

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 296

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

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 [~~child support orders enforced~~]
agency cases shall include a provision for the health care
coverage of [~~the~~] each child [~~and~~]. In the case in which a
[~~noncustodial~~] medical support obligor parent provides such
coverage and changes employment and the new employer provides
[~~health care~~] such coverage, the state Title IV-D agency shall
transfer notice of the provision to the employer, which notice
shall operate to enroll [~~the~~] each child in the [~~noncustodial~~]

1 ~~parent's~~ medical support obligor's health plan unless the
2 ~~[noneustodial parent]~~ medical support obligor successfully
3 contests the notice.

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

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

12 "40-4C-2. PURPOSE. -- To ~~[assure]~~ ensure that children
13 have access to quality medical care, it is the purpose of the
14 Mandatory Medical Support Act to require parents ~~[responsible~~
15 ~~for the support of minor children]~~ to provide or purchase
16 health insurance ~~[and dental insurance]~~ coverage for ~~[those]~~
17 their minor children when such coverage is available. "

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

20 "40-4C-3. DEFINITIONS. -- As used in the Mandatory Medical
21 Support Act:

22 A. "court" means any district court ordering
23 ~~[child]~~ support ~~[of an]~~ by a medical support obligor;

24 ~~[B. "dental insurance coverage" means those~~
25 ~~coverages generally associated with a dental plan of benefits,~~

1 ~~not including medicaid coverage authorized by Title 19 of the~~
 2 ~~Social Security Act and administered by the department;~~

3 ~~C.]~~ B. "department" means the human services
 4 department;

5 ~~D.]~~ C. "employer" means an individual,
 6 organization, agency, business or corporation hiring ~~an~~ a
 7 medical support obligor for pay;

8 ~~E.]~~ D. "health insurance coverage" means those
 9 coverages generally associated with a medical plan of
 10 benefits, which may include dental insurance, but not
 11 including medicaid coverage authorized by Title 19 of the
 12 Social Security Act and administered by the department;

13 ~~F.]~~ E. "insurer" means an employment-related or
 14 other group health care insurance plan, a health maintenance
 15 organization, a nonprofit health care plan or other type of
 16 health care insurance plan under which medical or dental
 17 services are provided, regardless of service delivery
 18 mechanism;

19 F. "medical support obligee" means a person to
 20 whom a duty of medical support is owed or a person, including
 21 the department, who has commenced a proceeding for enforcement
 22 of a duty to provide health support for each minor child or
 23 for registration of a support order that includes a provision
 24 for such support for each minor child;

25 G. "medical support obligor" means a person owing

1 a duty to provide health support or against whom a proceeding
2 for the enforcement of such a duty of support is commenced or
3 for registration of a support order that includes provisions
4 for such support for each minor child;

5 [G.] H. "minor child" means a child younger than
6 eighteen years of age who has not been emancipated; and

7 [H.] I. "national medical support notice" means a
8 [court-ordered] notice to an employer that an employee's child
9 must be covered by the employment-related group health and
10 dental care insurance plan pursuant to a court order.

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

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

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

23 "40-4C-4. MEDICAL SUPPORT-- ORDER. --

24 A. The court shall [order an obligor to name the
25 minor child on behalf of whom support is owed as an eligible

1 ~~dependent of health insurance coverage or dental insurance~~
 2 ~~coverage if] determine a parent or both parents to be a~~
 3 ~~medical support obligor based on the following:~~

4 (1) the availability of health insurance
 5 ~~coverage [or dental insurance coverage]~~ that meets or exceeds
 6 the minimum standards required under the Mandatory Medical
 7 Support Act ~~[is not available at a more reasonable cost to the~~
 8 ~~obligee than to the obligor for coverage of the minor child];~~
 9 and

10 (2) [~~such~~] the availability of health
 11 ~~insurance coverage [or dental insurance coverage is available~~
 12 ~~to the obligor]~~ through an employment-related or other group
 13 health and dental care insurance plan.

14 B. When a medical support obligor is ordered to
 15 provide health insurance coverage, the medical support obligor
 16 shall properly name each minor child on behalf of whom support
 17 is owed as an eligible dependent on such insurance.

