

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL NO. 1192

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “of” insert “prohibiting certain entities from refusing to enroll a child because the child is receiving or is eligible to receive certain benefits; requiring certain carriers, within a certain time after receipt of certain medical support notices, to make certain determinations about the medical support notice, make a determination about a child’s eligibility for enrollment in a health insurance plan, enroll an eligible child, and send certain notices and information to certain persons under certain circumstances; requiring certain carriers to enroll certain people without regard to certain enrollment restrictions under certain circumstances; providing that a certain notification requirement may be satisfied by notifying a child’s custodial parent under certain circumstances; requiring an employer to send certain parts of a medical support notice to certain insurers within a certain time period after receipt of a medical support notice; requiring an employer to withhold certain amounts from an employee’s earnings and send the amounts deducted to a certain carrier at certain times under certain circumstances;”; strike beginning with “requiring” in line 11 down through “actions;” in line 28; in line 30, after “terms;” insert “altering a certain definition;”; and after line 31, insert:

“BY renumbering

Article - Family Law

Section 12-102.1

to be Section 12-102.2

Annotated Code of Maryland

(1999 Replacement Volume and 2001 Supplement)

BY repealing and reenacting, with amendments,

Article - Health - General

Section 19-706(h)

Annotated Code of Maryland

(Over)

(2000 Replacement Volume and 2001 Supplement)
BY repealing and reenacting, with amendments,
Article - Insurance
Section 15-405
Annotated Code of Maryland
(1997 Volume and 2001 Supplement)

BY repealing and reenacting, with amendments,
Article - Family Law
Section 12-102
Annotated Code of Maryland
(1999 Replacement Volume and 2001 Supplement)".

On pages 1 and 2, strike in their entirety the lines beginning with line 32 on page 1 through line 8 on page 2, inclusive, and substitute:

"BY adding to
Article - Family Law
Section 12-102.1 and 12-102.3
Annotated Code of Maryland
(1999 Replacement Volume and 2001 Supplement)";

in line 11, strike "12-102(d)(1) and (2) and (i)" and substitute "12-102.2"; after line 13, insert:

"(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That
Section(s) 12-102.1 of Article - Family Law of the Annotated Code of Maryland be renumbered to
be Section(s) 12-102.2.";

in line 14, strike "1." and substitute "2."; and strike beginning with "BE" in line 14 down through "MARYLAND" in line 15 and substitute "AND BE IT FURTHER ENACTED".

AMENDMENT NO. 2

On page 2, after line 15, insert:

"Article - Health - General

19-706.

(h) The provisions of §§ 15-401, 15-402, 15-403, [and] 15-403.1, AND 15-405 of the Insurance Article shall apply to health maintenance organizations.”;

and after line 16, insert:

“15-405.

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

(2) “CARRIER” MEANS:

(I) AN INSURER THAT HOLDS A CERTIFICATE OF AUTHORITY IN THE STATE AND PROVIDES HEALTH INSURANCE IN THE STATE;

(II) A HEALTH MAINTENANCE ORGANIZATION THAT IS LICENSED TO OPERATE IN THE STATE; OR

(III) A NONPROFIT HEALTH SERVICE PLAN THAT IS LICENSED TO OPERATE IN THE STATE.

[(2)] (3) “Health insurance coverage” means health care coverage under which medical care services can be provided to a child.

[(3)] (4) “Insuring parent” means a parent who:

(i) is required under a court or administrative order to provide health insurance coverage for a child; or

(ii) otherwise provides health insurance coverage for a child.

(5) “MEDICAL SUPPORT NOTICE” MEANS A NOTICE THAT IS:

(Over)

(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.

~~[(4)]~~ (6) “Order” means a ruling that:

(i) is issued by a court of this State or another state or an administrative agency of another state; and

(ii) 1. creates or recognizes the right of a child to receive benefits under a parent's health insurance coverage; OR

2. ESTABLISHES A PARENT’S OBLIGATION TO PAY CHILD SUPPORT AND PROVIDE HEALTH INSURANCE COVERAGE FOR A CHILD.

(7) “QUALIFIED MEDICAL SUPPORT ORDER” MEANS A MEDICAL CHILD SUPPORT ORDER ISSUED UNDER STATE LAW THAT COMPLIES WITH § 609(A) OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA).

(b) This section applies to:

(1) [commercial] insurers, nonprofit health service plans, and health maintenance organizations that operate in the State under a certificate of authority;

(2) group health plans, as defined in § 607(1) of the Employee Retirement Income Security Act of 1974 (ERISA); and

(3) persons that offer a service benefit plan, as defined in federal law.

