

## Guideline Committee

### Medical Support

#### Background Information

*Question:* Does the Committee have the authority to require health care coverage as a component of the state child support guidelines?

Yes. The Committee has the authority to recommend a guideline requirement that one or both parents will provide health care coverage because AB 278 (2017) repeals NRS 125B.085, the existing medical support statute and AB 278 (2017) requires the new child support guideline regulation to comply with federal requirements.

Federal regulations mandate state child support guidelines address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support. The federal Office of Child Support Enforcement (OCSE) interprets this requirement as requiring health care coverage as the first option in providing for a child's health care needs with cash medical support in lieu of health coverage only becoming an option when health care coverage to unavailable to the obligated parent or is inaccessible to the child or unreasonable in cost.

- Section 8 of AB 278 (2017) requires the Administrator to adopt regulations establishing the child support guidelines in accordance with the requirements set forth in 42 U.S.C. 667(a) and 45 CFR 302.56.
- Federal law requires states to establish guidelines for child support amounts by law, judicial or administrative action. See 42 U.S.C. 667(a).
- Federal regulations mandates that a state's child support guidelines "address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support". See 45 CFR 302.56(c)(2).
- Section 13 of AB 278 (2017) repeals NRS 125B.085, the existing medical support statute, effective (Section 14.2) the date the guideline regulation adopted by the Administrator becomes effective.
- State IV-D agencies are required to petition the court to order health care coverage that is accessible to the child and available to the responsible parent at a reasonable cost. See 45 CFR 303.31.
- OCSE has advised the Nevada Child Support Enforcement Program that 45 CFR 302.56(c)(2) means that a state's child support guidelines must require health care coverage, but a medical cash provision may be ordered in lieu of health care coverage when health care coverage is unavailable, inaccessible, or not available at a reasonable cost.

## Proposed Health Care Coverage Language

### STEP THREE: CONSIDERATION OF MEDICAL SUPPORT AND CHILD CARE:

*Every court order for the support of a child must include a provision specifying that one or both parents shall provide coverage for health care for the child under a plan of insurance, including, without limitation, the payment of any premium, copayment or deductible and the payment of medical expenses. A medical cash provision may be ordered if there is no plan of insurance available that is reasonable in cost and accessible.*

Regardless of the income level of the payer, the obligation for support shall also include the cost of providing medical support for the child. In other words, the obligation for support of both low-income payers and high-income payers shall also include the cost of providing medical support for the child.

#### Choice A:

The Court shall consider the reasonable costs of medical support and the reasonable child care expenses paid by either or both parents and shall make an equitable division thereof.

The cost of medical support shall be borne equally by the parents, with each parent being responsible for 50% of the cost of medical support unless, in extraordinary circumstances, the Court determines that a basis exists to deviate from the parents equally sharing the cost of medical support.

As used in this section, "medical support" includes, without limitation, the cost of coverage for medical, vision and dental under a plan of insurance for the child that is reasonable in cost and accessible, meaning the payment of the premium.

For the purpose of this subsection:

- (A) The term "plan of insurance" includes the child being provided coverage under a public plan of insurance such as Medicaid or a reduced fee plan such as Nevada Check Up.
- (B) Payments of cash for medical support or the cost of coverage for health care under a plan of insurance are "reasonable in cost" if:
  - (i) In the case of payments for medical support, the cost to each parent who is responsible for providing medical support is not more than 5 percent of the gross monthly income of the parent; or
  - (ii) In the case of the costs of coverage for health care under a plan of insurance, the cost of adding a dependent child to any existing coverage for health care or the difference between individual and family coverage, whichever is less, is not more than 5 percent of the gross monthly income of each parent.
- (C) Coverage for health care under a plan of insurance is "accessible" if the plan:
  - (i) Is not limited to coverage within a geographic area; or
  - (ii) Is limited to coverage within a geographic area and the child resides within that geographic area.