

1                                   **SENATE FLOOR VERSION**

2                                   February 20, 2018

3                                   **AS AMENDED**

4                                   SENATE BILL NO. 979

5                                   By: Griffin

6                   An Act relating to child support; amending 43 O.S.  
7                   2011, Section 118F, which relates to medical support  
8                   orders; modifying definitions; conforming language;  
9                   removing certain requirements for prioritizing  
10                  available health care coverage; requiring cash  
11                  medical support under specified circumstances;  
12                  allowing agreements to allocate certain expenses;  
13                  updating statutory reference; and providing an  
14                  effective date.

15                   BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16                   SECTION 1.           AMENDATORY           43 O.S. 2011, Section 118F, is  
17                   amended to read as follows:

18                   Section 118F. A. The court shall enter a medical support order  
19                   for health care coverage in any case in which an ongoing child  
20                   support order is entered or modified. Medical support, for the  
21                   purpose of this section, is defined as health ~~insurance~~ care  
22                   coverage, cash medical support, or a combination of both. For the  
23                   purposes of this section:

24                   1. "Health ~~insurance~~ care coverage" includes:

                  a. fee for service,

                  b. health maintenance organization,

- 1 c. preferred provider organization, ~~and~~  
2 d. other types of ~~coverage, including, but not limited~~  
3 ~~to, Indian Health Services or Defense Eligibility~~  
4 ~~Enrollment Reporting System (DEERS), which is~~  
5 ~~available to either parent under which medical~~  
6 ~~services could be provided to the dependent children~~  
7 private health insurance,  
8 e. government medical assistance program or health plan,  
9 f. Indian Health Services, and  
10 g. Defense Eligibility Enrollment Reporting System  
11 (DEERS).

12 2. "Cash medical support" means:

- 13 a. an amount ordered to be paid toward the cost of health  
14 care coverage provided by a public entity, parent, or  
15 by a person other than the parents ~~through employment~~  
16 ~~or otherwise,~~ or  
17 b. fixed periodic payments for ongoing medical costs.

18 B. In entering a temporary order, the court shall order that  
19 any health ~~insurance~~ care coverage in effect for the child continue  
20 in effect pending the entering of a final order, unless the court  
21 finds that the existing health ~~insurance~~ care coverage is not  
22 reasonable in cost or is not accessible as defined in subsection D  
23 of this section. If there is no health ~~insurance~~ care coverage in  
24 effect for the child or if the ~~insurance~~ health care coverage in

1 effect is not available at a reasonable cost or is not accessible,  
2 the court shall order health care coverage for the child as provided  
3 in this ~~subsection~~ section, unless the court makes a written finding  
4 that good cause exists not to enter a temporary medical support  
5 order.

6 C. On entering a final order, the court shall:

7 1. Make specific orders with respect to the manner in which  
8 health care coverage is to be provided for the child, ~~in accordance~~  
9 ~~with the priorities identified in subsection F of this section;~~ and

10 2. Require the parent ordered to provide health care coverage  
11 for the child as provided under this section to produce evidence to  
12 the court's satisfaction that the parent has applied for or secured  
13 health ~~insurance~~ care coverage or has otherwise taken necessary  
14 action to provide for health care coverage for the child, as ordered  
15 by the court.

16 D. When the court enters a medical support order, the medical  
17 support order ~~must~~ shall be reasonable in cost and accessible.

18 1. "Reasonable in cost" means that the pro rata share of the  
19 actual premium cost for the child or children paid by the insured  
20 does not exceed five percent (5%) of the gross income of the  
21 responsible parent. To calculate the actual premium cost of the  
22 health insurance, the court shall:

- a. deduct from the total insurance premium the cost of coverage for the parent and any other adults in the household,
- b. divide the remainder by the number of dependent children being covered, and
- c. multiply the amount per child by the number of children in the child support case under consideration.

