

ORIGINAL HOUSE
BILL NO. 0104

ENROLLED ACT NO. 38, HOUSE OF REPRESENTATIVES

FIFTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2002 SPECIAL SESSION

AN ACT relating to medical support for children; specifying duties of the department of family services with respect to medical support obligations for the benefit of children; amending obligations of the employer of a person having a medical support obligation; specifying the rights of an obligor; establishing priorities for payment of medical support obligations; providing definitions; conforming related provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 20-2-403 through 20-2-406 are created to read:

20-2-403. Department of family services; duties of department and custodial parent; rules and regulations.

(a) In IV-D cases where the noncustodial parent is required to provide health care coverage pursuant to a child support order, and for whom the employer is known, the department shall enforce the provision of court ordered health care coverage for dependent children, where appropriate, through the use of the national medical support notice as provided by federal or state law, unless alternate coverage is allowed by any order of the court or tribunal, including:

(i) Cash contributions for health insurance coverage premiums through the custodial parent's employment;

(ii) Private coverage, unrelated to the noncustodial parent's employment.

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(b) The department shall transfer the national medical support notice to the employer within two (2) business days after an employee who is an obligor in a IV-D case is entered in the state directory of new hires.

(c) The department shall promptly notify the employer when there is no longer a current order for medical support in effect for which the department is responsible.

(d) The custodial parent, in consultation with the department, shall promptly select from available insurance plan options when the insurance plan administrator reports that there is more than one (1) option available under the plan, and shall take into consideration the income withholding of, and costs to, the obligor.

(e) The department shall, through rules and regulations, develop procedures to determine when it is appropriate to utilize the national medical support notice.

20-2-404. Rights of obligor.

(a) The obligor shall have twenty (20) days from the date of receipt of the national medical support notice within which to request a hearing. If the obligor does not request a hearing within twenty (20) days, the opportunity for a hearing may be deemed waived.

(b) The request for hearing shall be made in writing to the court or tribunal having appropriate jurisdiction, with notice provided to the department, and shall state the basis upon which the hearing is requested.

(c) The obligor may contest the withholding based on any lawful grounds, including mistake of fact, according to the provisions of subsection (a) of this section.

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Notwithstanding any contest by the obligor under this subsection, the employer shall initiate withholding until the employer receives notice from the department that withholding is no longer required. Any funds that are found to be inappropriately withheld shall be refunded to the obligor, if no arrearages exist, in accordance with rules and regulations of the department.

20-2-405. Priorities of payment.

(a) In IV-D cases in which an obligor is subject to income withholding for court ordered child support payments, health care coverage and any arrearages, and the amount of withholding allowed by law does not satisfy all withholding orders against the obligor, payment of current child support obligations shall be given priority in accordance with W.S. 20-6-215.

(b) After the requirements of W.S. 20-6-215 are met, health insurance premiums shall be prioritized by the court or tribunal on a case-by-case basis.

20-2-406. Definitions.

(a) As used in this act:

(i) "Department" means the department of family services;

(ii) "Employer" means any person who owes income to an obligor, including but not limited to, the United States government, a state government, any unit of local government and any school district;

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(iii) "IV-D agency" means the department of family services or any other state's IV-D agency as defined by that state;

(iv) "IV-D case" means a case with respect to a child in which support enforcement services are provided in accordance with Title IV-D of the federal Social Security Act by the child support enforcement unit of the department to a custodian of a child who is a recipient of services under title 42, chapters 1, 2 or 4, of the Wyoming statutes, or is a recipient of Title IV-E foster care. The term also includes any case in which a parent or custodian of a child applies to the child support enforcement unit of the department for support enforcement services and pays a fee for such services;

(v) "Medical child support order" means an order, judgment or decree, including the approval of a settlement agreement, issued by a court or tribunal, requiring a parent to provide health care coverage for a child and which may require a payor to enroll the child in a health care benefit plan;

(vi) "Mistake of fact" means an error in the amount of current support or arrearages, in the identity of the obligor or that the order of support does not exist or has been vacated;

(vii) "National medical support notice" means the federally approved national medical support notice used to enforce the provision of health care coverage in IV-D cases for children of noncustodial parents who are required to provide health care coverage through an employment-related group health plan in accordance with a child support order;

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(viii) "Obligor" means a person who owes a duty of support for a child;

(ix) "Payor" means any employer or other person who pays income to an obligor and who has or provides health care coverage to employees;

(x) "Title IV-D" means Title IV-D of the federal Social Security Act which established the federal child support enforcement program;

(xi) "This act" means W.S. 20-2-401 through 20-2-406.

