

House Bill No. 6004
May 9 Special Session, Public Act No. 02-7
AN ACT CONCERNING STATE EXPENDITURES.

Sections 38, and 40 through 44

Sec. 38. (NEW) (*Effective October 1, 2002*) (a) For the purposes of this section:

(1) "Issuing agency" means an agency providing child support enforcement services, as defined in subsection (b) of section 46b-231 of the general statutes, and includes the Bureau of Child Support Enforcement within the Department of Social Services and Support Enforcement Services within Judicial Branch Court Operations; and

(2) "NMSN" means the National Medical Support Notice required under Title IV-D of the Social Security Act and the Employee Retirement Income Security Act used by state child support agencies to enforce health care coverage support provisions in child support orders.

(b) (1) Whenever a court or family support magistrate enters a support order in a Title IV-D support case, as defined in subsection (b) of section 46b-231 of the general statutes, that requires a noncustodial parent to provide employment based health care coverage for a child, and the noncustodial parent's employer is known to the issuing agency, such agency shall enforce the health care coverage provisions of the order through the use of a NMSN.

(2) In addition to other notice and requirements contained therein, the NMSN shall serve as notice to the employer that: (A) The employee is obligated to provide employment based health care coverage for the child; (B) the employer may be required to withhold any employee contributions required by the group health plan or plans in which the child is eligible to be enrolled; and (C) the employer is required to forward the NMSN to the administrator of each group health plan providing such coverage for enrollment determination purposes.

(3) In addition to other notice requirements contained therein, the NMSN shall serve as notice to the group health plan that: (A) Receipt of the NMSN from an employer constitutes receipt of a medical support order; and (B) an appropriately completed NMSN constitutes a qualified medical child support order for health care coverage enrollment purposes.

(4) In any case in which the noncustodial parent is a newly hired employee, the NMSN shall be transferred by the issuing agency to the employer no later than two business days after the date of the entry of the employee in the State Directory of New Hires established under section 31-254 of the general statutes, together with any necessary income withholding notice.

(c) (1) An employer who receives a NMSN from the issuing agency shall: (A) No later than twenty business days, after the date of NMSN, either (i) return the notice to such agency indicating why the health care coverage is not available, or

(ii) transfer the notice to the administrator of each appropriate group health plan for which the child may be eligible; (B) upon notification from any such group health plan that the child is eligible for enrollment, withhold from the employee's income any employee contribution required under such plan and send the withheld payments directly to the plan, except as provided in subsection (d) of this section; and (C) notify the issuing agency whenever the employee's employment terminates. (2) Any employer who discharges an employee from employment, refuses to employ, or takes disciplinary action against an employee because of a medical child support withholding, or fails to withhold income or transmit withheld income to the group health plan as required by the NMSN shall be subject to the penalties related to employer processing of child support income withholding, as provided in subsections (f) and (j) of section 52-362 of the general statutes, as amended. (3) The issuing agency shall notify the employer promptly when there is no longer a current order for medical support.

(d) The NMSN shall inform the employer of the duration of the withholding requirement, of any limitations on withholding prescribed by federal or state law, and of any withholding priorities that apply when available income is insufficient to satisfy all cash and medical support obligations. The employer shall notify the issuing agency when any such withholding limitations or priorities prevent the employer from withholding the amount required to obtain coverage under the group health plan for which the child is otherwise eligible.

