

From: Donovan, Tracy (ACF)
To: [David Castagnola](#)
Cc: [Cathy Kaplan](#)
Subject: RE: Medical Support Policy Guidance Question
Date: Tuesday, May 01, 2018 9:05:32 AM
Importance: High

Good morning, David -

Here is our response to Nevada's inquiry.

QUESTION: Nevada's Child Support Guidelines Committee is proposing to address medical support requirements by incorporating the cost of providing medical support into the obligation for support rather than requiring health care coverage when reasonable in cost and accessible to the child. In other words, if adopted, neither parent will be obligated to obtain health care coverage for the child in both IV-D and non-IV-D cases even when health care coverage is available at a reasonable cost and accessible to the child. IV-D staff would be requesting health care coverage as required under 45 CFR 303.31(b)(1), but never obtain an order requiring health care coverage.

Please clarify whether 45 CFR 302.56(c)(2) means:

- a) 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; or
- b) Cash medical support may always be ordered in lieu of health care in any circumstance and health care coverage never needs to be ordered even when health care coverage is available to one parent or the other.

Nevada has combed through the FEM final rule distributed in AT-16-06, the medical support final rule (73 FR 42416, July 21, 2008) published in AT-08-08, 45 CFR 302.56, and 45 CFR 303.31 looking for a clear statement of intent. I understand the commentary in both final rules, when read together, to mean health care coverage must be ordered when available and cash medical support only becomes an alternative when health care coverage is unavailable. However, I haven't found a definitive statement to that effect.

RESPONSE: Federal regulations 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 reasonable cost. Section 466(a)(19) of the Social Security Act indicates under "HEALTH CARE COVERAGE" that States must have procedures under which all child support orders enforced pursuant to this part shall include a provision for medical support for the child to be provided by either or both parents, and shall be enforced, where appropriate through the use of the National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 (and referred to in section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 in connection with group health plans covered under title I of such Act, in section 401(e) of the Child Support Performance and Incentive Act of 1998 in conjunction with State or local group health plans, and in section 401(f) of such Act in connection with church group health plans). The fact that the statute indicates that the health care coverage is enforced through the National Medical Support Notice, where appropriate, implies that Congress intended for the coverage to be health insurance, when appropriate. Below are some links to research briefs on the importance of having health care

coverage:

https://www.acf.hhs.gov/sites/default/files/ocse/health_care_coverage.pdf;
<https://www.healthcare.gov/why-coverage-is-important/coverage-protects-you/>; and
<https://www.urban.org/sites/default/files/publication/46826/411569-Why-Health-Insurance-Is-Important.PDF>.

In our [Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs final rule](#), in § 303.31(a)(2) we defined health care coverage as “fee for service, health maintenance organization, preferred provider organization, and other types of private and public health care coverage under which medical services could be provided to the dependent children. The medical support regulation at § 303.31(b)(1) further states that the state child support agency should be petitioning the court or administrative authority to include health care coverage that is accessible to the child(ren)...and can be obtained for the child at reasonable cost...in new or modified court or administrative orders for support. It also indicates at § 303.31(b)(2) that if health coverage ...is not available at the time the order is entered or modified, petition to include cash medical support in new or modified order until such time as health care coverage, that is accessible and reasonable in cost...becomes available. In appropriate cases, cash medical support may be sought in addition to health care coverage

Additionally, the guidelines regulations at § 302.56(c)(2) requires that the State’s 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. This provision is merely indicating that the cost of the health care coverage and/or cash medical support should be considered when determining the child support obligation amount. In addition to child support requirements, the Affordable Care Act (ACA) still requires parents to provide health care coverage for their children.

I hope this is helpful.

Please let me know if you have any further questions.

Thanx,

Tracy

Tracy Donovan

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From: David Castagnola [mailto:DCASTAGNOLA@dwss.nv.gov]

Sent: Friday, April 6, 2018 1:44 PM

To: Donovan, Tracy (ACF) <Tracy.Donovan@ACF.hhs.gov>

Cc: Cathy Kaplan <ckaplan@dwss.nv.gov>

Subject: Medical Support Policy Guidance Question

Hello:

The Child Support Guidelines Committee is proposing to address medical support requirements by incorporating the cost of providing medical support into the obligation for support rather than requiring

health care coverage when reasonable in cost and accessible to the child. In other words, if adopted, neither parent will be obligated to obtain health care coverage for the child in both IVD and non-IVD cases even when health care coverage is available at a reasonable cost and accessible to the child. IVD staff would be requesting health care coverage as required under 45 CFR 303.31(b)(1) but never obtain an order requiring health care coverage.

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Any guidance you can provide is appreciated. Time is of the essence because the deadline for the Committee's recommendation is rapidly approaching.

Thank you for your assistance.

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