18 [~~B.-~~] C. The court may consider the impact of the
 19 cost of health insurance coverage [~~or dental insurance~~
 20 ~~coverage]~~ on the payment of the base child support amounts in
 21 determining whether such insurance coverage shall be ordered.

22 [~~C.-~~] D. The court may order the medical support
 23 obligor to obtain health insurance coverage [~~or dental~~
 24 ~~insurance coverage]~~ for [~~any~~] each minor child to whom support
 25 is owed if [~~(1)~~] the court finds that health insurance

1 coverage [~~or dental insurance coverage~~] for [~~the~~] each minor
2 child is not available to the medical support obligor through
3 an employment-related or other group health care insurance
4 plan. [~~and~~

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

9 ~~D.] E.~~ The court shall require the medical support
10 obligor to be liable for all or a portion of the medical [~~or~~]
11 and dental expenses of [~~the~~] each minor child that are not
12 covered by the required health insurance coverage [~~or dental~~
13 ~~insurance coverage~~] if:

14 (1) the court finds that the health insurance
15 coverage [~~or dental insurance coverage~~] required to be
16 obtained by [~~the~~] a medical support obligor [~~or available to~~
17 ~~the obligee~~] does not pay all the reasonable and necessary
18 medical or dental expenses of [~~the~~] each minor child; and

19 (2) the court finds that [~~the~~] a medical
20 support obligor has the financial resources to contribute to
21 the payment of these medical or dental expenses.

22 [~~E.] F.~~ The court shall require the medical
23 support obligor to provide health insurance coverage or dental
24 insurance coverage for the benefit of the medical support
25 obligee if it is available at no additional cost to the

1 medical support obligor.

2 ~~[F-]~~ G. The court in any proceeding for the
3 establishment, enforcement or modification of a child support
4 obligation may modify an existing order of support or
5 establish child support, as applicable, for ~~[the]~~ each minor
6 child to incorporate the provisions for medical and dental
7 support ordered pursuant to the Mandatory Medical Support
8 Act. "

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

11 "40-4C-5. ~~ORDER--PROOF OF COMPLIANCE--NOTICE. --~~

12 A. The medical support obligor shall provide to
13 the medical support obligee within thirty days of receipt of
14 effective notice of a court order for health insurance
15 coverage~~-[or dental insurance coverage]~~ pursuant to the
16 Mandatory Medical Support Act written proof of the medical
17 support obligor's compliance with that order. Compliance
18 means either that the health insurance coverage ~~[or dental~~
19 ~~insurance coverage]~~ has been obtained or that a correct and
20 complete application for such coverage has been made.

21 B. The medical support obligee shall forward a
22 copy of the court order for health insurance coverage ~~[or~~
23 ~~dental insurance coverage]~~ issued pursuant to the Mandatory
24 Medical Support Act to the medical support obligor's employer
25 or union only when ordered to do so by the court or when:

. 165973. 1

1 (1) the medical support obligor fails to
2 provide written proof of compliance with the court order to
3 the medical support obligee within thirty days of the medical
4 support obligor's receipt of effective written notice of the
5 court order;

6 (2) the medical support obligee serves by
7 mail at the medical support obligor's last known post office
8 address written notice on the medical support obligor of the
9 medical support obligee's intent to enforce the order; and

10 (3) the medical support obligor fails to
11 provide within fifteen days after the date the medical support
12 obligee mailed the notice in Paragraph (2) of this subsection
13 written proof to the medical support obligee that the medical
14 support obligor has obtained the health insurance coverage [~~or~~
15 ~~dental insurance coverage~~] ordered by the court or has applied
16 for such coverage.