2. "Accessible health ~~insurance~~ care coverage" means that:

- a. there are available providers appropriate to meet the primary individual health care needs of the children no more than sixty (60) miles one way from the primary residence of the children.
- b. If a parent has available health care coverage which includes an option that would be accessible to the child, but the parent has not currently enrolled in that option, the court may require the parent to change existing coverage to an option that is accessible to the child.

3. If the parties agree or the court finds good cause exists, the court may order ~~medical~~ health care coverage in excess of the five percent (5%) cost standard or the sixty-mile distance standard.

E. The court shall consider the cost and quality of health ~~insurance~~ care coverage available to the parties ~~and shall give~~

~~priority to health insurance coverage available through the employment of one of the parties if the coverage meets the standards in subsection D of this section. If both parents have health care coverage available, the court shall give priority to the preference of the custodial person, unless it is not in the best interest of the child.~~

~~F. In determining the manner in which health care coverage for the child is to be ordered, the court shall enter an order in accordance with the following priorities and subsection D of this section, unless a party shows good cause why a particular order would not be in the best interest of the child:~~

~~1. If health insurance is available for the child through the employment of a parent or membership in a union, trade association, or other organization, the court shall order that parent to enroll the child in the health insurance of the parent;~~

~~2. If health insurance is not available for the child under paragraph 1 of this subsection but is available to a parent from another source, the court may order that parent to provide health insurance for the child;~~

~~3. If the court finds that neither parent has access to private health insurance at a reasonable cost, the court shall order the parent awarded the exclusive right to designate the child's primary residence or, to the extent permitted by law, the other parent to apply immediately on behalf of the child for participation in a~~

~~government medical assistance program or health plan. If the child participates in a government medical assistance program or health plan, the court shall order cash medical support under paragraph 4 of this subsection, in accordance with rules promulgated by the Oklahoma Health Care Authority and the Oklahoma Department of Human Services;~~

4. Cash medical support.

1. The responsible parent shall be ordered to pay cash medical support when:

- a. ~~If health insurance coverage is not~~ there is no health care plan available for the child ~~under paragraph 1 or 2 of this subsection, the court shall determine the amount to be treated as the actual monthly medical costs for the child and order the obligor to pay, in addition to the obligors current child support obligation, an amount as cash medical support for the child.,~~
- b. the only health care plan available for the child is a governmental medical assistance program or health plan, or
- c. a party shows reasonable evidence of domestic violence or child abuse, such that an order for health care coverage is inappropriate and the disclosure of

1                   information could be harmful to a party, custodian, or  
2                   child.

3       2.   The cash medical support order shall not exceed the pro rata  
4 share of the actual monthly medical expenses paid for the child, or  
5 five percent (5%) of the gross monthly income of the obligor,  
6 whichever is less.

7                   ~~e.   (1)~~

8       3. a.   In determining the actual monthly medical costs for  
9 the child, the court shall determine:

10                   ~~(a)~~

11                   (1) for children who are participating in a  
12 government medical assistance program or health  
13 plan, an amount consistent with rules promulgated  
14 by the Oklahoma Health Care Authority determining  
15 the rates established for the cost of providing  
16 medical care through a government medical  
17 assistance program or health plan, or

18                   ~~(b)~~

19                   (2) for children who are not participating in a  
20 government medical assistance program or health  
21 plan, an amount consistent with rules promulgated  
22 by the Department of Human Services determining  
23 the average monthly cost of health care for  
24 uninsured children.

~~(2)~~

b. The court may also consider:

~~(a)~~

(1) proof of past medical expenses incurred by either parent for the child,

~~(b)~~

(2) the current state of the health of the child, and

~~(c)~~

(3) any medical conditions of the child that would result in an increased monthly medical cost.

G. An order requiring the payment of cash medical support under ~~paragraph 4 of~~ subsection F of this section ~~must~~ shall allow the obligor to ~~discontinue~~ terminate payment of the cash medical support if:

1. ~~Health insurance~~ Accessible health care coverage for the child becomes available to the obligor at a reasonable cost; and

2. The obligor:

a. enrolls the child in the insurance plan, and

b. provides the obligee and, in a Title IV-D case, the Title IV-D agency, the information required under paragraph 2 of subsection C of this section.

