

**CHILD SUPPORT - CASH MEDICAL
SUPPORT**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill defines the term "cash medical support" as an obligation to equally share all reasonable and necessary medical and dental expenses of children and requires the court and the Office of Recovery Services to provide cash medical support provisions in child support orders.

Highlighted Provisions:

This bill:

- ▶ requires the court to include a cash medical support provision in its child support orders; and
- ▶ requires the Office of Recovery Services to include a provision assigning responsibility for cash medical support in its orders.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-11-103, as last amended by Laws of Utah 2000, Chapter 161

62A-11-326, as last amended by Laws of Utah 1990, Chapter 166

78B-12-102, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-12-212, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **62A-11-103** is amended to read:

62A-11-103. Definitions.

As used in this part:

(1) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(2) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.

~~[(2)]~~ (3) "Child support services" or "IV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

~~[(3)]~~ (4) "Director" means the director of the Office of Recovery Services.

~~[(4)]~~ (5) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction of all amounts required by law to be withheld.

~~[(5)]~~ (6) "Financial institution" means:

(a) a depository institution as defined in Section 7-1-103 or the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(c);

(b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12 U.S.C. Sec. 1813(u);

(c) any federal credit union or state credit union as defined in the Federal Credit Union Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as defined in 12 U.S.C. Sec. 1786(r);

(d) a broker-dealer as defined in Section 61-1-13; or

(e) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the state.

~~[(6)]~~ (7) "Financial record" is defined in the Right to Financial Privacy Act of 1978, 12 U.S.C. Sec. 3401.

~~[(7)]~~ (8) "Income" means earnings, compensation, or other payment due to an

58 individual, regardless of source, whether denominated as wages, salary, commission, bonus,
59 pay, or contract payment, or denominated as advances on future wages, salary, commission,
60 bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay,
61 and incentive pay. "Income" includes:

62 (a) all gain derived from capital assets, labor, or both, including profit gained through
63 sale or conversion of capital assets;

64 (b) interest and dividends;

65 (c) periodic payments made under pension or retirement programs or insurance
66 policies of any type;

67 (d) unemployment compensation benefits;

68 (e) workers' compensation benefits; and

69 (f) disability benefits.

70 ~~[(8)]~~ (9) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec.
71 651 et seq.

72 ~~[(9)]~~ (10) "New hire registry" means the centralized new hire registry created in
73 Section 35A-7-103.

74 ~~[(10)]~~ (11) "Obligee" means an individual, this state, another state, or other
75 comparable jurisdiction to whom a debt is owed or who is entitled to reimbursement of child
76 support or public assistance.

77 ~~[(11)]~~ (12) "Obligor" means a person, firm, corporation, or the estate of a decedent
78 owing money to this state, to an individual, to another state, or other comparable jurisdiction
79 in whose behalf this state is acting.

80 ~~[(12)]~~ (13) "Office" means the Office of Recovery Services.

81 ~~[(13)]~~ (14) "Provider" means a person or entity that receives compensation from any
82 public assistance program for goods or services provided to a public assistance recipient.

83 ~~[(14)]~~ (15) "Public assistance" or "assistance" means:

84 (a) services or benefits provided under Title 35A, Chapter 3, Employment Support
85 Act;

86 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

87 (c) foster care maintenance payments under Part E of Title IV of the Social Security
88 Act, 42 U.S.C. Sec. 670, et seq.;

89 (d) food stamps; or

90 (e) any other public funds expended for the benefit of a person in need of financial,
91 medical, food, housing, or related assistance.

92 ~~[(15)]~~ (16) "State case registry" means the central, automated record system
93 maintained by the office and the central, automated district court record system maintained by
94 the Administrative Office of the Courts, that contains records which use standardized data
95 elements, such as names, social security numbers and other uniform identification numbers,
96 dates of birth, and case identification numbers, with respect to:

97 (a) each case in which services are being provided by the office under the state IV-D
98 child support services plan; and

99 (b) each support order established or modified in the state on or after October 1, 1998.

100 Section 2. Section **62A-11-326** is amended to read:

101 **62A-11-326. Medical and dental expenses of dependent children.**

102 In any action under this part, the office and the department in their orders:

103 (1) shall include a provision assigning responsibility for ~~[the payment of reasonable~~
104 ~~and necessary medical and dental expenses of the dependent children]~~ cash medical support;
105 and

106 (2) ~~[may]~~ shall include a provision requiring the purchase and maintenance of
107 appropriate medical, hospital, and dental care insurance for those children, if:

108 (a) insurance coverage is or becomes available at a reasonable cost[-]; and

109 (b) the insurance coverage is accessible to the children.

110 Section 3. Section **78B-12-102** is amended to read:

111 **78B-12-102. Definitions.**

112 As used in this chapter:

113 (1) "Adjusted gross income" means income calculated under Subsection

114 78B-12-204(1).

115 (2) "Administrative agency" means the Office of Recovery Services or the Department
116 of Human Services.

117 (3) "Administrative order" means an order that has been issued by the Office of
118 Recovery Services, the Department of Human Services, or an administrative agency of another
119 state or other comparable jurisdiction with similar authority to that of the office.

120 (4) "Base child support award" means the award that may be ordered and is calculated
121 using the guidelines before additions for medical expenses and work-related child care costs.

122 (5) "Base combined child support obligation table," "child support table," "base child
123 support obligation table," "low income table," or "table" means the appropriate table in Part 3,
124 Tables.

125 (6) "Cash medical support" means an obligation to equally share all reasonable and
126 necessary medical and dental expenses of children.

127 [~~6~~] (7) "Child" means:

128 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
129 self-supporting, married, or a member of the armed forces of the United States;

130 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
131 normal and expected year of graduation and not otherwise emancipated, self-supporting,
132 married, or a member of the armed forces of the United States; or

133 (c) a son or daughter of any age who is incapacitated from earning a living and, if able
134 to provide some financial resources to the family, is not able to support self by own means.

135 [~~7~~] (8) "Child support" means a base child support award, or a monthly financial
136 award for uninsured medical expenses, ordered by a tribunal for the support of a child,
137 including current periodic payments, all arrearages which accrue under an order for current
138 periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and
139 child care costs.

140 [~~8~~] (9) "Child support order" or "support order" means a judgment, decree, or order
141 of a tribunal whether interlocutory or final, whether or not prospectively or retroactively

142 modifiable, whether incidental to a proceeding for divorce, judicial or legal separation,
143 separate maintenance, paternity, guardianship, civil protection, or otherwise which:

- 144 (a) establishes or modifies child support;
- 145 (b) reduces child support arrearages to judgment; or
- 146 (c) establishes child support or registers a child support order under [~~Title 78B,~~
147 Chapter 14, Uniform Interstate Family Support Act.

148 [~~(9)~~] (10) "Child support services" or "IV-D child support services" means services
149 provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Section 651 et
150 seq.

151 [~~(10)~~] (11) "Court" means the district court or juvenile court.

152 [~~(11)~~] (12) "Guidelines" means the directions for the calculation and application of
153 child support in Part 2, Calculation and Adjustment.

154 [~~(12)~~] (13) "Income" means earnings, compensation, or other payment due to an
155 individual, regardless of source, whether denominated as wages, salary, commission, bonus,
156 pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and
157 incentive pay. "Income" includes:

- 158 (a) all gain derived from capital assets, labor, or both, including profit gained through
159 sale or conversion of capital assets;
- 160 (b) interest and dividends;
- 161 (c) periodic payments made under pension or retirement programs or insurance
162 policies of any type;
- 163 (d) unemployment compensation benefits;
- 164 (e) workers' compensation benefits; and
- 165 (f) disability benefits.

166 [~~(13)~~] (14) "Joint physical custody" means the child stays with each parent overnight
167 for more than 30% of the year, and both parents contribute to the expenses of the child in
168 addition to paying child support.

