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AN ACT

RELATING TO CHILD SUPPORT; REQUIRING CERTAIN PARENTS TO
PROVIDE HEALTH INSURANCE.

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

Section 1. Section 27-1-14 NMSA 1978 (being Laws 1997,
Chapter 237, Section 34) is amended to read:

"27-1-14. ENFORCEMENT OF ORDERS FOR HEALTH CARE.--

A. All Title IV-D agency cases shall include a
provision for the health care coverage of each child. In the
case in which a medical support obligor parent provides such
coverage and changes employment and the new employer provides
such coverage, the state Title IV-D agency shall transfer
notice of the provision to the employer, which notice shall
operate to enroll each child in the medical support obligor's
health plan unless the medical support obligor successfully
contests the notice.

B. For purposes of this section, "medical support
obligor" means a person owing a duty to provide health
support, or against whom a proceeding for the enforcement of
such a duty of support is commenced or for registration of a
support order that includes provisions for such support for
each minor child."

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

1 "40-4C-2. PURPOSE.--To ensure that children have access
2 to quality medical care, it is the purpose of the Mandatory
3 Medical Support Act to require parents to provide or purchase
4 health insurance coverage for their minor children when such
5 coverage is available."

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

8 "40-4C-3. DEFINITIONS.--As used in the Mandatory
9 Medical Support Act:

10 A. "court" means any district court ordering
11 support by a medical support obligor;

12 B. "department" means the human services
13 department;

14 C. "employer" means an individual, organization,
15 agency, business or corporation hiring a medical support
16 obligor for pay;

17 D. "health insurance coverage" means those
18 coverages generally associated with a medical plan of
19 benefits, which may include dental insurance, but not
20 including medicaid coverage authorized by Title 19 of the
21 Social Security Act and administered by the department;

22 E. "insurer" means an employment-related or other
23 group health care insurance plan, a health maintenance
24 organization, a nonprofit health care plan or other type of
25 health care insurance plan under which medical or dental

1 services are provided, regardless of service delivery
2 mechanism;

3 F. "medical support obligee" means a person to
4 whom a duty of medical support is owed or a person, including
5 the department, who has commenced a proceeding for
6 enforcement of a duty to provide health support for each
7 minor child or for registration of a support order that
8 includes a provision for such support for each minor child;

9 G. "medical support obligor" means a person owing
10 a duty to provide health support or against whom a proceeding
11 for the enforcement of such a duty of support is commenced or
12 for registration of a support order that includes provisions
13 for such support for each minor child;

14 H. "minor child" means a child younger than
15 eighteen years of age who has not been emancipated; and

16 I. "national medical support notice" means a
17 notice to an employer that an employee's child must be
18 covered by the employment-related group health and dental
19 care insurance plan pursuant to a court order."

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

22 "40-4C-4. MEDICAL SUPPORT--ORDER.--

23 A. The court shall determine a parent or both
24 parents to be a medical support obligor based on the
25 following:

1 (1) the availability of health insurance
2 coverage that meets or exceeds the minimum standards required
3 under the Mandatory Medical Support Act; and

4 (2) the availability of health insurance
5 coverage through an employment-related or other group health
6 and dental care insurance plan.

7 B. When a medical support obligor is ordered to
8 provide health insurance coverage, the medical support
9 obligor shall properly name each minor child on behalf of
10 whom support is owed as an eligible dependent on such
11 insurance.

12 C. The court may consider the impact of the cost
13 of health insurance coverage on the payment of the base child
14 support amounts in determining whether such insurance
15 coverage shall be ordered.

16 D. The court may order the medical support obligor
17 to obtain health insurance coverage for each minor child to
18 whom support is owed if the court finds that health insurance
19 coverage for each minor child is not available to the medical
20 support obligor through an employment-related or other group
21 health care insurance plan.

22 E. The court shall require the medical support
23 obligor to be liable for all or a portion of the medical and
24 dental expenses of each minor child that are not covered by
25 the required health insurance coverage if:

1 (1) the court finds that the health
2 insurance coverage required to be obtained by a medical
3 support obligor does not pay all the reasonable and necessary
4 medical or dental expenses of each minor child; and

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

8 F. The court shall require the medical support
9 obligor to provide health insurance coverage or dental
10 insurance coverage for the benefit of the medical support
11 obligee if it is available at no additional cost to the
12 medical support obligor.

