

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE
Revised

House Bill 1192
 Economic Matters

(Delegate Hubbard)

Finance

Health Insurance - Coverage Under Medical Support Notices

This bill sets forth procedures for providing health insurance to children who are not adequately insured, although a noncustodial parent may be eligible for or covered by a health insurance plan. The bill requires the Child Support Enforcement Administration (CSEA) to issue a notice in a format prescribed by federal law to enforce the health insurance coverage provisions of a child support order. The bill is effective July 1, 2002.

Fiscal Summary

State Effect: In FY 2003, federal fund expenditures increase by \$35,800 and general fund expenditures increase by \$18,400 for computer reprogramming and mailing costs. Out-years reflect annualization and inflation. Potential cost savings (general fund/federal fund) for the Maryland Children’s Health Program.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	18,400	6,500	6,600	6,600	6,700
FF Expenditure	35,800	12,700	12,800	12,900	13,000
Net Effect	(\$54,200)	(\$19,200)	(\$19,400)	(\$19,500)	(\$19,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A medical support notice may be issued by CSEA if a circuit court or out-of-state tribunal has ordered a parent to include a child in the parent's health insurance coverage. In all child support cases enforced by CSEA, CSEA must issue a medical support notice in which a noncustodial parent's employer is known and a court or out-of-state tribunal has ordered a parent to include the child in the parent's health insurance coverage, unless the order provides for alternative health insurance coverage. A "medical support notice" is a form in a format prescribed by federal law and issued by a child support agency to enforce the health insurance coverage provisions of a child support order. It must be a separate document not attached to any other orders or pleadings and include information specified in the bill.

A properly completed medical support notice that satisfies conditions set forth in the Employee Retirement Income Security Act of 1974 (ERISA) must be treated as a qualified medical child support order by a carrier. It must have the same force and effect and be enforceable in the same manner as a qualified medical child support order. An administrative order or medical support notice issued in another state must be enforced in the same manner as a medical support notice issued in Maryland.

If a court orders a parent to provide health insurance coverage, the parent or CSEA must send a copy of the order or medical support notice to the parent's employer by certified mail, return receipt requested. Within 20 business days after receipt of the order or medical support notice, an employer must send appropriate notice to the employer's insurance carrier. However, if the employer determines that, based on the employee's status, the employee's child is ineligible for health insurance coverage, the proper part of the form must be returned to CSEA with that notification.

If the employee's child is eligible for health insurance coverage, then the employer must withhold from the employee's next earnings the amount of contribution required to enroll the child. Premiums must be deducted in compliance with federal law. The employer must deduct the premiums on a regular basis and send them to the carrier within ten business days after the day the earnings are paid to the employee. If the employee's child is not currently eligible, then the employer must withhold the required contribution at the earliest time that the child does become eligible.

If federal or state withholding limitations or prioritization prevent withholding the enrollment amount from the employee's wages, then the employer must send to CSEA the proper part of the medical support notice indicating that the employee's income is insufficient for health insurance enrollment.

Within 20 business days after receipt of a medical support notice from an employer, the carrier must determine whether the medical support notice contains required information to determine eligibility. If the form does not contain that information, then the proper part of the medical support notice must be returned to CSEA indicating that the form does not constitute a qualified medical child support order. If the medical support notice does contain the necessary information, the carrier must determine the child's eligibility and if eligible, enroll the child. Written notification of eligibility must be sent to the employee, the child, and the child's custodian. Notice to the child may be satisfied by notifying the custodial parent if the child and custodial parent reside at the same address. If there is a waiting period for enrollment, the carrier is required to complete the necessary part of the medical support notice and complete enrollment as soon as the waiting period is satisfied.

If the employee's health insurance plan requires the employee to be enrolled for the child to be enrolled, then the carrier must enroll the employee and the child. Enrollment must be completed without regard to open season restrictions. Carriers are prohibited from refusing to enroll a child for specified reasons.

An employee may contest the withholding of income through administrative procedures, but only due to mistake of fact. The only issues that may be contested are the employee's identity, whether there is a court order requiring health insurance coverage for the child, that the amount withheld exceeds federal standards, or that the child is emancipated. An employee must submit a written request for an investigation to CSEA within 15 days after receiving notice of the withholding from the employer. Upon receiving the request, CSEA must conduct an investigation within 15 days after the request. The employee must be notified of the results and informed of the right to appeal the decision to the Office of Administrative Hearings (OAH). An employee must submit a written request for an appeal to OAH within 15 days after receiving the written results of CSEA's investigation. In the administrative hearing, only the mistake of fact issues that were appropriate for the CSEA investigation may be contested at the OAH hearing. While an investigation or appeal are pending, the enrollment of the employee's child may not be postponed until the employer receives written notice that the contest of withholding was resolved in the employee's favor. An employee's right to judicially contest a court order requiring health insurance coverage for a child is not limited by the administrative hearing provisions.

Current Law: If a court orders a parent to provide health insurance coverage, the parent must send a copy of the order to the employer by certified mail with return receipt requested. It may be separate from or in conjunction with an earnings withholding order.

Upon receipt, the employer must permit the parent, CSEA, or the Department of Health and Mental Hygiene to enroll the child in any health insurance coverage available to the parent without regard to open season restrictions. The employer must provide a statement to CSEA and both parents that the child has been enrolled in health insurance, or the expected date of enrollment if coverage has not yet occurred, or that the child cannot be enrolled in the health insurance plan. An employer is prohibited from using the existence of an order to take reprisal action against an employee or potential employee.

Background: The Office of the Attorney General (OAG) has advised CSEA that legislation must be developed to comply with requirements in the federal Child Support Performance and Incentive Act of 1998 (CSPIA). This law mandates child support enforcement agencies to enforce orders for health insurance coverage through the use of the “national medical support notice.” This legislation allows orders for health insurance to be accepted as qualified medical child support orders under the federal ERISA. CSPIA amended ERISA in connection with group health plans so that an employer is only required to notify an insurance carrier of a health insurance order upon receipt of the national medical support notice. CSPIA requirements became effective on October 1, 2001. However, the OAG advises that State law changes must be enacted during the first legislative session after October 1, 2001. CSEA could be penalized some portion of federal funding for its programs if its State plan does not conform to requirements mandated in federal law.

State Expenditures: DHR’s computer programming system will need modifications to accommodate the changes required by this bill at a cost of \$40,000 in fiscal 2003.

DHR advises that required notifications are already being sent in existing cases. The agency anticipates sending notices in 105,444 estimated new cases. Fiscal 2003 mailing costs would be \$14,235, accounting for the October 1, 2002 effective date of the bill.

Future years are adjusted for annualization and inflation. A 66% federal fund, 34% general fund expenditure mix is assumed.

This bill could allow the Medical Assistance Program to avoid paying for costs associated with the enrollment of employees’ children in the Maryland Children’s Health Program. The number of children that have to be enrolled in Medicaid could also be reduced. Any such savings cannot be reliably estimated at this time.

Small Business Effect: It is possible that small businesses with group health plans that do not need to acknowledge existing medical support orders from DHR will have to spend significant resources to comply with notification requirements of the bill.

Subsidization of new children enrolled in health insurance plans, who are not now enrolled, could require significant financial resources for small businesses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Department of Health and Mental Hygiene, Department of Legislative Services

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