

Effective 9/1/2024

**81-6-208 Requirements for a child support order regarding medical expenses --
Determination of parental liability for medical expenses.**

- (1) As used in this section, "health insurance" means the same as that term is defined in Section 31A-1-301.
- (2) Except as provided in Subsection (4), a child support order issued or modified in this state on or after May 3, 2023, shall require compliance with the requirements described in Subsection (3) as of the effective date of the child support order.
- (3) A child support order shall:
 - (a) require the parents provide health care coverage for the medical expenses of a child;
 - (b) require the parents provide health insurance for the medical expenses of a child if health insurance is available to the parents at a reasonable cost;
 - (c) designate which health insurance plan is primary and which health insurance plan is secondary if, at any time, a child is covered by both parents' health insurance plans as described in Subsection (7);
 - (d) require each parent to share equally the out-of-pocket costs of the premium actually paid by a parent for the child's portion of health insurance; and
 - (e) include a provision that requires each parent to equally share all reasonable and necessary uninsured and unreimbursed medical and dental expenses incurred for a child, including co-payments, co-insurance, and deductibles.
- (4) The court may deviate from the requirements described in Subsection (3) if:
 - (a) the court makes specific findings establishing good cause for the deviation; or
 - (b) subject to the court's approval, the parents agree which parent shall provide health insurance for the child.
- (5) In determining whether to take the action described in Subsection (4), the court may consider:
 - (a) the reasonableness of the cost;
 - (b) the availability of a group insurance policy;
 - (c) the coverage of the policy; or
 - (d) the preference of the custodial parent.
- (6) Subject to Subsection (4), if a child support order does not contain the requirements described in Subsection (3):
 - (a) the parents are nonetheless subject to the requirements described in Subsection (3), as applicable; and
 - (b) for purposes of Subsection (3)(c), the health insurance plan of the parent whose birthday falls first in the calendar year is primary, and the health insurance plan of the parent whose birthday falls second in the calendar year is secondary.
- (7)
 - (a) The provisions of an order under Subsection (3)(c) shall:
 - (i) take effect if at any time a child is covered by both parents' health insurance plans; and
 - (ii) include the following language: "If, at any point in time, a child is covered by the health insurance plans of both parents, the health insurance plan of (Parent's Name) shall be primary coverage for the child and the health insurance plan of (Other Parent's Name) shall be secondary coverage for the child. If a parent remarries and the child is not covered by that parent's health insurance plan but is covered by a step-parent's plan, the health insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the child."
 - (b) A court or administrative agency may not modify the language required by Subsection (7)(a)(ii).

- (c) Notwithstanding Subsection (7)(b), the court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents.
 - (d) In designating primary coverage pursuant to Subsection (3)(c), the court may take into account:
 - (i) the birth dates of the parents;
 - (ii) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a child;
 - (iii) the parent with physical custody of the child; or
 - (iv) any other factor the court considers relevant.
- (8)
- (a) The parent who provides health insurance may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium.
 - (b) If the parent does not have health insurance but another member of the parent's household provides health insurance for the child, the parent may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium.
- (9)
- (a) The child's portion of the premium is a per capita share of the premium actually paid.
 - (b) The premium expense for a child shall be calculated by dividing the premium amount by the number of persons covered under the policy and multiplying the result by the number of children in the instant case.
- (10)
- (a) The parent maintaining health care coverage or insurance shall provide verification of coverage to the other parent, or to the office under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., upon initial enrollment of the child, and after initial enrollment on or before January 2 of each calendar year.
 - (b) The parent shall notify the other parent, or the office under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar days of the date the parent first knew or should have known of the change.
 - (c) A parent who incurs medical expenses shall provide written verification of the cost and payment of medical expenses to the other parent within 30 days of payment.
 - (d) The court may deny a parent incurring medical expenses the right to receive credit for the expenses or to recover the other parent's share of the expenses if that parent fails to comply with this Subsection (10).
- (11)
- (a) The court or administrative agency may issue an order determining the amount of a parent's liability for medical expenses of a child when the parent:
 - (i) is required by a prior court or administrative order to:
 - (A) share those expenses with the other parent of the child; or
 - (B) obtain insurance for medical expenses but fails to do so; or
 - (ii) receives direct payment from an insurer under insurance coverage obtained after the prior court or administrative order was issued.
 - (b) If the prior court or administrative order does not specify what proportions of the expenses are to be shared:
 - (i) the court may determine the amount of liability as may be reasonable and necessary; and
 - (ii) the administrative agency may determine the amount of liability in accordance with established rules.
 - (c) This Subsection (11) applies to an order without regard to when the order was issued.

Renumbered and Amended by Chapter 366, 2024 General Session