13 G. The court in any proceeding for the
14 establishment, enforcement or modification of a child support
15 obligation may modify an existing order of support or
16 establish child support, as applicable, for each minor child
17 to incorporate the provisions for medical and dental support
18 ordered pursuant to the Mandatory Medical Support Act."

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

21 "40-4C-5. ORDER--PROOF OF COMPLIANCE--NOTICE.--

22 A. The medical support obligor shall provide to
23 the medical support obligee within thirty days of receipt of
24 effective notice of a court order for health insurance
25 coverage pursuant to the Mandatory Medical Support Act

1 written proof of the medical support obligor's compliance
2 with that order. Compliance means either that the health
3 insurance coverage has been obtained or that a correct and
4 complete application for such coverage has been made.

5 B. The medical support obligee shall forward a
6 copy of the court order for health insurance coverage issued
7 pursuant to the Mandatory Medical Support Act to the medical
8 support obligor's employer or union only when ordered to do
9 so by the court or when:

10 (1) the medical support obligor fails to
11 provide written proof of compliance with the court order to
12 the medical support obligee within thirty days of the medical
13 support obligor's receipt of effective written notice of the
14 court order;

15 (2) the medical support obligee serves by
16 mail at the medical support obligor's last known post office
17 address written notice on the medical support obligor of the
18 medical support obligee's intent to enforce the order; and

19 (3) the medical support obligor fails to
20 provide within fifteen days after the date the medical
21 support obligee mailed the notice in Paragraph (2) of this
22 subsection written proof to the medical support obligee that
23 the medical support obligor has obtained the health insurance
24 coverage ordered by the court or has applied for such
25 coverage.

1 C. Upon receipt of a court order for health
2 insurance coverage pursuant to the Mandatory Medical Support
3 Act, the employer or union shall forward a copy of the order
4 to the health insurer or dental insurer, as applicable."

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

7 "40-4C-6. OBLIGATIONS--EMPLOYERS, UNIONS AND INSURERS--
8 PLAN.--

9 A. Upon receipt of a national medical support
10 notice or the court order for health insurance coverage
11 pursuant to Section 40-4C-5 NMSA 1978 or upon application of
12 the medical support obligor pursuant to the court order, the
13 employer or union shall enroll the minor child as an eligible
14 dependent in the health insurance plan and withhold any
15 required premium from the medical support obligor's income or
16 wages. If more than one health and dental insurance plan is
17 offered by the employer, union or insurer, the minor child
18 shall be enrolled in the plan in which the medical support
19 obligor is enrolled. If the medical support obligor is not
20 enrolled in a plan, the child shall be enrolled in a plan
21 that meets the minimum coverage criteria required pursuant to
22 the Mandatory Medical Support Act. If the medical support
23 obligor is not enrolled in a plan, the premiums charged for
24 the child or children of the medical support obligor shall be
25 those charged for the enrollment of the medical support

1 obligor only.

2 B. In any instance in which the medical support
3 obligor is required by a court order to provide health
4 insurance coverage for each minor child and the medical
5 support obligor is eligible for health insurance coverage
6 through an employment-related or other group health care
7 insurance plan, the employer, union or insurer shall do the
8 following:

9 (1) permit the medical support obligor to
10 enroll for health insurance coverage each minor child who is
11 otherwise eligible for coverage without regard to any
12 enrollment season restrictions;

13 (2) enroll each minor child for health
14 insurance coverage if the medical support obligor fails to
15 enroll each minor child upon application by the medical
16 support obligee or the department;

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

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

22 (b) the minor child is or will be
23 enrolled in comparable health coverage that meets the
24 coverage criteria required pursuant to the Mandatory Medical
25 Support Act and that will take effect not later than the

1 effective date of the disenrollment;

2 (c) the medical support obligor has
3 terminated employment; or

4 (d) the employer has eliminated health
5 insurance coverage for all of its employees; and

6 (4) withhold from the medical support
7 obligor's compensation the medical support obligor's share,
8 if any, of premiums for health insurance coverage and to pay
9 the share of premiums to the insurer, unless otherwise
10 provided in law or regulation.

11 C. In those instances in which the medical support
12 obligor fails or refuses to execute any document necessary to
13 enroll a minor child in a health insurance plan ordered by
14 the court, the required information and authorization may be
15 provided by the department or the custodial parent or
16 guardian of the minor child.

