

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1795 Session of
1992INTRODUCED BY GREENWOOD, HOPPER, REIBMAN, O'PAKE, HELFRICK,
CORMAN, BRIGHTBILL AND PETERSON, JUNE 5, 1992

AS AMENDED ON THIRD CONSIDERATION, JUNE 23, 1992

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for medical support
3 obligation, for attachment of income and for acknowledgment
4 of paternity.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 4324 of Title 23 of the Pennsylvania
8 Consolidated Statutes is amended to read:

9 § 4324. Inclusion of spousal medical support.

10 In addition to periodic support payments, the court may
11 require that an obligor pay a designated percentage of a
12 [child's or] spouse's reasonable and necessary health care
13 expenses. If health care coverage is available through an
14 obligor or obligee at no cost as a benefit of employment or at a
15 reasonable cost, the court shall order an obligor or obligee to
16 provide or extend health care coverage to a [child or] spouse.
17 Upon failure of the obligor to make this payment or reimburse
18 the [custodial parent or] spouse and after compliance with

1 procedural due process requirement, the court shall treat the
2 amount as arrearages.

3 Section 2. Title 23 is amended by adding a section to read:

4 § 4326. Mandatory inclusion of child medical support.

5 (a) General rule.--In every proceeding to establish or
6 modify an order which requires the payment of child support, the
7 court shall ascertain the ability of each parent to provide
8 health care coverage for the children of the parties.

9 (b) Noncustodial parent requirement.--If health care
10 coverage is available at a reasonable cost to a noncustodial
11 parent on an employment-related or other group basis, the court
12 shall require that the noncustodial parent provide such coverage
13 to the children of the parties. In cases where there are two
14 noncustodial parents having such coverage available, the court
15 shall require one or both parents to provide coverage.

16 (c) Custodial parent requirement.--If health care coverage
17 is available at a reasonable cost to a custodial parent on an
18 employment-related or other group basis, the court shall require
19 that the custodial parent provide such coverage to the children
20 of the parties, unless adequate health care coverage has already
21 been provided through the noncustodial parent. In cases where
22 the parents have shared custody of the child and coverage is
23 available to both, the court shall require one or both parents
24 to provide coverage, taking into account the financial ability
25 of the parties and the extent of coverage available to each
26 parent.

27 (d) Additional requirement.--If the court finds that health
28 care coverage is not available to either parent at a reasonable
29 cost on an employment-related or other group basis, the court
30 shall order either parent or both parents to obtain for the

1 parties' children health insurance coverage which is available
2 at reasonable cost.

3 (e) Uninsured expenses.--The court shall determine the
4 amount of any deductible and copayments which each parent shall
5 pay. In addition, the court may require that either parent or
6 both parents pay a designated percentage of the reasonable and
7 necessary uncovered health care expenses of the parties'
8 children, including birth-related expenses incurred prior to the
9 filing of the complaint.

10 (f) Proof of insurance.--Within 30 days after the entry of
11 an order requiring a parent to provide health care coverage for
12 a child, the obligated parent shall submit to the other parent,
13 or person having custody of the child, written proof that health
14 care coverage has been obtained or that application for coverage
15 has been made. Proof of coverage shall consist of, at a minimum:

16 (1) The name of the health care coverage provider.

17 (2) Any applicable identification numbers.

18 (3) Any cards evidencing coverage.

19 (4) The address to which claims should be made.

20 (5) A description of any restrictions on usage, such as
21 prior approval for hospital admissions, and the manner of
22 obtaining approval.

23 (6) A copy of the benefit booklet or coverage contract.

24 (7) A description of all deductibles and copayments.

25 (8) Five copies of any claim forms.

26 (g) Obligations of insurance companies.--Every insurer doing
27 business within this Commonwealth shall be obligated as follows:

28 (1) to receive, process and pay claims submitted by
29 custodial parents;

30 (2) to provide copies of benefit booklets, insurance

contracts and claims information to custodial parents;

(3) if coverage is made available for dependents of the insured, to make such coverage available to the insured's children without regard to the amount of support contributed by a parent, the amount of time the child spends in the home or the custodial arrangements for the child;

(4) to permit the enrollment of children under court order within 60 days of the issuance of the order;

(5) to mail any checks which are not payable to the provider or reimbursable to the medical assistance program under subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, to the parent who filed the claim; and

(6) to notify the custodial parent at least 60 days <—
prior to the WHENEVER THERE IS A termination or modification <—
of any health care coverage due to nonpayment of premiums or other reason. The notice shall include an explanation of any conversion privileges available from the insurer.

(h) Obligations of noninsurers.--To the maximum extent permitted by Federal law, the obligations of subsection (g) shall apply to noninsurers providing health care coverage within this Commonwealth, including self-insured employee health benefit plans, and to insurers providing benefits, directly or indirectly, through stop-loss coverage to self-insured plans.

