

SECOND REGULAR SESSION

SENATE BILL NO. 1160

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR SIMS.

Read 1st time February 13, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4604S.011

AN ACT

To repeal sections 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, RSMo, and to enact in lieu thereof six new sections relating to federal requirements on national medical support notice.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 454.606, 454.609, 454.615, 454.618, 454.627 and 454.700, to read as follows:

454.606. 1. In all IV-D cases in which income withholding for child support is to be initiated on the effective date of the order pursuant to section 452.350, RSMo, and section 454.505, respectively, the circuit clerk or division, as appropriate, shall send a notice to the employer or union of the parent who has been ordered to provide the health benefit plan coverage at the same time the support order withholding notice is issued. In cases in which the division enforces an order to obtain health benefit plan coverage, it also shall send a notice to the employer or union of the parent who has been ordered to provide the health benefit plan coverage.

2. The notice shall be sent to the employer or union by certified mail, return receipt requested.

3. [The notice shall contain the following information:

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

- (1) The parent's name and Social Security number;
- (2) A statement that the parent has been required to provide and maintain health benefit plan coverage for a dependent minor child;
- (3) The name, date of birth and Social Security number, if available, for each child.

4. The notice to withhold sufficient funds from the earnings due the obligor to cover employee contributions or premiums, when necessary to comply with the order to provide health benefit plan coverage, is binding on current and successor employers for current and subsequent periods of employment. Such notice continues until further notice by the court or the division.

5. The withholding of health benefit plan employee contributions or premiums from income, if required to comply with the order, shall not be held in abeyance pending the outcome of any hearing provided pursuant to section 454.609.] **The division shall use the National Medical Support Notice required by 42 U.S.C. Section 666(a)(19) and 45 C.F.R. Section 303.32 to enforce health benefit plan coverage under this chapter. The division shall:**

(1) Transfer the National Medical Support Notice to an employer within two business days after the date of entry of an employee who is an obligor in a IV-D case in the state directory of new hires; and

(2) Promptly notify the appropriate employer or union if a current order for medical support for which the division is responsible is no longer in effect.

4. The notice issued by the circuit clerk shall contain, at a minimum, the following information:

- (1) The parent's name and Social Security number;**
- (2) A statement that the parent is required to provide and maintain health benefit plan coverage for a dependent minor child; and**
- (3) The name, date of birth, and Social Security number, if available, for each child.**

5. The notice to withhold sufficient funds from the earnings due the obligor to cover employee contributions or premiums, when necessary to comply with the order to provide health benefit plan coverage, is binding on current and successor employers for current and subsequent periods of employment. Such notice shall continue until further notice by the court or division.

6. The withholding of health benefit plan employee contributions or premiums from income, if required to comply with the order, shall not be held in abeyance pending the outcome of any hearing provided pursuant to section 454.609.

454.609. 1. At the same time an employer **or union** notice is sent pursuant to section 454.606, the circuit clerk or the division, as appropriate, shall send a notice to the obligor by any form of mail to the obligor's last known address. The information contained in that notice shall include:

(1) A statement that the parent has been directed to provide and maintain health benefit plan coverage for the benefit of a minor child;

(2) The name and date of birth of the minor child;

(3) A statement that the income withholding for health benefit coverage applies to current and subsequent periods of employment;

(4) [The procedure available to] **A statement that the parent may within thirty days of the mailing date of the order or notice submit a written contest to the withholding on the grounds that the withholding is not proper because of mistake of fact or because the obligor [has purchased] provides other insurance that was obtained prior to issuance of the withholding order or notice that is comparable to the health benefit plan available through the employer or union or nonemployer or nonunion group;**

(5) A statement that if the obligor contests the withholding, the obligor shall be afforded an opportunity to present his **or her** case to the court or the division within thirty days of receipt of the notice of contest;

(6) A statement of exemptions which may apply to limit the portion of the obligated party's disposable earnings which are subject to the withholding under federal or state law;

(7) The Social Security number of the obligor, if available;

(8) A statement that state law prohibits employers from retaliating against an obligor under an order to provide health benefit plan coverage and that the court or the division should be contacted if the obligor has been retaliated against by his **or her** employer as a result of the order for health benefit plan coverage.

