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DIRECTIVE #18-19

[Supersedes Directives #3-87 and #07-94]

[Questions or comments may be directed to
(609) 815-3810]

**TO: Assignment Judges
Trial Court Administrators**

FROM: Glenn A. Grant, J.A.D. 

SUBJECT: Child Support Medical Support Procedures

DATE: August 5, 2019

This Directive supersedes Directive #3-87 *Medical Support Guidelines* (issued August 4, 1987) and Directive #7-94 *Child Support Health Insurance Orders* (issued July 19, 1994).

Federal regulations mandate that all states, as part of their child support programs, secure health insurance information and establish and enforce child support orders requiring parents to provide and maintain health insurance coverage for their children (45 *CFR* 303.30 and 303.31). In addition, the New Jersey Child Support Guidelines (Rule 5:6A and Appendix IX-A) provide that all child support orders shall include a provision for health insurance for the children if it is available to either parent at a reasonable cost, unless the parties agree to an alternative arrangement.

The policy set forth in this Directive has been developed to provide guidance to the Family and Probation Divisions in achieving compliance with the federal law and regulations applicable to the New Jersey Title IV-D Child Support Program and ensure the establishment of health care coverage in new and modified child support orders and enforcement of the orders. This Directive applies to all Title IV-D child support cases, both dissolution and non-dissolution. The accompanying procedures are approved to ensure that the policy is implemented and will be updated periodically as necessary. Implementation of this Directive helps ensure that New Jersey is in compliance with the federal law and regulations governing Title IV-D Child Support Programs. Even beyond compliance, establishment and enforcement of medical support can reduce the

expenditure of public funds for child health care, ensure that parents pay their fair share of their children's health care costs, and contribute to the overall well-being and health of New Jersey's children.

I. ESTABLISHING MEDICAL SUPPORT ORDERS

A primary mandate of federal Title IV-D regulations is that all states administering Title IV-D Child Support Programs require that child support orders address health care coverage in the order. In New Jersey, the mandate is fulfilled by requirements in the child support guidelines to order health care coverage if it is available at a reasonable cost to either or both parents. The guidelines also address unreimbursed medical costs, recurring and predictable medical costs, and extraordinary medical costs incurred on behalf of the child(ren). Every newly established or modified order must include health care insurance provisions unless parties have made alternative arrangements.

If a custodial parent or person is receiving Temporary Assistance to Needy Families (TANF) or Medicaid for a child(ren), the Title IV-D agency, through its attorney representatives, must request an order for health care coverage. This requirement is also applicable to Title IV-A foster care cases represented by County Welfare Agency attorneys.

The New Jersey Child Support Guidelines are in accord with the federal regulations by providing that all child support orders shall include a provision for health care insurance for the child(ren) if it is available to either or both parents at a reasonable cost, unless the parties have an alternative arrangement. Reasonable cost is defined in Appendix IX-A of the New Jersey Child Support Guidelines, which also establishes an income-based standard to address parties without the income-based ability to meet the requirement to provide health care coverage.

The federal regulations require the collection of health insurance policy information to provide it to the appropriate party or agency and to document compliance with the order requiring the parent to provide health care insurance coverage. Information such as: the name of the non-custodial parent, Social Security Number of the non-custodial parent, home address of the non-custodial parent, name and address of the non-custodial parent's place of employment, and whether the non-custodial parent has a health insurance policy and, if so, the policy name and number and the persons covered under the policy. Rule 5:4-2(9) requires that all pleadings filed in the Family Part must include a completed *Confidential Litigant Information Sheet* (CLIS) (see Rules Appendix XXIV) and that it must be completed and provided in all pleadings filed, not just the first pleading. Rule 5:5-3 *Financial Statement in Summary Support Actions* also requires a filing of the CLIS. The CLIS is kept as a confidential document by the Family Division. The CLIS is used to gather demographic information about the plaintiff, defendant, and children, as well as health insurance information. The

intent is to use the CLIS at every point of contact with the parties; when they appear for a hearing and are in the waiting room, during the hearing proceeding at the post-hearing interdivisional meeting or contact with intake staff. This is in recognition that medical support is an integral part in providing support and care for a child(ren).

New Orders

In all new child support cases, Family Division Intake staff should assist parents in requesting that medical support be part of the relief requested in the application. Family staff should assist parties in filing the application for relief or may inform them of the Judiciary website where they may find a motion or application kit to complete and mail or deliver to the court for processing. Family staff should also encourage the party applying for relief to complete the IV-D application for Title IV-D services and pay the applicable fee. Parties should be advised they will be required to appear at the hearing before a judge or hearing officer. At the hearing, the judge or hearing officer will address the issue of health care coverage and will include an appropriate provision in the order.