(e) (1) The administrator of a group health plan who receives a NMSN from an employer pursuant to subsection (c) of this section shall deem the NMSN to be a "qualified medical child support order" and an application by the issuing agency for enrollment of the child. Enrollment of the child may not be denied because the child: (A) Was born out of wedlock, (B) is not claimed as a dependent on the participant's federal income tax return, (C) does not reside with the participant or in the plan's service area, or (D) is receiving benefits or is eligible for benefits under a state medical assistance plan required by the Social Security Act. An enrollment shall be made without regard to open season enrollment restrictions, and if enrollment of a child is dependent on the enrollment of a participant who is not enrolled, both the child and the participant shall be enrolled. (2) No later than forty business days after the date of the NMSN the plan administrator shall notify the issuing agency whether coverage is available or, if necessary, of the steps to be taken to begin such coverage. The administrator shall also provide to the custodial parent a description of the coverage available and of any forms or documents necessary to begin coverage. The issuing agency, in consultation with the custodial parent, shall promptly select from any available plan options when necessary. Upon completion of enrollment, the group health plan administrator shall return the NMSN to the employer for a determination of whether any necessary employee contributions are available.

(f) A NMSN issued pursuant to this section shall be deemed part of the court order requiring employment based health care coverage. The NMSN shall have

the same force and effect as a court order directed to an employer or group health plan administrator and may be enforced by the court or family support magistrate in the same manner as an order of the court or family support magistrate. The requirements imposed on employers and group health plan administrators under this section and the NMSN shall be in addition to any requirements imposed on said employer or administrator under other provisions of the general statutes.

Sec. 40. Subdivision (2) of subsection (a) of section 17b-745 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2002*):

(2) (A) The court or family support magistrate shall include in each support order in a IV-D support case a provision for the health care coverage of the child which provision may include an order for either parent to name any child under eighteen as a beneficiary of any medical or dental insurance or benefit plan carried by such parent or available to such parent on a group basis through an employer or a union. Any such employment based order shall be enforced using a National Medical Support Notice as provided in section 38 of this act. If such insurance coverage is unavailable at reasonable cost, the provision for health care coverage may include an order for either parent to apply for and maintain coverage on behalf of the child under the HUSKY Plan, Part B. The noncustodial parent shall be ordered to apply for the HUSKY Plan, Part B only if such parent is found to have sufficient ability to pay the appropriate premium. In any IV-D support case in which the noncustodial parent is found to have insufficient ability to provide medical insurance coverage and the custodial party is the HUSKY Plan, Part A or Part B applicant, the provision for health care coverage may include an order for the noncustodial parent to pay such amount as is specified by the court or family support magistrate to the state or the custodial party, as their interests may appear, to offset the cost of any insurance payable under the HUSKY Plan, Part A or Part B. In no event may such order include payment to offset the cost of any such premium if such payment would reduce the amount of current support required under the child support guidelines.

[(B) When a parent is ordered to provide insurance coverage in accordance with subparagraph (A) of this subdivision, the court or family support magistrate shall order the employer of such parent to withhold from such employee's compensation the employee's share, if any, of premiums for health coverage, except for certain circumstances under which an employer may withhold less than such employee's share of such premiums, as may be provided by regulation of the Secretary of the United States Department of Health and Human Services and pay such share of premiums to the insurer. The amount withheld shall not exceed the maximum amount permitted to be withheld as set forth in 15 USC 1673(b).]

(B) Whenever an order of the Superior Court or family support magistrate is issued against a parent to cover the cost of such medical or dental insurance or benefit plan for a child who is eligible for Medicaid benefits, and such parent has received payment from a third party for the costs of such services but such parent has not used such payment to reimburse, as appropriate, either the other parent or guardian or the provider of such services, the Department of Social Services shall have the authority to request the court or family support magistrate to order the employer of such parent to withhold from the wages, salary or other employment income, of such parent to the extent necessary to reimburse the Department of Social Services for expenditures for such costs under the Medicaid program. However, any claims for current or past due child support shall take priority over any such claims for the costs of such services.

Sec. 41. Section 38a-497a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2002*):

(a) As used in this section (1) "insurer" shall have the same meaning as "insurer", as defined in 42 USC S 1396g-1(b), as including a group health plan, as defined in 29 USC S 1167(1), an employee welfare benefit plan providing medical care to participants or beneficiaries directly or through insurance reimbursement, or otherwise, a health maintenance organization and an entity offering a service benefit plan, and (2) "NMSN" means a National Medical Support Notice issued in a Title IV-D support case pursuant to section 38 of this act.

(b) If a child has health insurance coverage through an insurer of a noncustodial parent, such insurer shall: (1) Provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage; (2) permit the custodial parent, or the health care provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; [and] (3) make payments on claims submitted in accordance with this section directly to the custodial parent, the health care provider or the Department of Social Services; and (4) comply with the terms of any applicable NMSN.

(c) An insurer shall not deny enrollment of a child under the group health plan of the child's parent if: (1) The child was born out of wedlock, provided the father of the child has acknowledged paternity pursuant to section 46b-172, as amended, or has been adjudicated the father pursuant to section 46b-171; (2) the child is not claimed as a dependent on the federal income tax return of the parent; [or] (3) the child does not reside with the parent or in the insurer's service area; or (4) if the child is receiving, or is eligible for benefits under a state medical assistance plan required by the Social Security Act.

(d) If a parent is required by a court or family support magistrate to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall permit the parent to enroll, or shall enroll pursuant to any applicable NMSN, under the family coverage, a child who is otherwise eligible

for such coverage without regard to any open enrollment restrictions. If enrollment of a child is dependent on the enrollment of a participant who is not enrolled, both the child and the participant shall be enrolled. If the parent is enrolled for coverage but fails to make application to obtain coverage for a child, the insurer shall enroll such child under family coverage upon application of such child's other parent, the state agency administering the Medicaid program or the state agency administering Title IV-D of the Social Security Act, or upon receipt of a NMSN, as provided in section 38 of this act. The insurer shall not disenroll or eliminate coverage of such child unless the insurer is provided with satisfactory written evidence that the court or administrative order is no longer in effect or the child is enrolled or shall be enrolled in comparable health coverage through another insurer which shall take effect no later than the effective date of such disenrollment, or the employer eliminates family health coverage for all its employees.

(e) If a parent is required by a court or an administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in the state, such employer shall permit such parent to enroll such child under such coverage without regard to any open enrollment restrictions. If a parent is enrolled but fails to make application to obtain coverage of a child, the employer shall enroll such child under health care coverage upon application by the child's other parent or by the Commissioner of Social Services, or his designee, when such child is eligible under the Medicaid program or is receiving child support enforcement services pursuant to Title IV-D of the Social Security Act. A NMSN shall constitute an application for health care coverage by the issuing agency. If a noncustodial parent in a IV-D case provides such coverage and changes employment, and the new employer provides health care coverage, the IV-D agency or an agency under cooperative agreement therewith shall transfer notice of the provision for health care coverage to such new employer, as provided in section 38 of this act. The notice shall operate to enroll the child in the noncustodial parent's health care plan if that portion of the obligor's income which is subject to withholding pursuant to subsection (e) of section 52-362, as amended, is sufficient to cover both the support order and health care coverage. At the time notice is transferred to the employer, the IV-D agency, or an agency under cooperative agreement therewith, shall also cause a copy of the notice of such transfer of health care coverage to be delivered to the obligor and to the custodial parent. The noncustodial parent may contest such notice by filing a motion for modification with the family support magistrate. An employer, subject to the provisions of this section, shall not disenroll or eliminate coverage of any such child unless the employer is provided satisfactory written evidence that: (1) A court or an administrative order for health care coverage is no longer in effect; (2) the child is or shall be enrolled in comparable health care coverage which shall take effect

not later than the effective date of such disenrollment or elimination; or (3) the employer has eliminated family health care coverage for all of its employees.

Sec. 42. Subsection (f) of section 46b-84 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2002*):

(f) After the granting of a decree annulling or dissolving the marriage or ordering a legal separation, and upon complaint or motion with order and summons made to the Superior Court by either parent or by the Commissioner of Administrative Services in any case arising under subsection (a) or (b) of this section, the court shall inquire into the child's need of maintenance and the respective abilities of the parents to supply maintenance. The court shall make and enforce the decree for the maintenance of the child as it considers just, and may direct security to be given therefor, including an order to either party to contract with a third party for periodic payments or payments contingent on a life to the other party. The court shall include in each support order a provision for the health care coverage of the child which provision may include an order for either parent to name any child who is subject to the provisions of subsection (a) or (b) of this section as a beneficiary of any medical or dental insurance or benefit plan carried by such parent or available to such parent on a group basis through an employer or a union. Any such employment based order in a IV-D support case shall be enforced using a National Medical Support Notice as provided in section 38 of this act. If such insurance coverage is unavailable at reasonable cost, the provision for health care coverage may include an order for either parent to apply for and maintain coverage on behalf of the child under the HUSKY Plan, Part B. The noncustodial parent shall be ordered to apply for the HUSKY Plan, Part B only if such parent is found to have sufficient ability to pay the appropriate premium. In any IV-D support case in which the noncustodial parent is found to have insufficient ability to provide medical insurance coverage and the custodial party is the HUSKY Plan, Part A or Part B applicant, the provision for health care coverage may include an order for the noncustodial parent to pay such amount as is specified by the court or family support magistrate to the state or the custodial party, as their interests may appear, to offset the cost of any insurance payable under the HUSKY Plan, Part A or Part B. In no event may such order include payment to offset the cost of any such premium if such payment would reduce the amount of current support required under the child support guidelines.

Sec. 43. Subdivision (2) of subsection (a) of section 46b-171 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2002*):

(2) In addition, the court or family support magistrate shall include in each support order in a IV-D support case a provision for the health care coverage of the child which provision may include an order for either parent to name any

child under the age of eighteen years as a beneficiary of any medical or dental insurance or benefit plan carried by such parent or available to such parent on a group basis through an employer or union. Any such employment based order shall be enforced using a National Medical Support Notice as provided in section 38 of this act. If such insurance coverage is unavailable at reasonable cost, the provision for health care coverage may include an order for either parent to apply for and maintain coverage on behalf of the child under the HUSKY Plan, Part B. The noncustodial parent shall be ordered to apply for the HUSKY Plan, Part B only if such parent is found to have sufficient ability to pay the appropriate premium. In any IV-D support case in which the noncustodial parent is found to have insufficient ability to provide medical insurance coverage and the custodial party is the HUSKY Plan, Part A or Part B applicant, the provision for health care coverage may include an order for the noncustodial parent to pay such amount as is specified by the court or family support magistrate to the state or the custodial party, as their interests may appear, to offset the cost of any insurance payable under the HUSKY Plan, Part A or Part B. In no event may such order include payment to offset the cost of any such premium if such payment would reduce the amount of current support required under the child support guidelines.

Sec. 44. Subdivision (2) of subsection (a) of section 46b-215 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2002*):

(2) Any such support order in a IV-D support case shall include a provision for the health care coverage of the child which provision may include an order for either parent to name any child under eighteen as a beneficiary of any medical or dental insurance or benefit plan carried by such parent or available to such parent on a group basis through an employer or a union. Any such employment based order shall be enforced using a National Medical Support Notice as provided in section 38 of this act. If such insurance coverage is unavailable at reasonable cost, the provision for health care coverage may include an order for either parent to apply for and maintain coverage on behalf of the child under the HUSKY Plan, Part B. The noncustodial parent shall be ordered to apply for the HUSKY Plan, Part B only if such parent is found to have sufficient ability to pay the appropriate premium. In any IV-D support case in which the noncustodial parent is found to have insufficient ability to provide medical insurance coverage and the custodial party is the HUSKY Plan, Part A or Part B applicant, the provision for health care coverage may include an order for the noncustodial parent to pay such amount as is specified by the court or family support magistrate to the state or the custodial party, as their interests may appear, to offset the cost of any insurance payable under the HUSKY Plan, Part A or Part B. In no event may such order include payment to offset the cost of any such

premium if such payment would reduce the amount of current support required under the child support guidelines.