Section 2. W.S. 14-3-435, 14-6-236, 14-6-435, 20-2-402(a)(intro) by creating a new paragraph (iii), by renumbering paragraphs (iii) and (iv) as (iv) and (v) and by creating a new paragraph (vi) and by creating new subsections (b) and (c) and 26-15-135(c)(ii), by creating a new paragraph (iii) and by renumbering paragraph (iii) as (iv) are amended to read:

14-3-435. Ordering payment for support and treatment of child; how paid; enforcement.

(a) When legal custody of a child, other than temporary guardianship, is vested by court order in an individual, agency, institution or organization other than the child's parents, the court shall in the same or any subsequent proceeding inquire into the financial condition of the child's parents or any other person who may be legally obligated to support the child. After due notice and hearing the court shall order the parents or any other legally obligated person to pay a reasonable sum for the support and treatment of the child during the time that a dispositional order is in force. The requirements of W.S.

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20-2-101 through ~~20-2-402~~20-2-406 apply to this section. The amount of support shall be determined in accordance with the presumptive child support established by W.S. 20-2-304. In any case where the court has deviated from the presumptive child support, the reasons therefor shall be specifically set forth in the order. The amount ordered to be paid shall be paid to the clerk of the juvenile court for transmission to the person, institution or agency having legal custody of the child or to whom compensation is due. The clerk of court is authorized to receive periodic payments payable in the name or for the benefit of the child, including but not limited to social security, veteran's administration benefits or insurance annuities, and apply the payments as the court directs. An order for support under this subsection shall include a statement of the addresses and social security numbers if known, of each obligor, the names and addresses of each obligor's employer and the names and birth dates of each child to whom the order relates. The court shall order each obligor to notify the clerk of court in writing within fifteen (15) days of any change in address or employment. If any person who is legally obligated to support the child does not have full time employment, the court may require that person to seek full time employment and may require community service work in lieu of payment until full time employment is obtained.

(b) An order for the payment of money entered against a parent or other person legally obligated to support a child under the provisions of W.S. 14-3-434, 20-2-101 through ~~20-2-402~~20-2-406 or this section shall be entered separately from the decree of disposition under W.S. 14-3-429 and shall not be treated as a part of the confidential court record under W.S. 14-3-437. The order may be filed in the district court of any county in the state. From the time of filing, the order shall have the same effect as a judgment or decree of the district court

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in a civil action and may be enforced by the district attorney, or the department of family services in the same manner and with the same powers as in other child support cases under W.S. 20-2-303 through 20-2-305, 20-2-307, 20-2-311, 20-2-401, ~~20-2-402~~ through 20-2-406 and 20-6-101 through 20-6-222, or in any manner provided by law for enforcement of a civil judgment for money.

14-6-236. Ordering payment for support and treatment of child; how paid; enforcement.

(a) When legal custody of a child, other than temporary guardianship, is vested by court order in an individual, agency, institution or organization other than the child's parents, the court shall in the same or any subsequent proceeding inquire into the financial condition of the child's parents or any other person who may be legally obligated to support the child. After due notice and hearing the court shall order the parents or any other legally obligated person to pay a reasonable sum for the support and treatment of the child during the time that a dispositional order is in force. The requirements of W.S. 20-2-101 through ~~20-2-402~~ 20-2-406 apply to this section. The amount of support shall be determined in accordance with the presumptive child support established by W.S. 20-2-304. In any case where the court has deviated from the presumptive child support, the reasons therefor shall be specifically set forth in the order. The amount ordered to be paid shall be paid to the clerk of the juvenile court for transmission to the person, institution or agency having legal custody of the child or to whom compensation is due. The clerk of court is authorized to receive periodic payments payable in the name or for the benefit of the child, including but not limited to social security, veteran's administration benefits or insurance annuities, and apply the payments as the court directs. An order for

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support under this subsection shall include a statement of the addresses and social security numbers if known, of each obligor, the names and addresses of each obligor's employer and the names and birthdates of each child to whom the order relates. The court shall order each obligor to notify the clerk of court in writing within fifteen (15) days of any change in address or employment. If any person who is legally obligated to support the child does not have full time employment, the court may require that person to seek full time employment and may require community service work in lieu of payment until full time employment is obtained.

(b) An order for the payment of money entered against a parent or other person legally obligated to support a child under the provisions of W.S. 14-6-235, 20-2-101 through ~~20-2-402~~ 20-2-406 or this section shall be entered separately from the decree of disposition under W.S. 14-6-229 and shall not be treated as a part of the confidential court record under W.S. 14-6-239. The order may be filed in the district court of any county in the state. From the time of filing, the order shall have the same effect as a judgment or decree of the district court in a civil action and may be enforced by the district attorney, or the department of family services in the same manner and with the same powers as in other child support cases under W.S. 20-2-303 through 20-2-305, 20-2-307, 20-2-311, 20-2-401, ~~20-2-402~~ through 20-2-406 and 20-6-101 through 20-6-222, or in any manner provided by law for enforcement of a civil judgment for money.