2. The only grounds to contest a withholding order or notice for health benefit plan coverage sent to an employer or union shall be mistake of fact or [the obligor's purchase of] **that the obligor obtained other insurance prior to issuance of the withholding order or notice** that is comparable to the health

benefit plan available through the employer or union, or nonemployer or nonunion group. For purposes of sections 454.600 to 454.645, "mistake of fact" means an error as to the identity of the obligor.

3. If the obligor contests the withholding order **or notice** for health plan coverage because of mistake of fact or [the purchase of] **because the obligor obtained** comparable insurance [within fifteen days of the mail date of the notice] **prior to issuance of the withholding order or notice**, the court or the director shall hold a hearing, enter an order disposing of all issues disputed by the obligor[, indicate the date that withholding will commence, if appropriate,] and notify the obligated party of the determination and date, within forty-five days of the date of receipt of the obligated party's notice of contest.

454.615. 1. Upon receipt of a court or administrative order, or notice, for health benefit plan coverage, the employer or union shall [forward a copy of] **transfer** the order or notice to the [health benefit plan administrator or insurer, as applicable] **appropriate group health plan providing the health plan coverage for which the child is eligible, excluding any severable notice to withhold for health care coverage directing the employer or union to withhold any mandatory employee contribution to the plan, within twenty business days after the date of the order or notice.**

2. **Within forty business days after the date of the order or notice, the plan administrator shall:**

(1) **Notify the issuing agency whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of such coverage or, if necessary, any steps to be taken by the custodial parent or issuing agency to effectuate such coverage; and**

(2) **Provide to the custodial parent or issuing agency a description of the coverage available and any forms or documents necessary to effectuate such coverage.**

454.618. 1. Upon receipt of the court or administrative order, or notice, for health benefit plan coverage, or upon application of the obligor pursuant to that order, the employer or union shall **take necessary action to** enroll the minor child as an eligible dependent in the health benefit plan and, upon enrollment, withhold any required employee contribution or premium from the obligor's income or wages **necessary for the coverage of the child and send any amount withheld directly to the health benefit plan administrator.**

If more than one health benefit plan is offered by the employer or union, the minor child shall be enrolled in the plan in which the obligor is enrolled. When one or more plans are available and the obligor is not enrolled in a plan that covers dependents or is not enrolled in any plan, the [employer or union shall enroll the] minor child and the obligor if necessary **shall be enrolled** under the least costly plan that provides service to the area where the child resides **if the order or notice for health benefit plan coverage is not a National Medical Support Notice issued by the division or IV-D agency of another state. If the notice for health benefit plan coverage is a National Medical Support Notice issued by the division or IV-D agency of another state, the health benefit plan administrator shall provide to the issuing agency copies of the applicable summary plan descriptions or other documents that describe available coverage, including the additional participant contribution necessary to obtain coverage for the child under each option and whether there is a limited area for any option. The issuing agency, in consultation with the custodial parent, must promptly select from the available plan options. If the issuing agency does not make such selection within twenty business days from the date the plan administrator provided the option, the plan administrator shall enroll the child in the plan's default option, if any. If the plan does not have a default option, the plan administrator shall enroll the child in the option selected by the issuing agency.**

2. In those instances where the obligor fails or refuses to execute any document necessary to enroll the minor child in the health benefit plan ordered by the court, the required information and authorization may be provided by the division or the custodial parent or guardian of the minor child.

3. Information and authorization provided by the division or the custodial parent or guardian of the minor child shall be valid for the purpose of meeting enrollment requirements of the health benefit plan and shall not affect the obligation of the employer or union and the insurer to enroll the minor child in the health benefit plan for which other eligibility, enrollment, underwriting terms and other requirements are met. However, any health benefit plan provision which denies or restricts coverage to a minor child of the obligor due to birth out of wedlock shall be void as against public policy.