(c) If a parent eligible for family members' coverage is required under an order to provide health insurance coverage for a child, an entity subject to this section:

(1) shall allow the insuring parent to enroll in family members' coverage and include the child in that coverage regardless of enrollment period restrictions;

(2) if the insuring parent is enrolled in health insurance coverage but does not include the child in the enrollment, shall:

(i) allow the noninsuring parent, child support enforcement agency, or Department of Health and Mental Hygiene to apply for enrollment on behalf of the child; and

(ii) include the child in the coverage regardless of enrollment period restrictions; and

(3) may not terminate health insurance coverage for the child unless written evidence is provided to the entity that:

(i) the order is no longer in effect;

(ii) the child has been or will be enrolled under other reasonable health insurance coverage that will take effect on or before the effective date of the termination;

(iii) the employer has eliminated family members' coverage for all of its employees; or

(iv) the employer no longer employs the insuring parent, except that if the parent elects to exercise the provisions of the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), coverage shall be provided for the child consistent with the employer's plan for postemployment health insurance coverage for dependents.

(d) Notwithstanding any other provision of this article, an entity subject to this section may not deny enrollment of a child under the health insurance coverage of an insuring parent because the child:

(1) was born out of wedlock;

(2) is not claimed as a dependent on the insuring parent's federal income tax return; [or]

(3) does not reside with the insuring parent or in the service area of the entity; OR

(4) IS RECEIVING BENEFITS OR IS ELIGIBLE TO RECEIVE BENEFITS UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM.

(e) If a child has health insurance coverage through an insuring parent, an entity subject to this section shall:

(1) provide to the noninsuring parent membership cards, claims forms, and any other information necessary for the child to obtain benefits through the health insurance coverage; and

(2) process the claims forms and make appropriate payment to the noninsuring parent, health care provider, or Department of Health and Mental Hygiene if the noninsuring parent incurs expenses for health care provided to the child.

(F) WITHIN 20 BUSINESS DAYS AFTER RECEIPT OF A MEDICAL SUPPORT NOTICE FROM AN EMPLOYER, THE CARRIER:

(1) SHALL DETERMINE WHETHER THE MEDICAL SUPPORT NOTICE CONTAINS:

(I) THE EMPLOYEE'S NAME AND MAILING ADDRESS; AND

(II) THE CHILD'S NAME AND THE CHILD'S MAILING ADDRESS OR THE ADDRESS OF A SUBSTITUTED OFFICIAL;

(2) IF THE MEDICAL SUPPORT NOTICE DOES NOT CONTAIN THE INFORMATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, SHALL COMPLETE AND FORWARD THE APPROPRIATE PART OF THE MEDICAL SUPPORT NOTICE TO THE ISSUING CHILD SUPPORT ENFORCEMENT AGENCY ADVISING THAT THE MEDICAL SUPPORT NOTICE DOES NOT CONSTITUTE A QUALIFIED MEDICAL CHILD SUPPORT ORDER; AND

(3) IF THE MEDICAL SUPPORT NOTICE CONTAINS THE INFORMATION DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION, SHALL COMPLY WITH THE FOLLOWING REQUIREMENTS:

(I) DETERMINE THE CHILD'S ELIGIBILITY FOR ENROLLMENT;

(II) COMPLETE AND SEND THE APPROPRIATE PART OF THE MEDICAL SUPPORT NOTICE TO THE EMPLOYER AND THE CHILD SUPPORT ENFORCEMENT ADMINISTRATION;

(III) ENROLL THE CHILD IF THE CHILD IS ELIGIBLE FOR ENROLLMENT, SUBJECT TO SUBSECTION (G) OF THIS SECTION;

(IV) SEND TO THE EMPLOYEE, CHILD, AND CUSTODIAL PARENT OF THE CHILD A WRITTEN NOTICE THAT EXPLAINS THAT THE COVERAGE OF THE CHILD IS OR WILL BECOME AVAILABLE TO THE CHILD; AND

(V) SEND TO THE CUSTODIAL PARENT OF THE CHILD A WRITTEN DESCRIPTION OF:

1. THE HEALTH INSURANCE COVERAGE;

2. THE EFFECTIVE DATE OF COVERAGE;

3. THE EMPLOYEE'S COST FOR THE HEALTH INSURANCE COVERAGE; AND

4. IF NOT ALREADY PROVIDED:

A. A SUMMARY PLAN DESCRIPTION;

B. ANY FORMS, DOCUMENTS, OR INFORMATION

(Over)

NECESSARY TO EFFECTUATE COVERAGE; AND

C. ANY INFORMATION NECESSARY TO SUBMIT CLAIMS FOR BENEFITS.

(G) IF THE EMPLOYEE'S ELIGIBILITY FOR HEALTH INSURANCE COVERAGE IS SUBJECT TO A WAITING PERIOD THAT HAS NOT BEEN COMPLETED, THE CARRIER:

(1) SHALL COMPLETE AND SEND THE APPROPRIATE PART OF THE MEDICAL SUPPORT NOTICE TO THE EMPLOYER AND THE ISSUING CHILD SUPPORT AGENCY WITHIN 20 BUSINESS DAYS AFTER RECEIPT OF THE MEDICAL SUPPORT NOTICE FROM THE EMPLOYER; AND

(2) ON THE EMPLOYEE'S SATISFACTION OF THE WAITING PERIOD, SHALL COMPLETE ENROLLMENT OF THE CHILD IN ACCORDANCE WITH THIS SECTION AND SEND THE NOTICE AND INFORMATION REQUIRED UNDER SUBSECTION (F)(3) OF THIS SECTION.

(H) IF THE EMPLOYEE'S HEALTH INSURANCE PLAN REQUIRES THAT THE EMPLOYEE BE ENROLLED IN ORDER FOR THE CHILD TO BE ENROLLED AND THE EMPLOYEE IS NOT CURRENTLY ENROLLED, THE CARRIER SHALL ENROLL BOTH THE EMPLOYEE AND THE CHILD, WITHOUT REGARD TO ENROLLMENT PERIOD RESTRICTIONS, WITHIN THE TIME PERIOD SPECIFIED IN SUBSECTION (F) OF THIS SECTION.

(I) IF A CHILD IS ELIGIBLE FOR ENROLLMENT, THE CARRIER SHALL COMPLETE THE ENROLLMENT WITHOUT REGARD TO ENROLLMENT PERIOD RESTRICTIONS, WITHIN THE TIME PERIODS SPECIFIED IN SUBSECTIONS (F) AND (G) OF THIS SECTION.

(J) THE REQUIREMENT FOR NOTIFICATION OF THE CHILD UNDER SUBSECTION (F)(3)(IV) OF THIS SECTION MAY BE SATISFIED BY NOTIFYING THE CUSTODIAL PARENT IF THE CHILD AND THE CUSTODIAL PARENT LIVE AT THE SAME ADDRESS."

AMENDMENT NO. 3

On page 2, strike in their entirety lines 17 through 33, inclusive; after line 33, insert:

“Article - Family Law

12-102.

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

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

(3) “Insurer” means:

(i) [a commercial] 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.”;

and in line 34, strike “(E)” and substitute “(4)”.

On page 3, in lines 1, 2, and 4, strike “(1)”,”(2)”, and “(F)”, respectively, and substitute “(I)”, “(II)”, and “(5)”, respectively; in line 4, strike “THE FAMILY LAW” and substitute “THIS”; after line 5, insert:

“(b) 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:

(Over)

(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) 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.

(d) (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 certified mail, return receipt requested, separate from or in conjunction with an earnings withholding order, as provided in § 10-123 of this article.

(2) [On] 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;

[(i)] (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;

[(ii)] (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

[(iii)] (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.

[(3) The employer shall deduct the premiums for the health insurance coverage from the earnings of the employee and pay the premiums to the insurer to the extent consistent with federal law.]

(E) 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.

(F) (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.

[(e)] (G) 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.

[(f)] (H) (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.

[(g)] (I) 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.

[(h)] (J) 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.

[(i)] (K) An employer may not use the existence of an order OR A MEDICAL SUPPORT NOTICE requiring health insurance coverage as a basis for:

(Over)

- (1) reprisal against an employee;
- (2) dismissal of an employee from employment; or
- (3) refusal to hire a person or to promote an employee.

~~[(j)]~~ (L) 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.”;

in line 6, strike “15-4A-02.” and substitute “12-102.1.”; and in lines 9, 13, and 26, in each instance, strike “TRIBUNAL” and substitute “CIRCUIT COURT OF THIS STATE OR TRIBUNAL OF ANOTHER JURISDICTION”.

On page 4, in line 5, strike “OR CRIMINAL”.

On pages 4 through 8, strike in their entirety the lines beginning with line 27 on page 4 through line 19 on page 8, inclusive.

AMENDMENT NO. 4

On page 8, after line 19, insert:

“12-102.2.

An administrative order OR A MEDICAL SUPPORT NOTICE for health insurance coverage issued in any other state or territory will be enforced to the same extent in a proceeding under this subtitle as an order OR A MEDICAL SUPPORT NOTICE for health insurance coverage issued [by a court] in this State.”;

in line 20, strike “12-102.2.” and substitute “12-102.3.”; in line 21, after “(A)” insert “(1)”; in the same line, after “TO” insert “ADMINISTRATIVE”; in line 23, strike “TITLE 15, SUBTITLE 4A OF THE INSURANCE ARTICLE” and substitute “THIS TITLE”; and after line 23, insert:

“(2) NOTHING IN THIS SECTION MAY BE CONSTRUED TO LIMIT AN EMPLOYEE’S RIGHT TO JUDICIALLY CONTEST AN UNDERLYING COURT ORDER

REQUIRING THE EMPLOYEE TO PROVIDE HEALTH INSURANCE COVERAGE FOR THE
EMPLOYEE'S CHILD".

On page 10, in line 4, strike "2." and substitute "3.".