

**CLARIFICATION OF DEPENDENT HEALTH
CARE COVERAGE AMENDMENTS**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Todd E. Kiser

LONG TITLE

General Description:

This bill specifies that when a parent is required by court order to provide health insurance to a child who lives outside the insurer's service area, the child is subject to the out-of-service area contract terms of the insurance policy.

Highlighted Provisions:

This bill:

- specifies that when a parent is required by court order to provide health insurance to a child who lives outside the insurer's service area, the child is subject to the out-of-service area contract terms of the insurance policy.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

31A-22-610.5, as last amended by Chapters 116 and 207, Laws of Utah 2001

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **31A-22-610.5** is amended to read:

31A-22-610.5. Dependent coverage.



28 (1) As used in this section, "child" has the same meaning as defined in Section
29 78-45-2.

30 (2) (a) Any individual or group health insurance policy or health maintenance
31 organization contract that provides coverage for a policyholder's or certificate holder's
32 dependent shall not terminate coverage of an unmarried dependent by reason of the dependent's
33 age before the dependent's 26th birthday and shall, upon application, provide coverage for all
34 unmarried dependents up to age 26.

35 (b) The cost of coverage for unmarried dependents 19 to 26 years of age shall be
36 included in the premium on the same basis as other dependent coverage.

37 (c) This section does not prohibit the employer from requiring the employee to pay all
38 or part of the cost of coverage for unmarried dependents.

39 (3) An individual or group health insurance policy or health maintenance organization
40 contract shall reinstate dependent coverage, and for purposes of all exclusions and limitations,
41 shall treat the dependent as if the coverage had been in force since it was terminated; if:

42 (a) the dependent has not reached the age of 26 by July 1, 1995;

43 (b) the dependent had coverage prior to July 1, 1994;

44 (c) prior to July 1, 1994, the dependent's coverage was terminated solely due to the age
45 of the dependent; and

46 (d) the policy has not been terminated since the dependent's coverage was terminated.

47 (4) (a) When a parent is required by a court or administrative order to provide health
48 insurance coverage for a child, an accident and health insurer may not deny enrollment of a
49 child under the accident and health insurance plan of the child's parent on the grounds the
50 child:

51 (i) was born out of wedlock and is entitled to coverage under Subsection ~~[(6)]~~ (5);

52 (ii) was born out of wedlock and the custodial parent seeks enrollment for the child
53 under the custodial parent's policy;

54 (iii) is not claimed as a dependent on the parent's federal tax return; or

55 (iv) does not reside with the parent or in the insurer's service area.

56 ~~[(b) An accident and health insurer providing enrollment under Subsection (4)(a)(iv) is~~
57 ~~subject to the requirements of Subsection (5).]~~

58 ~~[(5) A health maintenance organization or a preferred provider organization may use~~

59 ~~alternative delivery systems or indemnity insurers to provide coverage under Subsection~~
60 ~~(4)(a)(iv) outside its service area. Section 31A-8-408 does not apply to this Subsection (5).]~~

61 (b) A child enrolled as required under Subsection (4)(a)(iv) is subject to the terms of
62 the accident and health insurance plan contract pertaining to services received outside of an
63 insurer's service area.

64 ~~[(6)] (5)~~ When a child has accident and health coverage through an insurer of a
65 noncustodial parent, and when requested by the noncustodial or custodial parent, the insurer
66 shall:

67 (a) provide information to the custodial parent as necessary for the child to obtain
68 benefits through that coverage, but the insurer or employer, or the agents or employees of either
69 of them, are not civilly or criminally liable for providing information in compliance with this
70 Subsection ~~[(6)] (5)~~(a), whether the information is provided pursuant to a verbal or written
71 request;

72 (b) permit the custodial parent or the service provider, with the custodial parent's
73 approval, to submit claims for covered services without the approval of the noncustodial
74 parent; and

75 (c) make payments on claims submitted in accordance with Subsection ~~[(6)] (5)~~(b)
76 directly to the custodial parent, the child who obtained benefits, the provider, or the state
77 Medicaid agency.