4. A minor child that an obligor is required to cover as an eligible dependent pursuant to sections 454.600 to 454.645 shall be considered for health

benefit plan coverage purposes as a dependent of the obligor until the child's right to parental support terminates or until further order of the court, but in no event past the limiting age set forth in the health benefit plan.

454.627. When an order for health benefit plan coverage pursuant to sections 454.600 to 454.645 is in effect, upon termination of the obligor's employment, or upon termination of the health benefit plan coverage, the employer, union or health benefit plan administrator, as appropriate, shall make a good faith effort to notify the obligee, [and] **or** in IV-D cases, the division, within ten days of the termination date with notice of continuation or conversion privileges. **In addition, in IV-D cases, upon termination of the obligor's employment, the employer shall promptly notify the division or IV-D agency of another state, as applicable, of the obligor's last known address and the name and address of the obligor's new employer, if known.**

454.700. 1. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and a parent is eligible through employment, under the provisions of the federal Comprehensive Omnibus Budget Reconciliation Act (COBRA) or the provisions of section 376.892, RSMo, or for health coverage through an insurer or group health plan, any insurers, including group health plans as defined in section 607(1) of the federal Employee Retirement Income Security Act of 1974, offering, issuing, or renewing policies in this state on or after July 1, 1994, shall:

(1) Permit such parent to enroll under such coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Permit enrollment of a child under coverage upon application by the child's other parent [or by], the division of child support enforcement [or], the division of medical services, **or the tribunal of another state**, if the parent required by a court or administrative order to provide health coverage fails to make application to obtain coverage for such child;

(3) Not disenroll or eliminate coverage of a child unless [the insurer is provided satisfactory written evidence that]:

(a) **The insurer is provided satisfactory written evidence that** such court or administrative order is no longer in effect; or

(b) **The insurer is provided satisfactory written evidence that** the

child is or will be enrolled in comparable health coverage through another insurer which will take effect no later than the effective date of the disenrollment; **or**

(c) The employer or union eliminates family health coverage for all of its employees or members; or

(d) Any available continuation coverage is not elected or the period of such coverage expires.

2. In any case in which a parent is required by a court or administrative order to provide medical coverage for a child, under any health benefit plan, as defined in section 454.600, and the parent is eligible for such health coverage through an employer doing business in Missouri, the employer **or union** shall:

(1) Permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage, without regard to any enrollment season restrictions;

(2) Enroll a child under family coverage upon application by the child's other parent [or by], the division of child support enforcement [or], the division of medical services, **or a tribunal of another state**, if a parent is enrolled but fails to make application to obtain coverage of such child; and

(3) Not disenroll or eliminate coverage of any such child unless [the employer is provided satisfactory written evidence that]:

(a) **The employer or union is provided satisfactory written evidence that** such court or administrative order is no longer in effect; or

(b) **The employer or union is provided satisfactory written evidence that** 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 such disenrollment; or

(c) The employer **or union** has eliminated family health coverage for all of its employees **or members**.

3. No insurer may impose any requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under chapter 208, RSMo, and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

4. All insurers shall in any case in which a child has health coverage through the insurer of a noncustodial parent:

(1) Provide such information to the custodial parent or legal guardian as may be necessary for the child to obtain benefits through such coverage;

(2) Permit the custodial parent or legal guardian, or provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) Make payment on claims submitted in accordance with subdivision (2) of this subsection directly to the parent, the provider, or the division of medical services.

5. The division of medical services may garnish the wages, salary, or other employment income of, and require withholding amounts from state tax refunds, pursuant to section 143.783, RSMo, to any person who:

(1) Is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under Medicaid; and

(2) Has received payment from a third party for the costs of such services to such child, but has not used such payment to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services, to the extent necessary to reimburse the division of medical services for expenditures for such costs under its plan. However, claims for current or past due child support shall take priority over claims by the division of medical services.

6. The remedies for the collection and enforcement of medical support established in this section are in addition to and not in substitution for other remedies provided by law and apply without regard to when the order was entered.

✓

Copy