

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2573

By: Ownbey

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5
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; deleting priority
10 given to employer-provided health insurance coverage;
11 including exception to preference of custodial person
12 for best interest of the child; striking priorities
13 for the court to consider; specifying when the court
14 shall order payment of cash medical support;
15 directing the Department of Human Services to
16 promulgate certain rules; requiring consideration of
17 the best interest of the child in determining cases
18 of overpayment; permitting parties to agree to an
19 alternate allocation of expenses; describing process
20 for expense outside of the monthly obligation; and
21 providing an effective date.

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

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

28 Section 118F. A. The court shall enter a medical support order
29 for health care coverage in any case in which an ongoing child
30 support order is entered or modified. Medical support, for the

purpose of this section, is defined as health ~~insurance~~ care
coverage, cash medical support, or a combination of both.

1. "Health ~~insurance~~ care coverage" for the purposes of this
section includes:

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

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

1 finds that the existing health ~~insurance~~ care coverage is not
2 reasonable in cost or is not accessible as defined in subsection D
3 of this section. If there is no health ~~insurance~~ care coverage in
4 effect for the child or if the ~~insurance~~ health care coverage in
5 effect is not available at a reasonable cost or is not accessible,
6 the court shall order health care coverage for the child as provided
7 in this ~~subsection~~ section, unless the court makes a written finding
8 that good cause exists not to enter a temporary medical support
9 order.

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

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

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

20 D. When the court enters a medical support order, the medical
21 support order must be reasonable in cost and accessible as defined
22 in this subsection.

23 1. "Reasonable in cost" means that the pro rata share of the
24 actual premium cost for the child paid by the insured does not

1 exceed five percent (5%) of the gross income of the responsible
2 parent. To calculate the actual premium cost of the health
3 ~~insurance~~ care coverage, the court shall:

- 4 a. deduct from the total ~~insurance~~ health care premium
5 the cost of coverage for the parent and any other
6 adults in the household,
- 7 b. divide the remainder by the number of dependent
8 children being covered, and
- 9 c. multiply the amount per child by the number of
10 children in the child support case under
11 consideration.

12 2. "Accessible ~~health insurance~~" means that:

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

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

4 E. The court shall consider the cost and quality of health
5 ~~insurance care~~ coverage available to the parties ~~and shall give~~
6 ~~priority to health insurance coverage available through the~~
7 ~~employment of one of the parties if the coverage meets the standards~~
8 ~~in subsection D of this section.~~ If both parents have health care
9 coverage available, the court shall give priority to the preference
10 of the custodial person, unless it is not in the best interest of
11 the child.

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

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

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

1 ~~3. If the court finds that neither parent has access to private~~
2 ~~health insurance at a reasonable cost, the court shall order the~~
3 ~~parent awarded the exclusive right to designate the child's primary~~
4 ~~residence or, to the extent permitted by law, the other parent to~~
5 ~~apply immediately on behalf of the child for participation in a~~
6 ~~government medical assistance program or health plan. If the child~~
7 ~~participates in a government medical assistance program or health~~
8 ~~plan, the court shall order cash medical support under paragraph 4~~
9 ~~of this subsection, in accordance with rules promulgated by the~~
10 ~~Oklahoma Health Care Authority and the Oklahoma Department of Human~~
11 ~~Services;~~

12 4. Cash medical support.

13 a. ~~If health insurance coverage is not available for the~~
14 ~~child under paragraph 1 or 2 of this subsection, the~~
15 ~~court shall determine the amount to be treated as the~~
16 ~~actual monthly medical costs for the child and order~~
17 ~~the obligor to pay, in addition to the obligors~~
18 ~~current child support obligation, an amount as cash~~
19 ~~medical support for the child.~~

20 ~~b.~~ 1. The responsible parent shall be ordered to pay cash
21 medical support when:

22 a. there is no health care plan available for the child,
23 b. the only health care plan available is a governmental
24 medical assistance program or health plan, or

1 c. a party shows reasonable evidence of domestic violence
2 or child abuse such that an order for health care
3 coverage is inappropriate and the disclosure of
4 information could be harmful to a party, custodian or
5 child.

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

10 ~~e.~~ ~~(1)~~

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

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

21 ~~(b)~~ (2) for children who are not participating in a
22 government medical assistance program or
23 health plan, an amount consistent with rules
24 promulgated by the Department of Human

Services determining the average monthly cost
of health care for 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~~ health care 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.

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

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

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

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

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

1 her percentage share of the changed cost of the health ~~insurance~~
2 care coverage.

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

- 10 a. by offset against any past-due child support owed to
11 the obligee, or
12 b. by adjustment to the future child support amount over
13 a thirty-six-month period, unless the court finds that
14 a thirty-six-month period is not in the best interest
15 of the child.

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

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

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

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

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

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