78 ~~[(7)] (6)~~ When a parent is required by a court or administrative order to provide health
79 coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

80 (a) permit the parent to enroll, under the family coverage, a child who is otherwise
81 eligible for the coverage without regard to an enrollment season restrictions;

82 (b) if the parent is enrolled but fails to make application to obtain coverage for the
83 child, enroll the child under family coverage upon application of the child's other parent, the
84 state agency administering the Medicaid program, or the state agency administering 42 U.S.C.
85 651 through 669, the child support enforcement program; and

86 (c) (i) when the child is covered by an individual policy, not disenroll or eliminate
87 coverage of the child unless the insurer is provided satisfactory written evidence that:

88 (A) the court or administrative order is no longer in effect; or

89 (B) the child is or will be enrolled in comparable accident and health coverage through

90 another insurer which will take effect not later than the effective date of disenrollment; or

91 (ii) when the child is covered by a group policy, not disenroll or eliminate coverage of
92 the child unless the employer is provided with satisfactory written evidence, which evidence is
93 also provided to the insurer, that Subsection [~~(10)~~] (9)(c)(i), (ii) or (iii) has happened.

94 [~~(8)~~] (7) An insurer may not impose requirements on a state agency that has been
95 assigned the rights of an individual eligible for medical assistance under Medicaid and covered
96 for accident and health benefits from the insurer that are different from requirements applicable
97 to an agent or assignee of any other individual so covered.

98 [~~(9)~~] (8) Insurers may not reduce their coverage of pediatric vaccines below the benefit
99 level in effect on May 1, 1993.

100 [~~(10)~~] (9) When a parent is required by a court or administrative order to provide health
101 coverage, which is available through an employer doing business in this state, the employer
102 shall:

103 (a) permit the parent to enroll under family coverage any child who is otherwise
104 eligible for coverage without regard to any enrollment season restrictions;

105 (b) if the parent is enrolled but fails to make application to obtain coverage of the child,
106 enroll the child under family coverage upon application by the child's other parent, by the state
107 agency administering the Medicaid program, or the state agency administering 42 U.S.C. 651
108 through 669, the child support enforcement program;

109 (c) not disenroll or eliminate coverage of the child unless the employer is provided
110 satisfactory written evidence that:

111 (i) the court order is no longer in effect;

112 (ii) the child is or will be enrolled in comparable coverage which will take effect no
113 later than the effective date of disenrollment; or

114 (iii) the employer has eliminated family health coverage for all of its employees; and

115 (d) withhold from the employee's compensation the employee's share, if any, of
116 premiums for health coverage and to pay this amount to the insurer.

117 [~~(11)~~] (10) An order issued under Section 62A-11-326.1 may be considered a
118 "qualified medical support order" for the purpose of enrolling a dependent child in a group
119 accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement
120 Income Security Act of 1974.

121 [~~(12)~~] (11) This section does not affect any insurer's ability to require as a precondition
122 of any child being covered under any policy of insurance that:

123 (a) the parent continues to be eligible for coverage;

124 (b) the child shall be identified to the insurer with adequate information to comply with
125 this section; and

126 (c) the premium shall be paid when due.

127 [~~(13)~~] (12) The provisions of this section apply to employee welfare benefit plans as
128 defined in Section 26-19-2.

129 Section 2. **Coordinating H.B. 95 with H.B. 41.**

130 If this H.B 95 and H.B. 41, Health Insurance Coverage for Dependents, both pass, it is
131 the intent of the Legislature that the Office of Legislative Research and General Counsel
132 change Subsection 31A-22-610.5(4)(b) to read "(b) A child enrolled as required under
133 Subsection (4)(a)(iv) is subject to the terms of the accident and health insurance plan contract
134 pertaining to services received outside of an insurer's service area. A health maintenance
135 organization must comply with Section 31A-8-502."

Legislative Review Note
as of 12-5-03 9:10 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel