

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 635
Judiciary

(Delegate Dumais)

Child Support - Extraordinary Medical Expenses

This bill alters the definition of “extraordinary medical expenses” to mean the uninsured costs for medical treatment in excess of \$250 in a calendar year. The bill specifies that “extraordinary medical expenses” includes medically necessary medical, dental, and vision care as defined by Internal Revenue Service Publication 502.

The bill applies only to extraordinary medical expenses incurred on or after the bill’s effective date of October 1, 2011.

Fiscal Summary

State Effect: It is expected that the bill’s changes can be implemented with existing resources.

Local Effect: It is expected that the circuit courts can implement the bill’s changes with existing resources.

Small Business Effect: None.

Analysis

Current Law: “Extraordinary medical expenses” means uninsured expenses over \$100 for a single illness or condition and includes uninsured, reasonable, and necessary costs for orthodontia, dental treatment, asthma treatment, physical therapy, treatment for any chronic health problem, and professional counseling or psychiatric therapy for diagnosed mental disorders.

The Internal Revenue Service Publication 502 defines medical expenses as:

...the costs of diagnosis, cure, mitigation, treatment, or prevention of disease, and the costs for treatments affecting any part or function of the body. These expenses include payments for legal medical services rendered by physicians, surgeons, dentists, and other medical practitioners. They include the costs of equipment, supplies, and diagnostic devices needed for these purposes. Medical care expenses must be primarily to alleviate or prevent a physical or mental defect or illness. They do not include expenses that are merely beneficial to general health, such as vitamins or a vacation.

Allowable dental expenses include fees paid to dentists for x-rays, fillings, braces, extractions, dentures, etc. Fees paid for eyeglasses and contact lenses needed for medical reasons are also included.

Any actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible and extraordinary medical expenses incurred on behalf of a child must be added to the basic child support obligation and divided by the parents in proportion to their actual adjusted incomes.

Except in cases of shared physical custody, each parent's support obligation must be determined by adding each parent's respective share of the child support obligation, work-related child care expenses, health insurance expenses, extraordinary medical expenses, and specified additional expenses. The obligee parent is presumed to spend that parent's total child support obligation directly on the child or children. The obligation owed by the obligor parent must be adjusted by any ordered payments for work-related child care expenses, health insurance expenses, extraordinary medical expenses, or specified additional expenses.

In cases of shared physical custody, the adjusted basic child support obligation must first be divided between the parents in proportion to their respective adjusted actual incomes. That share of the adjusted basic child support obligation must then be multiplied by the percentage of time the child or children spend with the other parent to determine the theoretical basic child support obligation owed to the other parent. In addition, any work-related child care expenses, extraordinary medical expenses, health insurance expenses, or other specified additional expenses incurred by either parent must be divided between the parents in proportion to their respective adjusted actual incomes. The parent not incurring the expense must pay that proportionate share to either the parent incurring the expense or the provider directly, as specified in statute. The amount owed under shared physical custody circumstances may not exceed the amount that would be owed if the parent was an obligor.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Comptroller's Office, Judiciary (Administrative Office of the Courts), Internal Revenue Service, Department of Legislative Services

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mc/kdm

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