d 589 (S.C. App. 1997).

Seat Belts

- Mandatory, but non-use is inadmissible as evidence of negligence. S.C. CODE ANN. § 56-5-6520, 56-5-6540, 56-5-6410 & 56-5-6460.

Family/Guest Exclusion

- South Carolina's guest statute was declared unconstitutional. Ramey v. Ramey, 258 S.E.2d 883 (S.C. 1979).

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MEDICAID

- Medicaid has a first priority subrogation/reimbursement claim. S.C. CODE ANN. § 43-7-440(A)(1-5).
- Medicaid may reduce its claim by up to 25% for attorney fees and a pro rata share of costs. S.C. CODE ANN. § 43-7-440(A)(6).
- The Medicaid recovery right is superior to any other recovery rights. S.C. CODE ANN. § 43-7-440(B).
- Plaintiff's counsel cannot be held personally liable for improper settlement or disbursement of funds unless that attorney has written notice of the Medicaid interest prior to settlement and/or disbursement. S.C. CODE ANN. § 43-7-440(B).
- For Medicaid replacement files, examiners should review the health plan's contract with Medicaid to determine what recovery rights have been assigned to the health plan.
- State Medicaid statutes may conflict with the federal Medicaid law's anti-lien provision, § 1396p(a)(1). Arkansas Department of Health and Human Services v. Ahlborn, 126 S.Ct. 1752 (2006). Medicaid can only seek reimbursement from the portion of the settlement that represents medical expenses .

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STATUTE OF LIMITATIONS

Torts

- 3 years. S.C. CODE ANN. § 15-3-530(1).