Family Division Intake staff must inform non-TANF, non-Medicaid custodial parents or persons that they may request that the non-custodial parent be ordered to provide health insurance coverage. This notice supplements the information included in the application for IV-D services. Health insurance is requested on behalf of TANF and Medicaid recipients by counsel representing the respective County Welfare Agency. All complaints or applications for child support shall include a paragraph requesting health insurance coverage which must be checked off as a relief in all cases where the custodial parent requests it.

All efforts must be made to obtain health care insurance information from both parties since either or both may be ordered to provide health care insurance for the child(ren). The CLIS will help the court maintain current demographics on the parties.

Modification of an Order

When an order has been established that does not include a provision for health care insurance for the child(ren), it is still possible to obtain coverage if it is available. Regardless of TANF or Medicaid eligibility, the custodial parent or person may file a post-judgment application or post-judgment motion seeking to modify the court order so as to include health care coverage. The Family Division Intake staff should help the custodial parent or person file a post-judgment motion or post-judgment application. Parties may also be referred to the Judiciary website for motion or application kits to fill out and mail or deliver to the court. Family staff should also encourage the party applying for relief to complete the IV-D application for Title IV-D services and pay the applicable fee if no such application is on file. Parties should be advised they will be required to appear at the hearing before a judge or hearing officer.

II. ENFORCING MEDICAL SUPPORT ORDERS

National Medical Support Notice

Pursuant to 42 U.S.C. 666(a)(19), in all cases where either party is ordered to provide medical support, and child support enforcement services are provided by Probation, the National Medical Support Notice (NMSN) will be used as required by federal regulations. The NMSN is an administrative notice that is sent to the employer to enroll an employee's dependents in a health coverage plan available to the employee who is ordered to provide that coverage as part of a support order. It is automatically sent in concert with the income withholding order whenever an employer is newly identified.

The employer must follow state law to implement income withholding for health care coverage premiums, enrolling the children, and providing information regarding the policy to the family. Once the employer's health plan administrator determines that an employee's dependents may be covered under the health plan, employers must immediately enroll the employee's dependents as beneficiaries in the health plan at the employee's expense, if he/she is required to contribute to the cost. Eligible dependents must be added to the employee's health plan, even if the date of the court order establishing medical support falls outside the health plan open enrollment period. This is known as a "special" open enrollment event. Under federal law, job-based plans must provide a special enrollment period following certain qualified life events that involve a change in family status, e.g., issuance of a qualified medical support order, dissolution, or birth of a child.

If a plan requires the employee to be enrolled in the plan to get coverage for their dependents, the employer must also enroll the employee in the plan.

Federal regulations (45 *CFR* 306.51) also require that action be taken against obligors who do not obtain medical insurance coverage for the children as ordered by the court, or who allow such coverage to lapse. The IV-D program has retained a private vendor to act as the NMSN facilitator, which has been vested with the authority to administratively process and monitor employer compliance with NMSN.

If the NMSN process is not successful in obtaining health care coverage and the parent who is required by the court to provide health insurance coverage fails to enroll the child or children in a health insurance plan (e.g., private, public, union or employer-based), or allows the coverage to lapse, compliance may be compelled by listing the case for court enforcement. In such instances, Probation should verify the status of the case and, if appropriate, schedule an ELR hearing for non-compliance with the order. If other portions of the order need to be enforced, this should be done at the same time. If appropriate, Probation may request the issuance of a bench warrant when medical provisions of a support order have not been met. If the failure to provide medical coverage is the sole

reason for the non-compliance, Probation should alert the Sheriff that the "release amount" does not exist and the NCP must be brought before the court.

Interstate Cases

For cases in which New Jersey is the responding state, health insurance orders should be enforced in the same manner as New Jersey orders, except that once the health insurance information is obtained, it should be submitted to the initiating agency rather than directly to the obligee. All of the above health insurance procedures would apply to these cases as well. Where the initiating agency has only requested an interstate income withholding, no health insurance enforcement can occur. For cases in which New Jersey is the initiating state, follow-up action may be required to determine if the health insurance provision is being enforced by the responding state.

These procedures were designed to assist Family and Probation Division staff in implementing the requirements for establishing and enforcing medical support orders. Questions concerning this Directive may be directed to Family Practice Division at 609-815-2900, ext. 55350, or Child Support Enforcement Services at 609-815-3810.

EDITOR'S NOTE

*2019 Update - This Superseding Directive updates the information set forth in Directives #3-87 and #07-94, setting forth the current procedures for medical support. This Superseding Directive combines both directives, updates the information on the National Medical Support Notice (NMSN), and replaces references to outdated terms.

8/4/87 – Directive #3-87 originally issued by Robert D. Lipscher, Administrative Director

7/19/94 – Directive #7-94 originally issued by The Supreme Court.

cc: Chief Justice Stuart Rabner
Family Division Presiding Judges
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