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

   Yes, Maine recognizes the common law collateral source rule.

   “In line with the overwhelming judicial opinion, we hold that the collateral source rule was applicable in this case[.]” *Werner v. Lane*, 393 A.2d 1329, 1336 (Me. 1978). “The premise underlying this rule is that either the injured party or the tortfeasor will receive a windfall if part of a loss is paid by an independent source, and, as between the injured party and the tortfeasor, the injured party should reap the benefit of the windfall.” *Potvin v. Seven Elms, Inc.*, 628 A.2d 115, 116 (Me. 1993).

   The application of the collateral source rule in Maine is not limited to tort actions. *Potvin*, 628 A.2d at 116 (“[W]e did not limit the application of the collateral source rule to tort actions.”)

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

   Yes.

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

   Yes. “Plaintiff is entitled to be compensated for only those medical expenses which are reasonable and necessary, and are related to the accident and injuries complained of.” *Stubbs v. Bartlett*, 478 A.2d 690, 692 (Me. 1984).

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

   In addition to private contractual liens, Maine has a hospital lien statute that entitles a hospital to a lien for the “reasonable charges for hospital care, treatment, and maintenance of an injured person” on any recovery secured by such person in a personal injury case:
Every individual, partnership, firm, association, corporation, institution or any governmental unit or combination or parts of a partnership, firm, association, corporation, institution or governmental unit maintaining and operating a hospital licensed in the State is entitled to a lien for the reasonable charges for hospital care, treatment and maintenance of an injured person upon any and all causes of action, suits, claims, counterclaims or demands accruing to the person to whom such care, treatment or maintenance was furnished, or to the legal representatives of such person, on account of injuries giving rise to such causes of action and which necessitated such hospital care, treatment and maintenance, except that no entitlement to such a lien may exist against the principal residence of any person in any 12-month period or periods during which that person is eligible for financial assistance under the catastrophic illness program, Title 22, section 3185. Such lien may not be applied or considered valid against anyone coming under the former Workers’ Compensation Act or the Maine Workers’ Compensation Act of 1992, and nothing enacted by this chapter may be construed so as to give such lien precedence over the claim or contract of an attorney for legal services rendered with respect to the claim of the injured party nor may this lien be applicable to any accident or health insurance policy, or the proceeds from the same, owned by or running to the benefit of the injured person.

10 M.R.S.A. § 3411.

Maine also recognizes MaineCare liens, 22 M.R.S.A. § 14, and Medicare liens, 42 U.S.C. 1395y(b)(2)(B)(ii) / Section 1862(b)(2)(B)(ii) of the Social Security Act and 42 C.F.R. 411.24(e) & (g). If the plaintiff has been in the military or is married to a person who has been in the military and is covered by the military health benefit system, any personal injury recovery may be subject to a Tricare lien.

In addition, under Maine’s Worker’s Compensation Act, an employer that has paid its employee any compensation or benefits on account of an injury caused to the employee by a third party has a lien on any damages recovered by the employee:

If the injured employee elects to claim compensation and benefits under this Act, any employer having paid the compensation or benefits or having become liable for compensation or benefits under any compensation payment scheme has a lien for the value of compensation paid on any damages subsequently recovered against the 3rd person liable for the injury.


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?)

This is a fact-specific inquiry that depends on the contractual language in question, the presiding adjudicator, and the court where the action is pending. In some cases, only gross medical bills have been allowed; in others – the courts have reduced the recovery to the negotiated amount.