

AN ACT

RELATING TO CHILD SUPPORT; REQUIRING HEALTH CARE COVERAGE IN CHILD
SUPPORT ORDERS AND THE USE OF THE NATIONAL MEDICAL SUPPORT NOTICE;
DECLARING AN EMERGENCY.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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Section 1. Section 40-4C-1 NMSA 1978 (being Laws 1990, Chapter 78,
Section 1) is amended to read:

"40-4C-1. SHORT TITLE.--Chapter 40, Article 4C NMSA 1978 may be cited as
the "Mandatory Medical Support Act"."

Section 2. Section 40-4C-2 NMSA 1978 (being Laws 1990, Chapter 78,
Section 2) is amended to read:

"40-4C-2. PURPOSE.--To assure that children have access to quality medical
care, it is the purpose of the Mandatory Medical Support Act to require parents
responsible for the support of minor children to provide or purchase health insurance
and dental insurance coverage for those children when such coverage is available."

Section 3. Section 40-4C-3 NMSA 1978 (being Laws 1990, Chapter 78,
Section 3, as amended) is amended to read:

"40-4C-3. DEFINITIONS.--As used in the Mandatory Medical Support Act:

- A. "court" means any district court ordering child support of an obligor;
- B. "dental insurance coverage" means those coverages generally
associated with a dental plan of benefits, not including medicaid coverage authorized
by Title 19 of the Social Security Act and administered by the department;
- C. "department" means the human services department;

D. "employer" means an individual, organization, agency, business or corporation hiring an obligor for pay;

E. "health insurance coverage" means those coverages generally associated with a medical plan of benefits, not including medicaid coverage authorized by Title 19 of the Social Security Act and administered by the department;

F. "insurer" means an employment-related or other group health care insurance plan, a health maintenance organization, a nonprofit health care plan or other type of health care insurance plan under which medical or dental services are provided, regardless of service delivery mechanism;

G. "minor child" means a child younger than eighteen years of age who has not been emancipated;

H. "national medical support notice" means a court-ordered notice to an employer that an employee's child must be covered by the employment-related group health care insurance plan;

I. "obligee" means a person to whom a duty of support is owed or a person, including the department, who has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order, regardless of whether the person to whom a duty of support is owed is a recipient of public assistance; and

J. "obligor" means a person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or for registration of a support order is commenced."

Section 4. Section 40-4C-4 NMSA 1978 (being Laws 1990, Chapter 78, Section 4) is amended to read:

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"40-4C-4. MEDICAL SUPPORT--ORDER.--

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A. The court shall order an obligor to name the minor child on behalf of whom support is owed as an eligible dependent of health insurance coverage or dental insurance coverage if:

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(1) health insurance coverage or dental insurance coverage that meets or exceeds the minimum standards required under the Mandatory Medical Support Act is not available at a more reasonable cost to the obligee than to the obligor for coverage of the minor child; and

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(2) such health insurance coverage or dental insurance coverage is available to the obligor through an employment-related or other group health care insurance plan.

B. The court may consider the impact of the cost of health insurance coverage or dental insurance coverage on the payment of the base child support amounts in determining whether such insurance coverage shall be ordered.

C. The court may order the obligor to obtain health insurance coverage or dental insurance coverage for any minor child to whom support is owed, if:

(1) the court finds that health insurance coverage or dental insurance coverage for the minor child is not available to the obligor through an employment-related or other group health care insurance plan; and

(2) the obligee does not have such health insurance coverage or dental insurance coverage available at a more reasonable cost than the obligor for coverage of the minor child.

D. The court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the minor child that are not covered by the required

health insurance coverage or dental insurance coverage, if:

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(1) the court finds that the health insurance coverage or dental insurance coverage required to be obtained by the obligor or available to the obligee does not pay all the reasonable and necessary medical or dental expenses of the minor child; and

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(2) the court finds that the obligor has the financial resources to contribute to the payment of these medical or dental expenses.

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E. The court shall require the obligor to provide health insurance coverage or dental insurance coverage for the benefit of the obligee if it is available at no additional cost to the obligor.

F. The court in any proceeding for the establishment, enforcement or modification of a child support obligation may modify an existing order of support or establish child support, as applicable, for the minor child to incorporate the provisions for medical support ordered pursuant to the Mandatory Medical Support Act."

Section 5. Section 40-4C-6 NMSA 1978 (being Laws 1990, Chapter 78, Section 6, as amended) is amended to read:

"40-4C-6. OBLIGATIONS--EMPLOYERS, UNIONS AND INSURERS--PLAN.--

A. Upon receipt of a national medical support notice or the court order for health insurance coverage or dental insurance coverage pursuant to Section 40-4C-5 NMSA 1978 or upon application of the obligor pursuant to the court order, the employer or union shall enroll the minor child as an eligible dependent in the health insurance plan or dental insurance plan and withhold any required premium from the obligor's income or wages. If more than one health insurance plan or dental insurance plan is offered by the employer, union or insurer, the minor child shall be enrolled in

the plan in which the obligor is enrolled. If the obligor is not enrolled in a plan, the child shall be enrolled in a plan that meets the minimum coverage criteria required pursuant to the Mandatory Medical Support Act. If the obligor is not enrolled in a plan, the premiums charged for the child or children of the obligor shall be those charged for the enrollment of the obligor only.