169 [~~(14)~~] (15) "Medical expenses" means health and dental expenses and related

170 insurance costs.

171 ~~[(15)]~~ (16) "Obligee" means an individual, this state, another state, or another
172 comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of
173 child support or public assistance.

174 ~~[(16)]~~ (17) "Obligor" means any person owing a duty of support.

175 ~~[(17)]~~ (18) "Office" means the Office of Recovery Services within the Department of
176 Human Services.

177 ~~[(18)]~~ (19) "Parent" includes a natural parent, or an adoptive parent.

178 ~~[(19)]~~ (20) "Split custody" means that each parent has physical custody of at least one
179 of the children.

180 ~~[(20)]~~ (21) "State" includes any state, territory, possession of the United States, the
181 District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other
182 comparable domestic or foreign jurisdiction.

183 ~~[(21)]~~ (22) "Temporary" means a period of time that is projected to be less than 12
184 months in duration.

185 ~~[(22)]~~ (23) "Third party" means an agency or a person other than the biological or
186 adoptive parent or a child who provides care, maintenance, and support to a child.

187 ~~[(23)]~~ (24) "Tribunal" means the district court, the Department of Human Services,
188 Office of Recovery Services, or court or administrative agency of any state, territory,
189 possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico,
190 Native American Tribe, or other comparable domestic or foreign jurisdiction.

191 ~~[(24)]~~ (25) "Work-related child care costs" means reasonable child care costs for up to
192 a full-time work week or training schedule as necessitated by the employment or training of a
193 parent under Section 78B-12-215.

194 ~~[(25)]~~ (26) "Worksheets" means the forms used to aid in calculating the base child
195 support award.

196 Section 4. Section **78B-12-212** is amended to read:

197 **78B-12-212. Medical expenses.**

198 (1) The court shall order that insurance for the medical expenses of the minor children
199 be provided by a parent if it is available at a reasonable cost.

200 (2) In determining which parent shall be ordered to maintain insurance for medical
201 expenses, the court or administrative agency may consider the:

- 202 (a) reasonableness of the cost;
- 203 (b) availability of a group insurance policy;
- 204 (c) coverage of the policy; and
- 205 (d) preference of the custodial parent.

206 (3) The order shall require each parent to share equally the out-of-pocket costs of the
207 premium actually paid by a parent for the children's portion of insurance.

208 (4) The parent who provides the insurance coverage may receive credit against the
209 base child support award or recover the other parent's share of the children's portion of the
210 premium. In cases in which the parent does not have insurance but another member of the
211 parent's household provides insurance coverage for the children, the parent may receive credit
212 against the base child support award or recover the other parent's share of the children's
213 portion of the premium.

214 (5) The children's portion of the premium is a per capita share of the premium actually
215 paid. The premium expense for the children shall be calculated by dividing the premium
216 amount by the number of persons covered under the policy and multiplying the result by the
217 number of children in the instant case.

218 (6) The order shall ~~require~~ include a cash medical support provision that requires
219 each parent to ~~share~~ equally share all reasonable and necessary uninsured and unreimbursed
220 medical and dental expenses incurred for the dependent children, including but not limited to
221 deductibles and copayments.

222 (7) The parent ordered to maintain insurance shall provide verification of coverage to
223 the other parent, or to the Office of Recovery Services under Title IV of the Social Security
224 Act, 42 U.S.C. Section 601 et seq., upon initial enrollment of the dependent children, and
225 thereafter on or before January 2 of each calendar year. The parent shall notify the other

226 parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C.
227 Section 601 et seq., of any change of insurance carrier, premium, or benefits within 30
228 calendar days of the date the parent first knew or should have known of the change.

229 (8) A parent who incurs medical expenses shall provide written verification of the cost
230 and payment of medical expenses to the other parent within 30 days of payment.

231 (9) In addition to any other sanctions provided by the court, a parent incurring medical
232 expenses may be denied the right to receive credit for the expenses or to recover the other
233 parent's share of the expenses if that parent fails to comply with Subsections (7) and (8).