In Title IV-D cases, termination and reinstatement of cash medical support shall be according to rules promulgated by the Department of Human Services.



1       H. 1. The actual health ~~insurance~~ care premium for the child  
2 shall be allocated between the parents in the same proportion as  
3 their adjusted gross income and shall be added to the base child  
4 support obligation.

5       2. If the obligor pays the health ~~insurance~~ care premium, the  
6 obligor shall receive credit against the base child support  
7 obligation for the allocated share of the health ~~insurance~~ care  
8 premium for which the obligee is responsible.

9       3. If the obligee pays the health ~~insurance~~ care premium, the  
10 obligor shall pay the allocated share of the health ~~insurance~~ care  
11 premium to the obligee in addition to the base child support  
12 obligation.

13       4. The parent providing the health ~~insurance~~ care coverage  
14 shall furnish to the other parent and to the Child Support  
15 Enforcement Division of the Department of Human Services, if  
16 services are being provided pursuant to Title IV, Part D of the  
17 Social Security Act, 42 U.S.C. Section 601 et seq., with timely  
18 written documentation of any change in the amount of the health  
19 ~~insurance~~ care cost premium, carrier, or benefits within thirty (30)  
20 days of the date of the change. Upon receiving timely notification  
21 of the change of cost, the other parent is responsible for his or  
22 her percentage share of the changed cost of the health ~~insurance~~  
23 care coverage.

1        5. If the court finds that the obligor has underpaid child  
2 support due to changes in the cost of health ~~insurance~~ care  
3 coverage, the amount of underpayment may be established as a  
4 judgment by the court and enforced in the same manner as any other  
5 delinquent child support judgment. If the court finds that the  
6 obligor has overpaid due to changes in health ~~insurance~~ care  
7 coverage cost, the overpayment shall be satisfied:

8            a. by offset against any past-due child support owed to  
9            the obligee, or

10           b. by adjustment to the future child support amount over  
11           a thirty-six-month period, unless the court finds that  
12           a thirty-six month period is not in the best interest  
13           of the child.

14        I. Reasonable and necessary medical, dental, orthodontic,  
15 optometric, psychological, or any other physical or mental health  
16 expenses of the child incurred by either parent and not paid or  
17 reimbursed by insurance or included in a cash medical support order  
18 pursuant to ~~paragraph 4 of~~ subsection F of this section shall be  
19 allocated in the same proportion as the adjusted gross income of the  
20 parents ~~as separate items that are not added to the base child~~  
21 ~~support obligation~~, unless the parents agree to a different  
22 allocation of expenses and the court finds such allocation is in the  
23 best interest of the child. If reimbursement is required for a  
24 health care expense not included in the current monthly child

1 support obligation, the parent who incurs the expense shall provide  
2 the other parent with proof of the expense within forty-five (45)  
3 days of receiving the Explanation of Benefits from the insurance  
4 provider or other proof of the expense if the expense is not covered  
5 by insurance. The parent responsible for reimbursement shall pay  
6 his or her portion of the expense within forty-five (45) days of  
7 receipt of documentation of the expense.

8 J. In addition to any other sanctions ordered by the court, a  
9 parent incurring uninsured dependent health expenses or increased  
10 insurance premiums may be denied the right to receive credit or  
11 reimbursement for the expense or increased premium if that parent  
12 fails to comply with subsections H and I of this section.

13 K. The parent desiring an adjustment to the ongoing child  
14 support order due to a change in the amount of dependent health  
15 insurance premium shall initiate a review of the order in accordance  
16 with Section ~~10~~ 118I of this ~~act~~ title.

17 SECTION 2. This act shall become effective November 1, 2018.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
19 February 20, 2018 - DO PASS AS AMENDED  
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