17 D. Information and authorization provided by the
18 department or the custodial parent or guardian of a minor
19 child shall be valid for the purpose of meeting enrollment
20 requirements of the health insurance plan and shall not
21 affect the obligation of the employer or union and the
22 insurer to enroll the minor child in the health insurance
23 plan for which other eligibility, enrollment, underwriting
24 terms and other requirements are met. In instances in which
25 a minor child is insured through the medical support obligor,

1 the insurer shall provide all information to the medical
2 support obligee that may be helpful or necessary for the
3 minor child to obtain benefits.

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

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

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

23 H. In instances in which a minor child is insured
24 through a medical support obligor who is a noncustodial
25 parent, the insurer shall permit the custodial parent or

1 health care provider, with the approval of the custodial
2 parent, to submit claims for covered services without the
3 approval of the medical support obligor. The insurer shall
4 make payments on submitted claims directly to the custodial
5 parent or the health care provider.

6 I. If the medical support obligor is terminated,
7 the employer shall notify the department of the termination."

8 Section 7. Section 40-4C-10 NMSA 1978 (being Laws 1990,
9 Chapter 78, Section 10, as amended) is amended to read:

10 "40-4C-10. EMPLOYER, UNION OR INSURER NOTICE.--When an
11 order for health insurance coverage pursuant to the Mandatory
12 Medical Support Act is in effect, upon termination of the
13 medical support obligor's employment or upon termination of
14 the insurance coverage, the employer, union or insurer shall
15 make a good faith effort to notify the department and the
16 other parent within ten days of the termination date with
17 notice of conversion privileges."

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

20 "40-4C-11. RELEASE OF INFORMATION.--When an order for
21 health insurance coverage pursuant to the Mandatory Medical
22 Support Act is in effect, the medical support obligor's
23 employer, union or insurer shall release to the other parent,
24 upon request, information on such coverage, including the
25 name of the insurer."

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

3 "40-4C-12. MEDICAL SUPPORT OBLIGOR LIABILITY.--

4 A. A medical support obligor who fails to maintain
5 the health insurance coverage for the benefit of a minor
6 child as ordered pursuant to the Mandatory Medical Support
7 Act shall be liable to the department or the other parent for
8 any medical and dental expenses incurred from the date of the
9 court order.

10 B. A medical support obligor who receives payment
11 from a third party for the costs of medical or dental
12 services provided to a minor child and who fails to use the
13 payment to reimburse the department is liable to the
14 department to the extent of the department's payment for the
15 services. The department is authorized to intercept the
16 obligor's tax refund, if the medical support obligor is a
17 noncustodial parent, or use other means of enforcement
18 available to the department to recoup amounts paid. Claims
19 for current or past due child support take priority over any
20 claims made pursuant to this subsection. Failure to maintain
21 health insurance coverage as ordered constitutes a showing of
22 increased need and provides a basis for modification of the
23 medical support obligor's child support order.

24 C. A medical support obligor is required to
25 provide the department with the following information

1 concerning health insurance coverage:

2 (1) medical support obligor's name and tax
3 identification number;

4 (2) type of coverage (single or family);

5 (3) name, address and identifying number of
6 health insurance coverage;

7 (4) name and tax identification number of
8 other individuals who are provided health insurance coverage
9 by the medical support obligor;

10 (5) effective period of coverage; and

11 (6) name, address and the tax identification
12 number of the employer."

13 Section 10. Section 40-4C-13 NMSA 1978 (being Laws
14 1990, Chapter 78, Section 13, as amended) is amended to read:

15 "40-4C-13. DEPARTMENT--DUTIES.--The department shall
16 pursue the establishment and enforcement of an order for
17 health insurance coverage when a minor child receives public
18 assistance or medicaid or upon application of a custodial or
19 noncustodial parent to the department and payment by the
20 custodial or noncustodial parent of fees required by the
21 department."

22 Section 11. Section 40-4C-14 NMSA 1978 (being Laws
23 1990, Chapter 78, Section 14) is amended to read:

24 "40-4C-14. ENFORCEMENT.--All remedies available for the
25 collection and enforcement of child support apply to medical

1 support ordered pursuant to the Mandatory Medical Support Act.
2 For the purpose of enforcement, the costs of individual or
3 group health or hospitalization coverage or liabilities
4 established pursuant to Section 40-4C-12 NMSA 1978 shall be
5 included in a medical support judgment." _____

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