(I) OBLIGATIONS OF CUSTODIAL PARENT.--THE CUSTODIAL PARENT SHALL COMPLY WITH THE INSURER'S EXISTING CLAIM PROCEDURES AND PRESENT TO THE INSURER ONE OF THE FOLLOWING DOCUMENTS: <—

(1) A COPY OF A COURT ORDER PROVIDING FOR PAYMENT OF MEDICAL EXPENSES AND/OR MAINTENANCE OF MEDICAL INSURANCE COVERAGE ON BEHALF OF THE CHILD BY THE CUSTODIAL PARENT; OR

1 (2) A RELEASE SIGNED BY THE INSURED PERMITTING THE
2 INSURER TO COMMUNICATE DIRECTLY WITH THE CUSTODIAL PARENT.

3 ~~(i)~~ (J) Enforcement of order.--If an obligated parent fails <—
4 to comply with the order to provide health care coverage for a
5 child or pay medical expenses for a child, the court shall:

6 (1) If, after a hearing, the failure or refusal is
7 determined to have been willful, impose the penalties of
8 section 4345(a) (relating to contempt for noncompliance with
9 support order).

10 (2) Enter an order for a sum certain against the
11 obligated parent for the cost of medical care for the child
12 and for any premiums paid or provided for the child during
13 any period in which the obligated parent failed or refused to
14 provide coverage.

15 (3) Upon failure of the obligated parent to make this
16 payment or reimburse the custodial parent and, after
17 compliance with due process requirements, treat the amount as
18 arrearages.

19 ~~(j)~~ (K) Enforcement against insurers.--Any insurer or other <—
20 entity which violates the obligations imposed upon it under
21 subsection (g) or (h) shall be civilly liable for damages and
22 may be adjudicated in contempt and fined by the court.

23 ~~(k)~~ (L) Definitions.--As used in this section, the following <—
24 words and phrases shall have the meanings given to them in this
25 subsection:

26 "Child." A child to whom a duty of child support is owed.

27 "Health care coverage." Coverage for medical, dental,
28 orthodontic, optical, psychological, psychiatric or other health
29 care services for a child. For the purposes of this section,
30 medical assistance under subarticle (f) of Article IV of the act

1 of June 13, 1967 (P.L.31, No.21), known as the Public Welfare
2 Code, shall not be considered health care coverage.

3 "Insurer." A corporation or person incorporated or doing
4 business in this Commonwealth by virtue of the act of May 17,
5 1921 (P.L.682, No.284), known as The Insurance Company Law of
6 1921; a hospital plan corporation as defined in 40 Pa.C.S. Ch.
7 61 (relating to hospital plan corporations); a professional
8 health service plan corporation as defined in 40 Pa.C.S. Ch. 63
9 (relating to professional health services plan corporations); a
10 beneficial society subject to 40 Pa.C.S. Ch. 65 (relating to
11 fraternal benefit societies); a health maintenance organization;
12 or any other person, association, partnership, common-law trust,
13 joint stock company, nonprofit corporation, profit corporation
14 or other entity conducting an insurance business.

15 Section 3. Section 5103 of Title 23 is amended by adding a
16 subsection to read:

17 § 5103. Acknowledgment and claim of paternity.

18 * * *

19 (c) Acknowledgment upon birth.--Upon the birth of a child to
20 an unmarried woman, the attending physician or midwife, an agent
21 of either or an agent of the hospital where the birth occurred
22 shall:

23 (1) Provide the newborn's mother and natural father with
24 an opportunity to complete an affidavit acknowledging
25 paternity. The completed, signed affidavit shall be filed in
26 triplicate with the local registrar of vital statistics. The
27 registrar shall send one copy to the Bureau of Vital
28 Statistics and one copy to the Department of Public Welfare
29 and shall retain one copy. A fourth and fifth copy shall be
30 given to the mother and natural father separately. This

1 affidavit shall contain:

2 (i) A sworn, signed statement by the mother
3 consenting to the assertion of paternity and stating that
4 this is the only possible father.

5 (ii) A signed statement by the father that he is the
6 child's natural father.

7 (iii) A written explanation of the implications of
8 and the parental duties and parental rights which arise
9 from signing such a statement.

10 (iv) The Social Security numbers, driver's license
11 numbers and addresses of both parents.

12 (2) Provide written information, furnished by the
13 Department of Public Welfare to the mother, which explains
14 the benefits of having her child's paternity established, the
15 availability of paternity establishment services and the
16 availability of child support enforcement agencies.

17 Section 4. The amendment or addition of 23 Pa.C.S. §§ 4324
18 and 4326 shall apply to all support orders entered, reviewed or
19 modified on or after the effective date of this act.

20 Section 5. This act shall take effect in 90 days.