

137-055-4620

Enforcing Health Care Coverage

(1) The administrator shall issue a medical support notice to enforce orders for satisfactory health care coverage, as defined in Oregon Laws 2003, chapter 637, section 2, within two business days of receiving information that an employer has hired or rehired an obligor and at any time when appropriate and:

- (a) An obligor is ordered to provide health care coverage for a child;
- (b) Services are being provided pursuant to ORS 25.080;
- (c) The obligor has failed to provide satisfactory health care coverage, either personally or through a spouse's coverage;
- (d) The employer offers or may offer a health benefit plan to its employees; and
- (e) Whether or not the obligee provides health care coverage.

(2) The obligee or obligor may seek modification of the order if the obligor is ordered to provide health care coverage, the obligee is not receiving TANF cash assistance or Medicaid, and the obligee is providing satisfactory health care coverage.

(3) When a medical support notice has been served and the obligor is not enrolled in a health benefit plan or is not enrolled in a plan that offers dependent coverage and if more than one plan with dependent coverage is offered, the administrator shall select a plan in accordance with OAR 137-055-4640.

(4) The administrator shall notify the obligor and obligee that the medical support notice has been served on the obligor's employer and that the obligor may contest a medical support notice within 14 days after the first premium is withheld based on any of the following:

- (a) The alleged obligor is not the obligor from whom health care coverage is ordered;
- (b) The amount to be withheld for premiums is greater than is permissible under Oregon Laws 2003, chapter 637, section 7; or
- (c) An order to provide health care coverage under a health benefit plan has not been issued in regard to the obligor's child. An order that does not provide for health care coverage includes:
 - (A) An order which does not contain a provision for the obligor to provide health care coverage;
 - (B) An order which states that the cost of health care coverage cannot exceed the support amount and the cost of coverage does exceed the support amount;

(C) An order which contains a finding that health care coverage is not ordered because the obligor's share of premiums make the application of the formula established under ORS 25.275 unjust or inappropriate but requires the obligor provide health care coverage when coverage that is reasonable in cost and accessible to the child becomes available, if the obligor provides proof to the administrator that the obligor's current cost of premiums compared to income is the same or greater than at the time of the order; or

(D) An order which states that health care coverage is accessible to the child, and such coverage is not accessible.

(5) When a contest to the medical support notice is made, the administrator, within 45 days of the date the premium is first withheld, shall:

(a) Conduct an administrative review to determine, based on an evaluation of the facts, whether the withholding of premiums may continue;

(b) Inform the obligor and obligee in writing of the determination and include information on the right to appeal the determination to the circuit court for a hearing under ORS 183.484.

(6) When the administrator is notified by the employer that the amount to be withheld for premiums is greater than is permissible under Oregon Laws 2003, chapter 637, section 7, the administrator may review the circumstances and, if appropriate, reissue a medical support notice at a later date.

(7)(a) A medical support notice has priority over any previously filed attachment, execution, garnishment or assignment of income other than a withholding order issued for monetary support, unless otherwise requested by the obligee. Monetary support includes spousal and child support.

(b) An obligee who is a recipient of TANF cash assistance may not elect to receive health care coverage over monetary support. In those cases, the administrator shall select monetary support over health care coverage unless a child's health warrants otherwise.

(c)(A) Except as provided in section (7)(c)(B), an obligee who is not a recipient of TANF cash assistance and who selects health care coverage over monetary support, may change the selection:

(i) No more than once per year;

(ii) In conjunction with a medical support notice being issued to a new employer; or

(iii) When a child becomes seriously ill and health care coverage is needed.

(B) An obligee who is not a recipient of TANF cash assistance may not select health care coverage over monetary support if such a selection conflicts with the requirements of any bankruptcy plan concerning the obligor.

(8) A request to select health care coverage over monetary support may be made verbally or in writing.

(9) When multiple cases for an obligor are being enforced and the employer receives notice that one or more cases have selected health care coverage over monetary support, the employer must withhold in the following manner:

(a) First withhold the full amount listed on withholdings issued on the cases which have not selected health care coverage over monetary support;

(b) Withhold the premium for health care coverage, up to the maximum allowed by law;

(c) If the maximum is not reached, withhold support for the case(s) requesting health care coverage, up to the full amount of the withholding order or the maximum allowed by law, whichever is less;

(d) Identify which payment goes with which case and submit the monetary support payments to the Division of Child Support as directed in the withholding orders.

(10) An obligor may select a different health benefit plan during any applicable open enrollment period, providing the following criteria are met:

(a) The health care coverage is accessible to the child; and

(b) The health benefit plan provides satisfactory health care coverage, or other coverage if the order so requires.

(11) If an obligor changes to a health benefit plan which does not meet the criteria in section (10) of this rule, the administrator shall issue a medical support notice as provided in section (1) of this rule.

(12) The administrator shall provide the obligee with information regarding health care coverage obtained for the child(ren) and with any notice that coverage may terminate because withholding or employment has ended.

Stat. Auth.: section 4, chapter 637, Oregon Laws 2003 and section 2, chapter 73, Oregon Laws 2003

Stats. Implemented: Section 4, chapter 637, Oregon Laws 2003