

DOMESTIC RELATIONS CODE (23 PA.C.S) - AMEND

Act of Dec. 4, 1992, P.L. 757, No. 114

Cl. 23

Session of 1992

No. 1992-114

SB 1795

AN ACT

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

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

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

§ 4324. Inclusion of **spousal** medical support.

In addition to periodic support payments, the court may require that an obligor pay a designated percentage of a [child's or] spouse's reasonable and necessary health care expenses. If health care coverage is available through an obligor or obligee at no cost as a benefit of employment or at a reasonable cost, the court shall order an obligor or obligee to provide or extend health care coverage to a [child or] spouse. Upon failure of the obligor to make this payment or reimburse the [custodial parent or] spouse and after compliance with procedural due process requirement, the court shall treat the amount as arrearages.

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

§ 4326. **Mandatory inclusion of child medical support.**

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

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

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

of the parties and the extent of coverage available to each parent.

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

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

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

- (1) The name of the health care coverage provider.
- (2) Any applicable identification numbers.
- (3) Any cards evidencing coverage.
- (4) The address to which claims should be made.
- (5) A description of any restrictions on usage, such as prior approval for hospital admissions, and the manner of obtaining approval.
- (6) A copy of the benefit booklet or coverage contract.
- (7) A description of all deductibles and copayments.
- (8) Five copies of any claim forms.

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

- (1) to receive, process and pay claims to a custodial parent who has complied with subsection (i) in the same manner that the insurer is responsible to receive, process and pay claims to other insureds under the policy;
- (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; and
- (5) to provide the custodial parent who has complied with subsection (i) with the same notification of termination or modification of any health care coverage due to nonpayment of premiums or other reason as is provided to other insureds under the policy.

(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

(2) a release signed by the insured permitting the insurer to communicate directly with the custodial parent.

(j) Enforcement of order.--If an obligated parent fails to comply with the order to provide health care coverage for a child or pay medical expenses for a child, the court shall:

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

(2) Enter an order for a sum certain against the obligated parent for the cost of medical care for the child and for any premiums paid or provided for the child during any period in which the obligated parent failed or refused to provide coverage. Failure to comply with an order under this paragraph shall be subject to section 4348 (relating to attachment of income).

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

(k) Enforcement against insurers.--Any insurer or other entity which violates the obligations imposed upon it under subsection (g) or (h) shall be civilly liable for damages and may be adjudicated in contempt and fined by the court.

(l) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

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

"Health care coverage." Coverage for medical, dental, orthodontic, optical, psychological, psychiatric or other health care services for a child. For the purposes of this section, medical assistance under Subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, shall not be considered health care coverage.

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

Section 3. Section 4348 of Title 23 is amended by adding a

subsection to read:

§ 4348. Attachment of income.

\* \* \*

**(d.1) Insurance.--If an obligor or obligee is in violation of an order under section 4326(j)(3) (relating to mandatory inclusion of child medical support), the attachment shall be in favor of the appropriate provider of health care coverage.**

\* \* \*

Section 4. This act shall apply as follows:

(1) Subject to paragraph (2), the amendment or addition of 23 Pa.C.S. §§ 4324 and 4326 shall apply to all support orders entered, reviewed or modified on or after the effective date of this act.

(2) The addition of 23 Pa.C.S. §§ 4326(j) and 4348(d.1) shall apply to support orders entered prior to the effective date of this act.

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

APPROVED--The 4th day of December, A. D. 1992.

ROBERT P. CASEY