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B. In any instance in which the obligor is required by a court order to provide health insurance coverage or dental insurance coverage for the minor child and the obligor is eligible for health insurance coverage or dental insurance coverage through an employment-related or other group health care insurance plan, the employer, union or insurer shall do the following:

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(1) permit the obligor to enroll for health insurance coverage or dental insurance coverage the minor child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(2) enroll the minor child for health insurance coverage or dental insurance coverage if the obligor fails to enroll the minor child upon application by the obligee or the department;

(3) not disenroll or eliminate coverage of any minor child so enrolled unless:

(a) the employer is provided with satisfactory written evidence that the court order is no longer in effect;

(b) the minor child is or will be enrolled in comparable health coverage that meets the coverage criteria required pursuant to the Mandatory Medical Support Act and that will take effect not later than the effective date of the disenrollment;

(c) the obligor has terminated employment; or
(d) the employer has eliminated health insurance coverage or dental insurance coverage for all of its employees; and
(4) withhold from the obligor's compensation the obligor's share, if any, of premiums for health insurance coverage or dental insurance coverage and to pay the share of premiums to the insurer, unless otherwise provided in law or regulation.

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C. In those instances where the obligor fails or refuses to execute any document necessary to enroll the minor child in the health insurance plan or dental insurance plan ordered by the court, the required information and authorization may be provided by the department or the custodial parent or guardian of the minor child.

D. Information and authorization provided by the department or the custodial parent or guardian of the minor child shall be valid for the purpose of meeting enrollment requirements of the health insurance plan or dental insurance plan and shall not affect the obligation of the employer or union and the insurer to enroll the minor child in

the health insurance plan or dental insurance plan for which other eligibility, enrollment, underwriting terms and other requirements are met. In instances in which the minor child is insured through the obligor, the insurer shall provide all information to the obligee that may be helpful or necessary for the minor child to obtain benefits.

E. A minor child that an obligor is required to cover as an eligible dependent pursuant to the Mandatory Medical Support Act shall be considered for insurance coverage purposes as a dependent of the obligor until the child is emancipated or until further order of the court.

F. In instances in which the minor child is insured through the obligor, the insurer is prohibited from denying health insurance coverage or dental insurance coverage of the minor child on the grounds that the minor child was born out of wedlock, that the minor child is not claimed as a dependent on the obligor's federal income tax return or that the minor child does not reside with the obligor or reside in the insurer's service area.

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G. In instances in which the minor child is insured through the obligor, the insurer is prohibited from imposing requirements on the department that are different from requirements applicable to an agent or assignee of any other individual covered by the insurer.

H. In instances in which the minor child is insured through the obligor, the insurer shall permit the obligee or health care provider, with the approval of the obligee, to submit claims for covered services without the approval of the obligor. The insurer shall make payments on submitted claims directly to the obligee or the health care provider.

I. When the obligor is terminated, the employer shall notify the department of the termination."

Section 6. Section 40-4C-9 NMSA 1978 (being Laws 1990, Chapter 78, Section 9) is amended to read:

"40-4C-9. AUTHORIZATION FOR CLAIMS.--The signature of the custodial parent of the minor child insured pursuant to a court order or a directive issued by the department is a valid authorization to the health insurer or dental insurer for purposes of processing an insurance reimbursement payment."

Section 7. Section 40-4C-10 NMSA 1978 (being Laws 1990, Chapter 78,

Section 10) is amended to read:

"40-4C-10. EMPLOYER, UNION OR INSURER NOTICE.--When an order for health insurance coverage or dental insurance coverage pursuant to the Mandatory Medical Support Act is in effect, upon termination of the obligor's employment or upon termination of the insurance coverage, the employer, union or insurer shall make a good faith effort to notify the obligee within ten days of the termination date with notice of conversion privileges."

Section 8. Section 40-4C-11 NMSA 1978 (being Laws 1990, Chapter 78, Section 11) is amended to read:

"40-4C-11. RELEASE OF INFORMATION.--When an order for health insurance coverage or dental insurance coverage pursuant to the Mandatory Medical Support Act is in effect, the obligor's employer, union or insurer shall release to the obligee, upon request, information on such coverage, including the name of the insurer."

Section 9. Section 40-4C-12 NMSA 1978 (being Laws 1990, Chapter 78, Section 12, as amended) is amended to read:

"40-4C-12. OBLIGOR LIABILITY.--

A. An obligor who fails to maintain the health insurance coverage or dental insurance coverage for the benefit of a minor child as ordered pursuant to the Mandatory Medical Support Act shall be liable to the obligee for any medical and dental expenses incurred from the date of the court order.

B. An obligor who receives payment from a third party for the costs of medical or dental services provided to a minor child and who fails to use the payment to reimburse the department is liable to the department to the extent of the

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department's payment for the services. The department is authorized to intercept the obligor's tax refund or use other means of enforcement available to the department to recoup amounts paid. Claims for current or past due child support take priority over any claims made pursuant to this subsection. Proof of failure to maintain health insurance coverage or dental insurance coverage as ordered constitutes a showing of increased need by the obligee and provides a basis for modification of the obligor's child support order.

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C. An obligor is required to provide the department with the following information concerning health insurance coverage or dental insurance coverage:

- (1) obligor's name and tax identification number;
- (2) type of coverage (single or family);
- (3) name, address and identifying number of health insurance coverage or dental insurance coverage;
- (4) name and tax identification number of other individuals who are provided health insurance coverage or dental insurance coverage by the obligor;
- (5) effective period of coverage; and
- (6) name, address and the tax identification number of the employer."

Section 10. Section 40-4C-13 NMSA 1978 (being Laws 1990, Chapter 78, Section 13, as amended) is amended to read:

"40-4C-13. DEPARTMENT--DUTIES.--The department shall implement and enforce an order for health insurance coverage or dental insurance coverage when the minor child receives public assistance or medicaid or upon application of the obligee to the department and payment by the obligee of any fees required by the

department."

Section 11. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.