14-6-435. Ordering payment for support and treatment of child; how paid; enforcement.

(a) When legal custody of a child, other than temporary guardianship, is vested by court order in an individual, agency, institution or organization other than

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the child's parents, the court shall in the same or any subsequent proceeding inquire into the financial condition of the child's parents or any other person who may be legally obligated to support the child. After due notice and hearing the court shall order the parents or any other legally obligated person to pay a reasonable sum for the support and treatment of the child during the time that a dispositional order is in force. The requirements of W.S. 20-2-101 through ~~20-2-402~~20-2-406 apply to this section. The amount of support shall be determined in accordance with the presumptive child support established by W.S. 20-2-304. In any case where the court has deviated from the presumptive child support, the reasons therefor shall be specifically set forth in the order. The amount ordered to be paid shall be paid to the clerk of the juvenile court for transmission to the person, institution or agency having legal custody of the child or to whom compensation is due. The clerk of court is authorized to receive periodic payments payable in the name or for the benefit of the child, including but not limited to social security, veteran's administration benefits or insurance annuities, and apply the payments as the court directs. An order for support under this subsection shall include a statement of the addresses and social security numbers if known, of each obligor, the names and addresses of each obligor's employer and the names and birth dates of each child to whom the order relates. The court shall order each obligor to notify the clerk of court in writing within fifteen (15) days of any change in address or employment. If any person who is legally obligated to support the child does not have full time employment, the court may require that person to seek full time employment and may require community service work in lieu of payment until full time employment is obtained.

(b) An order for the payment of money entered against a parent or other person legally obligated to support a

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child under the provisions of W.S. 14-6-434, 20-2-101 through ~~20-2-402~~ 20-2-406 or this section shall be entered separately from the decree of disposition under W.S. 14-6-429 and shall not be treated as a part of the confidential court record under W.S. 14-6-437. The order may be filed in the district court of any county in the state. From the time of filing, the order shall have the same effect as a judgment or decree of the district court in a civil action and may be enforced by the district attorney, or the department of family services in the same manner and with the same powers as in other child support cases under W.S. 20-2-303 through 20-2-305, 20-2-307, 20-2-311, 20-2-401, ~~20-2-402~~ through 20-2-406 and 20-6-101 through 20-6-222, or in any manner provided by law for enforcement of a civil judgment for money.

20-2-402. Employer's obligations.

(a) Where a parent is required by a court or administrative order to provide health coverage for a child, at the time of the order, which is offered by and available through an employer doing business in this state to the parent, the employer is required to comply with the following:

(iii) To transfer the national medical support notice to the appropriate group health plan providing the health care coverage for which the child is eligible within twenty (20) business days after receipt of the national medical support notice;

~~(iii)~~ (iv) To withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and to pay this amount to the insurer; ~~and~~

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~~(iv)~~ (v) Not to disenroll, or eliminate coverage of, the child unless the employee is no longer insured by that employer's plan or the employer is provided satisfactory written evidence that:

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

(B) The child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of disenrollment; or

(C) The employer has eliminated family health coverage for all of its employees.

(vi) To notify the department within thirty (30) business days whenever the obligor's employment is terminated. The notice shall include the following information:

(A) When the obligor left the employment;

(B) The last known address of the obligor;

(C) The last known telephone number for the obligor; and

(D) The name, address and telephone number of the obligor's new employer, if known.

(b) No employer shall use the existence of the medical child support order authorized by this act:

(i) As grounds for discharge or discipline;

(ii) To otherwise penalize an obligor; or

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(iii) As grounds to refuse to employ a person.

(c) Any employer who violates subsection (a) or (b) of this section is subject to a civil penalty of not more than one hundred dollars (\$100.00). Any penalty collected under this section shall be distributed to the county public school fund in the county where the penalty was collected.

26-15-135. Coverage of children.

(c) Where a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage, the insurer shall be required:

(ii) If the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the department of health in administering the Wyoming Medical Assistance and Services Act, or the department of family services in administering the child support enforcement program; ~~and~~

(iii) To complete and return the plan administrator response in conjunction with the national medical support notice to the department of family services within forty (40) business days after receipt of the notice; and

~~(iii)~~ (iv) Not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

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

(B) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment.

Section 3. This act is effective July 1, 2002.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk