

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:

"40-4C-2. PURPOSE.--To ensure that children have access to quality medical care, it is the purpose of the Mandatory Medical Support Act to require parents to provide or purchase health insurance coverage for their minor 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 support by a medical support obligor;

B. "department" means the human services department;

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

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

E. "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;

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

G. "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;

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

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

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

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

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

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

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

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

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

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

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

(1) the court finds that the health

insurance coverage required to be obtained by a medical support obligor does not pay all the reasonable and necessary medical or dental expenses of each minor child; and

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

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

G. 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 each minor child to incorporate the provisions for medical and dental support ordered pursuant to the Mandatory Medical Support Act."

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

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

A. The medical support obligor shall provide to the medical support obligee within thirty days of receipt of effective notice of a court order for health insurance coverage pursuant to the Mandatory Medical Support Act written proof of the medical support obligor's compliance with that

order. Compliance means either that the health insurance coverage has been obtained or that a correct and complete application for such coverage has been made.

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

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

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

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

C. Upon receipt of a court order for health insurance coverage pursuant to the Mandatory Medical Support

Act, the employer or union shall forward a copy of the order to the health insurer or dental insurer, as applicable."

Section 6. 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 pursuant to Section 40-4C-5 NMSA 1978 or upon application of the medical support obligor pursuant to the court order, the employer or union shall enroll the minor child as an eligible dependent in the health insurance plan and withhold any required premium from the medical support obligor's income or wages. If more than one health and dental insurance plan is offered by the employer, union or insurer, the minor child shall be enrolled in the plan in which the medical support obligor is enrolled. If the medical support 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 medical support obligor is not enrolled in a plan, the premiums charged for the child or children of the medical support obligor shall be those charged for the enrollment of the medical support obligor only.

B. In any instance in which the medical support

obligor is required by a court order to provide health insurance coverage for each minor child and the medical support obligor is eligible for health insurance coverage through an employment-related or other group health care insurance plan, the employer, union or insurer shall do the following:

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

(2) enroll each minor child for health insurance coverage if the medical support obligor fails to enroll each minor child upon application by the medical support 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 medical support obligor has

terminated employment; or

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

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

C. In those instances in which the medical support obligor fails or refuses to execute any document necessary to enroll a minor child in a health 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 a minor child shall be valid for the purpose of meeting enrollment requirements of the health 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 for which other eligibility, enrollment, underwriting terms and other requirements are met. In instances in which a minor child is insured through the medical support obligor, the insurer shall provide all information to the medical support obligee that may be helpful or necessary for the minor child to obtain

benefits.

E. A minor child that a medical support 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 medical support obligor until the child is emancipated or until further order of the court.

F. In instances in which a minor child is insured through a medical support obligor, the insurer is prohibited from denying health 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 medical support obligor's federal income tax return or that the minor child does not reside with the medical support obligor or reside in the insurer's service area.

G. In instances in which a minor child is insured through a medical support 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 a minor child is insured through a medical support obligor who is a noncustodial parent, the insurer shall permit the custodial parent or health care provider, with the approval of the custodial parent, to submit claims for covered services without the

approval of the medical support obligor. The insurer shall make payments on submitted claims directly to the custodial parent or the health care provider.

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

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

"40-4C-10. EMPLOYER, UNION OR INSURER NOTICE.--When an order for health insurance coverage pursuant to the Mandatory Medical Support Act is in effect, upon termination of the medical support obligor's employment or upon termination of the insurance coverage, the employer, union or insurer shall make a good faith effort to notify the department and the other parent 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, as amended) is amended to read:

"40-4C-11. RELEASE OF INFORMATION.--When an order for health insurance coverage pursuant to the Mandatory Medical Support Act is in effect, the medical support obligor's employer, union or insurer shall release to the other parent, 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. MEDICAL SUPPORT OBLIGOR LIABILITY.--

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

B. A medical support 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 department's payment for the services. The department is authorized to intercept the obligor's tax refund, if the medical support obligor is a noncustodial parent, 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. Failure to maintain health insurance coverage as ordered constitutes a showing of increased need and provides a basis for modification of the medical support obligor's child support order.

C. A medical support obligor is required to provide the department with the following information concerning health insurance coverage:

- (1) medical support obligor's name and tax

identification number;

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

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

(4) name and tax identification number of other individuals who are provided health insurance coverage by the medical support 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 pursue the establishment and enforcement of an order for health insurance coverage when a minor child receives public assistance or medicaid or upon application of a custodial or noncustodial parent to the department and payment by the custodial or noncustodial parent of fees required by the department."

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

"40-4C-14. ENFORCEMENT.--All remedies available for the collection and enforcement of child support apply to medical support ordered pursuant to the Mandatory Medical Support Act.

For the purpose of enforcement, the costs of individual or

group health or hospitalization coverage or liabilities  
established pursuant to Section 40-4C-12 NMSA 1978 shall be  
included in a medical support judgment."