

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 979

By: Griffin

6 AS INTRODUCED

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

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

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

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

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

24 a. fee for service,

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

2. "Cash medical support" means:

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

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

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

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

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

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

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

19 1. "Reasonable in cost" means that the pro rata share of the
20 actual premium cost for the child or children paid by the insured
21 does not exceed five percent (5%) of the gross income of the
22 responsible parent. To calculate the actual premium cost of the
23 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.

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