17 C. Upon receipt of a court order for health
18 insurance coverage [~~or dental insurance coverage~~] pursuant to
19 the Mandatory Medical Support Act, the employer or union shall
20 forward a copy of the order to the health insurer or dental
21 insurer, as applicable. "

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

24 "40-4C-6. OBLIGATIONS--EMPLOYERS, UNIONS AND INSURERS--
25 PLAN. --

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

20 B. In any instance in which the medical support
 21 obligor is required by a court order to provide health
 22 insurance coverage [~~or dental insurance coverage~~] for [~~the~~
 23 each minor child and the medical support obligor is eligible
 24 for health insurance coverage [~~or dental insurance coverage~~]
 25 through an employment-related or other group health care

1 insurance plan, the employer, union or insurer shall do the
2 following:

3 (1) permit the medical support obligor to
4 enroll for health insurance coverage [~~or dental insurance~~
5 ~~coverage the~~] each minor child who is otherwise eligible for
6 coverage without regard to any enrollment season restrictions;

7 (2) enroll [~~the~~] each minor child for health
8 insurance coverage [~~or dental insurance coverage~~] if the
9 medical support obligor fails to enroll [~~the~~] each minor child
10 upon application by the medical support obligee or the
11 department;

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

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

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

22 (c) the medical support obligor has
23 terminated employment; or

24 (d) the employer has eliminated health
25 insurance coverage [~~or dental insurance coverage~~] for all of

1 its employees; and

2 (4) withhold from the medical support
3 obligor's compensation the medical support obligor's share, if
4 any, of premiums for health insurance coverage [~~or dental~~
5 ~~insurance coverage~~] and to pay the share of premiums to the
6 insurer, unless otherwise provided in law or regulation.

7 C. In those instances [~~where~~] in which the medical
8 support obligor fails or refuses to execute any document
9 necessary to enroll [~~the~~] a minor child in [~~the~~] a health
10 insurance plan [~~or dental insurance plan~~] ordered by the
11 court, the required information and authorization may be
12 provided by the department or the custodial parent or guardian
13 of the minor child.

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

. 165973. 1

1 obligee that may be helpful or necessary for the minor child
2 to obtain benefits.

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

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

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

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

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

6 I. [~~When~~] If the medical support obligor is
 7 terminated, the employer shall notify the department of the
 8 termination. "

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

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

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

22 "40-4C-11. RELEASE OF INFORMATION. -- When an order for
 23 health insurance coverage [~~or dental insurance coverage~~]
 24 pursuant to the Mandatory Medical Support Act is in effect,
 25 the medical support obligor's employer, union or insurer shall

1 release to the ~~[obligee]~~ other parent, upon request,
2 information on such coverage, including the name of the
3 insurer. "

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

6 "40-4C-12. MEDICAL SUPPORT OBLIGOR LIABILITY. --

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

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

1 ~~[by the obligee]~~ and provides a basis for modification of the
 2 medical support obligor's child support order.

3 C. ~~[An]~~ A medical support obligor is required to
 4 provide the department with the following information
 5 concerning health insurance coverage ~~[or dental insurance~~
 6 ~~coverage]~~:

- 7 (1) medical support obligor's name and tax
 8 identification number;
- 9 (2) type of coverage (single or family);
- 10 (3) name, address and identifying number of
 11 health insurance coverage ~~[or dental insurance coverage]~~;
- 12 (4) name and tax identification number of
 13 other individuals who are provided health insurance coverage
 14 ~~[or dental insurance coverage]~~ by the medical support obligor;
- 15 (5) effective period of coverage; and
- 16 (6) name, address and the tax identification
 17 number of the employer. "

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

20 "40-4C-13. DEPARTMENT--DUTIES.--The department shall
 21 ~~[implement]~~ pursue the establishment and ~~[enforce]~~ enforcement
 22 of an order for health insurance coverage ~~[or dental insurance~~
 23 ~~coverage]~~ when ~~[the]~~ a minor child receives public assistance
 24 or medicaid or upon application of ~~[the obligee]~~ a custodial
 25 or noncustodial parent to the department and payment by the

1 ~~[obligee]~~ custodial or noncustodial parent of [any] fees
2 required by the department. "

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

5 "40-4C-14. ENFORCEMENT. -- All remedies available for the
6 collection and enforcement of child support apply to medical
7 support ordered pursuant to the Mandatory Medical Support Act.
8 For the purpose of enforcement, the costs of individual or
9 group health or hospitalization coverage or liabilities
10 established pursuant to Section ~~[11 of the Mandatory Medical~~
11 ~~Support Act are considered to be additional child support]~~
12 40-4C-12 NMSA 1978 shall be included in a medical support
13 judgment. "