

An Act

ENROLLED SENATE
BILL NO. 979

By: Griffin of the Senate

and

Ownbey of the House

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

SUBJECT: Child support

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

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

Section 118F. A. The court shall enter a medical support order for health care coverage in any case in which an ongoing child 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. For the purposes of this section:

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

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

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

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

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

1. "Reasonable in cost" means that the pro rata share of the actual premium cost for the child or children paid by the insured does not exceed five percent (5%) of the gross income of the responsible parent. To calculate the actual premium cost of the 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~~ 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 information could be harmful to a party, custodian, or child.

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

~~e. (1)~~

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

~~(a)~~

- (1) for children who are participating in a government medical assistance program or health plan, an amount consistent with rules promulgated

by the Oklahoma Health Care Authority determining the rates established for the cost of providing medical care through a government medical assistance program or health plan, or

~~(b)~~

(2) for children who are not participating in a government medical assistance program or health plan, an amount consistent with rules 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 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.

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

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

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

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

5. If the court finds that the obligor has underpaid child support due to changes in the cost of health insurance care coverage, the amount of underpayment may be established as a judgment by the court and enforced in the same manner as any other delinquent child support judgment. If the court finds that the

obligor has overpaid due to changes in health ~~insurance~~ care coverage cost, the overpayment shall be satisfied:

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

I. Reasonable and necessary medical, dental, orthodontic, optometric, psychological, or any other physical or mental health expenses of the child incurred by either parent and not paid or reimbursed by insurance or included in a cash medical support order pursuant to ~~paragraph 4~~ of subsection F of this section shall be allocated in the same proportion as the adjusted gross income of the parents ~~as separate items that are not added to the base child support obligation,~~ unless the parents agree to a different allocation of expenses and the court finds such allocation is in the best interest of the child. If reimbursement is required for a health care expense not included in the current monthly child support obligation, the parent who incurs the expense shall provide the other parent with proof of the expense within forty-five (45) days of receiving the Explanation of Benefits from the insurance provider or other proof of the expense if the expense is not covered by insurance. The parent responsible for reimbursement shall pay his or her portion of the expense within forty-five (45) days of receipt of documentation of the expense.

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

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

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

Passed the Senate the 6th day of March, 2018.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2018.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____