Article - Family Law

§12–102.

(a) (1) In this section the following words have the meanings indicated.

(2) "Accessible" means health insurance coverage that insures primary care services located within the lesser of 30 miles or 30 minutes from the child's primary residence.

(3) "Actual income" has the meaning stated in § 12–201(b) of this title.

(4) "Adjusted actual income" has the meaning stated in § 12–201 of this title.

(5) "Basic child support obligation" has the meaning stated in § 12–201 of this title.

(6) "Cash medical support" means an amount paid:

(i) toward the cost of health insurance provided by:

1. a public entity; or

2. one or both parents through employment or otherwise; or

(ii) for other medical costs not covered by insurance, including extraordinary medical expenses.

(7) "Extraordinary medical expenses" has the meaning stated in § 12–201 of this title.

(8) "Health insurance coverage" means any type of health care coverage under which medical care services can be provided to the child through an insurer.

(9) "Insurer" means:

(i) an insurer, a nonprofit health service organization, or a health maintenance organization operating in this State under a certificate of authority issued by the Maryland Insurance Commissioner;

(ii) an entity that provides a group health plan, as defined in § 607(1) of the Employee Retirement Income Security Act of 1974; or

(iii) an entity offering a service benefit plan as defined by federal law.

(10) "Medical support notice" means a notice that is:

(i) in a format prescribed by federal law; and

(ii) issued by a child support agency to enforce the health insurance coverage provisions of a child support order.

(11) "Tribunal" has the meaning stated in § 10–301 of this article.

(b) Except as provided in subsection (c) of this section, the court may include in any support order a provision requiring either parent to include the child in the parent's health insurance coverage if:

(1) the parent can obtain health insurance coverage through an employer or any form of group health insurance coverage; and

(2) the child can be included at a reasonable cost to the parent in that health insurance coverage.

(c) (1) This subsection applies only to a child support order under Title IV, Part D of the Social Security Act.

(2) (i) The court shall include in any support order that is established or modified a provision requiring one or both parents to include the child in the parent's health insurance coverage if:

1. the parent can obtain health insurance coverage through an employer or any form of group health insurance coverage;

2. the child can be included at a reasonable cost to the parent in that health insurance coverage; and

3. the health insurance coverage is accessible to the child.

(ii) For purposes of subparagraph (i)2 of this paragraph, the cost of health insurance coverage is reasonable if the cost of adding the child to existing health insurance coverage, or the difference between self–only and family coverage, does not exceed 5% of the actual income of the parent ordered to pay for health insurance coverage.

(3) If health insurance coverage at a reasonable cost is not available at the time a support order is established or modified, the court:

(i) may include a provision requiring one or both parents to include the child in the parent's health insurance coverage as described in paragraph (2) of this subsection if health insurance coverage at a reasonable cost becomes available in the future; and

(ii) shall include a provision requiring one or both parents to provide cash medical support in an amount not to exceed 5% of the actual income of the parent ordered to provide cash medical support.

(4) In addition to requiring one or both parents to provide health insurance coverage, the court may order one or both parents to provide cash medical support in an amount not to exceed 5% of the actual income of the parent ordered to provide cash medical support.

(5) Cash medical support ordered under this subsection shall be added to the basic child support obligation and divided by the parents in proportion to their adjusted actual incomes.

(6) The court may not order the obligee to pay cash medical support toward the cost of health insurance provided by a public entity for which the obligee does not pay a premium, including the Maryland Children's Health Program under Title 15, Subtitle 3 of the Health – General Article.

(d) An order of a court requiring the provision of health insurance coverage for a child may be issued separate from or in conjunction with an earnings withholding order.

(e) (1) If a court orders a parent to provide health insurance coverage under this section, the parent under the order or the support enforcement agency shall send a copy of the order or medical support notice to the parent's employer by first–class mail, separate from or in conjunction with an earnings withholding order, as provided in § 10–123 of this article.

(2) Within 20 business days after the receipt of the order or medical support notice, the employer shall:

(i) send the appropriate part of the medical support notice to the employer's insurer;

(ii) if the employer determines that, based on reasons related to the employee's employment status, the employee's child is ineligible for health insurance coverage, complete the appropriate part of the medical support notice and return it to the issuing child support agency;

(iii) permit the parent, a child support enforcement agency, or the Department of Health and Mental Hygiene to enroll the child in any health insurance coverage available to the parent without regard to any enrollment season restrictions;

(iv) provide a statement to the support enforcement agency and to both parents that the child:

1. has been enrolled in health insurance coverage;

2. will be enrolled in health insurance coverage and that the expected date of enrollment will be provided; or

3. cannot be enrolled in health insurance coverage; and

(v) provide information to both parents and to the support enforcement agency concerning the available health insurance coverage, including:

1. the employee's Social Security number;

2. the name, address, and telephone number of the insurer;

3. the policy number;

4. the group number;

5. the effective date of coverage; and

6. any schedule of benefits.

(f) On receipt of the order or medical support notice, the employer:

(1) if the employee's child is eligible for health insurance coverage, shall withhold from the employee's next earnings the amount of the employee contribution required to enroll the employee's child;

(2) if the employee's child is not currently eligible for health insurance coverage but will become eligible, shall withhold from the employee's earnings, at the earliest time the employee's child becomes eligible, the amount of the employee contribution required to enroll the employee's child; or

(3) if federal or State withholding limitations or prioritization prevent withholding from the employee's wages the amount required for enrollment, shall complete and send, to the issuing child support agency, the appropriate part of the medical support notice indicating the employee's income is insufficient for enrollment.

(g) (1) To the extent consistent with the federal Consumer Credit Protection Act, the employer shall deduct the premiums for health insurance coverage from the earnings of the employee on a regular and continuing basis and pay the premiums to the insurer.

(2) The employer shall send to the insurer the amount deducted from the employee's earnings each pay period within 10 business days after the day on which the earnings are paid to the employee.

(h) An employer or the child's parents may not disenroll or eliminate coverage for the child in any manner unless:

(1) the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect; or

(ii) the child has been or will be enrolled under other reasonable health insurance coverage, with the coverage to take effect no later than the effective

date of disenrollment;

(2) the employer has eliminated family health coverage for all of its employees; or

(3) the employer no longer employs the parent under whose name the child has been enrolled for coverage except to the extent that if the parent elects to exercise the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) then coverage must be provided for the child consistent with the employer's plan relating to postemployment medical coverage for dependents.

(i) (1) If the health insurance coverage for the child terminates, the employer shall notify the other parent and, if a support enforcement agency is involved in the case, the support enforcement agency within 15 days of termination of the insurance.

(2) If, after a lapse in health insurance coverage, health insurance coverage becomes available to the employee for the child, the employer shall:

(i) enroll the child in health insurance coverage without regard to any enrollment season restrictions; and

(ii) within 15 days after health insurance coverage becomes available, provide notice to the support enforcement agency and the other parent of the enrollment.

(j) Subject to the provisions of this section, the parent or the support enforcement agency may bring a civil action against an employer who willfully violates the provisions of this section.

(k) This section does not limit the authority of a court to enter, modify, or enforce an order requiring payment of uninsured health expenses, health care costs, or health insurance premiums.

(l) An employer may not use the existence of an order or a medical support notice requiring health insurance coverage as a basis for:

(1) reprisal against an employee;

(2) dismissal of an employee from employment; or

(3) refusal to hire a person or to promote an employee.

(m) An order entered under this section is binding on a present and future employer of the parent on whom a copy of this order is served.