1. Does your jurisdiction maintain a collateral source rule?

Yes, New Jersey maintains a collateral source rule in the form of N.J.S.A. 2A:15-97, which reads:

In any civil action brought for personal injury or death, except actions brought pursuant to the provisions of P.L.1972, c. 70 (C. 39:6A-1 et seq.),[New Jersey Automobile Reparation Reform Act] if a plaintiff receives or is entitled to receive benefits for the injuries allegedly incurred from any other source other than a joint tortfeasor, the benefits, other than workers’ compensation benefits or the proceeds from a life insurance policy, shall be disclosed to the court and the amount thereof which duplicates any benefit contained in the award shall be deducted from any award recovered by the plaintiff, less any premium paid to an insurer directly by the plaintiff or by any member of the plaintiff’s family on behalf of the plaintiff for the policy period during which the benefits are payable. Any party to the action shall be permitted to introduce evidence regarding any of the matters described in this act.”

These benefits also include social security disability payments, but “only those future payments of social security benefits that are neither contingent nor speculative nor subject to change or modification may be included.” Woodger v. Christ Hosp., 365 N.J. Super. 144, 153-54 (App. Div. 2003).

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

As stated in Dias v. A.J. Seabra’s Supermarket, 310 N.J. Super. 99, 707 A.2d 1391(1998),the statute, N.J.S.A. 2A:15-97, places no restriction on a party introducing, for the jury's consideration, evidence of the total amount of medical bills incurred. Any required adjustment in a party's ultimate recovery is to be made by the court, after the jury has considered the full amount incurred.
3. Must a Plaintiff prove medical services were reasonable or necessary in order to recover?

Yes, New Jersey law has allowed for the recovery for the reasonable value of past medical services necessitated by a defendant's tortious conduct. Pursuant to the relevant New Jersey jury instruction, NJ CV JI 8.11A, which reads:

A plaintiff who is awarded a verdict is entitled to payment for medical expenses which were reasonably required for the examination, treatment and care of injuries proximately caused by the defendant's negligence (or other wrongdoing). Medical expenses are the costs of doctors' services, hospital services, medicines, medical supplies and medical tests and any other charges for medical services. The amount of payment is the fair and reasonable value of such medical expenses. You have heard testimony on whether these medical expenses were fair and reasonable in amount and whether they were reasonably necessary for the examination, care and treatment of [plaintiff]. If you determine that any of these bills were not fair and reasonable to any extent, or that any of these services were not reasonably necessary to any extent, you need not award the full amount claimed. In this case, [plaintiff] is seeking the sum of [dollar amount] in medical expenses. As a result, the upper limit of the award which you may make for medical expenses is [dollar amount], since you may not award more than [plaintiff] is seeking.

Accordingly, Plaintiff must present testimony as to whether the medical expenses were fair and reasonable, and also reasonably necessary for plaintiff’s treatment and care.

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

Generally, there is no statutory guarantee that a Plaintiff reimburse a healthcare provider for services rendered. However, under N.J. Stat. § 2A:44-36, healthcare providers may obtain liens for the care provided to a person injured in an accident as a result of the negligence or alleged negligence of any other person.

Furthermore, N.J. Stat. § 2A:44-37, provides that, upon compliance with the provisions of the article, the lien shall attach to “any and all rights of action, suits, claims, demands and upon any judgment, award or determination, and upon the proceeds of any settlement of such rights of action, suits, claims, demands, judgments, awards or determinations which any such injured person may have or shall have, assert or maintain against any such other person for damages on account of such injuries, up to the date of payment of such damages.” This effectively guarantees that a healthcare provider will be paid when a plaintiff receives a judgment or settlement.

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?)

The New Jersey Supreme Court found that health insurers have no common law equitable right to subrogation and that by enacting the collateral source rule, N.J.S.A. 2A:15-97, the statute left health insurers in the same position as before the enactment, i.e. health insurers have no right to recover paid benefits from the insured or from the tortfeasor. Further, the Court held that the inclusion of subrogation and reimbursement provisions in health insurance contracts must be interpreted narrowly as limited to cases in which the collateral source rule does not apply, such as in a case decided under the law of another jurisdiction. Perreira v. Rediger, 169 N.J. 399, 403 (2001).

This section of the Compendium was prepared by an attorney not licensed in the State of New Jersey. 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 State of New Jersey.