1. **Does your jurisdiction maintain a collateral source rule?**

Yes. In the District of Columbia, “the receipt of payment from a collateral source may not be injected into a trial to mitigate damages or in any manner which mislead, improperly influence or prejudice the jury.” *Jacobs v. H.L. Rust Co.*, 353 A.2d 6 (D.C. 1976). “Under the collateral source rule, payments to the injured party from a collateral source are not allowed to diminish damages recoverable from the wrongdoer…. The rule is applicable when either: (1) a payment to the injured party came from a source wholly independent of the tortfeasor, or (2) when the plaintiff may be said to have contracted for the prospect of a double recovery…. A reason for the rule is that a party should receive the benefit of a bargain for which he or she has contracted.” *Hardi v. Mezzanotte*, 818 A.2d 974 (D.C. 2003) (internal citations and quotation marks omitted). Note that the collateral source must be independent of the tortfeasor. In *District of Columbia v. Jackson*, 451 A.2d 867 (D.C. 1982), it was held that the collateral source rule did not apply to medical expenses paid by the District of Columbia in a tort action against the District of Columbia because it would result in a double payment by the tortfeasor.

2. **Does your jurisdiction allow plaintiff recovery for expenses written off by the healthcare provider?**

Yes. Unpaid or “written off” medical expenses are considered benefits from a collateral source and a plaintiff is entitled to recover those expenses. *Hardi v. Mezzanotte*, 818 A.2d 974 (D.C. 2003). The *Hardi* Court specifically noted, however, that it did not consider the issue of whether a defendant could challenge the fairness and reasonableness of the amounts billed by providers by introducing evidence that they accepted the reduced amounts as payment in full for the bills. *Id.* at 984 n4.

3. **Must a plaintiff prove medical services were reasonable or necessary in order to recover?**

(alterations in original; quoting *Albano v. Yee*, 219 A.2d 567, 568 (D.C. 1966)). See *District of Columbia Standard Civil Jury Instruction No. 13-3* (“If you determine that [the plaintiff] is entitled to a [monetary] damages award for medical expenses incurred, then you should consider the reasonable value of all medical services given to the plaintiff.”) (alterations in original). “In the District of Columbia, a plaintiff may establish the reasonableness of her past medical expenses ‘by proving the professional services rendered and the amount of the bill paid or incurred.’” *Green*, 589 F. Supp. 2d at 68 n2 (quoting *Nunan v. Timberlake*, 85 F.2d 407, 410 (D.C.Cir.1936)). “In other words, a plaintiff generally need not provide additional evidence of the ‘reasonableness’ of her expenses.” *Id.* (citing *Albano*, 219 A.2d at 568 (“[I]t [is] proper to admit in evidence medical bills incurred by [the plaintiff] in the absence of testimony, other than hers, that the bills [are] reasonable and necessary.”)).

4. **Must a plaintiff guarantee reimbursement payment to a healthcare provider if a judgment is rendered or settlement achieved?**

No District of Columbia case has so held. Note, however, that a number of lien holders have a statutory right to repayment which imposes a lien on any judgment or settlement. See, e.g., 42 U.S.C. § 1395y(b)(2)(B) (creating private cause of action by Center for Medicare and Medicaid Services for damages twice the amount of Medicare’s lien); DC ST § 32-1535 (statutory lien under District of Columbia Workers’ Compensation Act on any recovery employee may obtain from third party).

5. **If an insurance carrier maintains a contractual agreement with a healthcare provider that reduces payments, what can a plaintiff “blackboard” as damages? (i.e., what effect does a pre-existing agreement between an insurance carrier and healthcare provider have on a plaintiff’s ability to recover medical bills?)**

As mentioned above, unpaid or “written off” medical expenses are considered benefits from a collateral source and a plaintiff is entitled to recover those expenses. *Hardi v. Mezzanotte*, 818 A.2d 974 (D.C. 2003).

This section of the Compendium was prepared by an attorney not licensed in the District of Columbia. Although the attorney used his/her best efforts to set forth the current law, users of this section of the Compendium should rely solely on counsel licensed in the District of Columbia.