

RCW 26.09.105 Child support—Medical support—Conditions. (1)

Whenever a child support order is entered or modified under this chapter, the court shall require both parents to provide medical support for any child named in the order as provided in this section.

(a) The child support order must include an obligation to provide health care coverage that is both accessible to all children named in the order and available at reasonable cost to the obligated parent.

(b) The court must allocate the cost of health care coverage between the parents.

(2) Medical support consists of:

(a) Health care coverage, which may consist of health insurance coverage or public health care coverage; and

(b) Cash medical support, which consists of:

(i) A parent's monthly payment toward the premium paid for coverage provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and

(ii) A parent's proportionate share of uninsured medical expenses.

(3) The parents share the obligation to provide medical support for the child or children specified in the order, by providing health care coverage or contributing a cash medical support obligation when appropriate, and paying a proportionate share of any uninsured medical expenses.

(4) Under appropriate circumstances, the court may excuse one parent from the responsibility to provide health care coverage or the monthly payment toward the premium. The child's receipt of public health care coverage may not be the sole basis for excusing a parent from providing health insurance coverage through an employer or union.

(5) (a) The court may specify how medical support must be provided by each parent under subsection (6) of this section.

(b) If the court does not specify how medical support will be provided or if neither parent provides proof that he or she is providing health care coverage for the child at the time the support order is entered, the division of child support or either parent may enforce a parent's obligation to provide medical support under RCW 26.18.170.

(6) (a) If there is sufficient evidence provided at the time the order is entered, the court may make a determination of which parent must provide health care coverage and which parent must contribute a sum certain amount as his or her monthly payment toward the premium.

(b) If both parents have available health insurance coverage or health care coverage that is accessible to the child at the time the support order is entered, the court has discretion to order the parent with better coverage to provide the coverage for the child and the other parent to pay a monthly payment toward the premium. In making the determination of which coverage is better, the court shall consider the needs of the child, the cost and extent of each parent's coverage, and the accessibility of the coverage.

(c) Each parent shall be responsible for his or her proportionate share of uninsured medical expenses.

(7) The order must provide that if the parties' circumstances change, the parties' medical support obligations will be enforced as provided in RCW 26.18.170.

(8) A parent who is ordered to maintain or provide health care coverage may comply with that requirement by:

(a) Providing proof of accessible health care coverage for any child named in the order; or

(b) Providing coverage that can be extended to cover the child that is available to that parent through employment or that is union-related, if the cost of such coverage does not exceed twenty-five percent of that parent's basic child support obligation.

(9) The order must provide that, while an obligated parent may satisfy his or her health care coverage obligation by enrolling the child in public health care coverage, that parent is also required to provide accessible health insurance coverage for the child if it is available at no cost through the parent's employer or union.

(10) The order must provide that the fact that one parent enrolled the child in public health care coverage does not satisfy the other parent's health care coverage obligation unless the support order provides otherwise. A parent may satisfy the obligation to provide health care coverage by:

(a) First enrolling the child in available and accessible health insurance coverage through the parent's employer or union if such coverage is available for no more than twenty-five percent of the parent's basic support obligation; or

(b) If there is no accessible health insurance coverage for the child available through the parent's employer or union, contributing a proportionate share of any premium paid by the other parent or the state for public health care coverage for the child.

(11) The court may order a parent to provide health care coverage that exceeds twenty-five percent of that parent's basic support obligation if it is in the best interests of the child to provide coverage.

(12) Each parent is responsible for his or her proportionate share of uninsured medical expenses for the child or children covered by the support order.

(13) The parents must maintain health care coverage as required under this section until:

(a) Further order of the court;

(b) The child is emancipated, if there is no express language to the contrary in the order; or

(c) Health insurance is no longer available through the parents' employer or union and no conversion privileges exist to continue coverage following termination of employment.

(14) A parent who is required to extend health insurance coverage to a child under this section is liable for any covered health care costs for which the parent receives direct payment from an insurer.

(15) A parent ordered to provide health care coverage must provide proof of such coverage or proof that such coverage is unavailable within twenty days of the entry of the order to:

(a) The other parent; or

(b) The department of social and health services if the parent has been notified or ordered to make support payments to the Washington state support registry.

(16) Every order requiring a parent to provide health care or insurance coverage must be entered in compliance with *RCW 26.23.050 and be subject to direct enforcement as provided under chapter 26.18 RCW.

(17) When a parent is providing health insurance or health care coverage at the time the order is entered, the premium shall be

included in the worksheets for the calculation of child support under chapter 26.19 RCW.

(18) As used in this section:

(a) "Accessible" means health care coverage which provides primary care services to the child or children with reasonable effort by the custodian.

(b) "Cash medical support" means a combination of: (i) A parent's monthly payment toward the premium paid for coverage provided by a public entity or by another parent, which represents the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation; and (ii) a parent's proportionate share of uninsured medical expenses.

(c) "Uninsured medical expenses" includes premiums, copays, deductibles, along with other health care costs not covered by health care coverage.

(d) "Obligated parent" means a parent ordered to provide health insurance coverage for the children.

(e) "Proportionate share" means an amount equal to a parent's percentage share of the combined monthly net income of both parents as computed when determining a parent's child support obligation under chapter 26.19 RCW.

(f) "Monthly payment toward the premium" means a parent's contribution toward premiums paid for coverage provided by a public entity or by another parent, which is based on the obligated parent's proportionate share of the premium paid, but no more than twenty-five percent of the obligated parent's basic support obligation.

(g) "Premium" means the amount paid for coverage provided by a public entity or by another parent for a child covered by the order. This term may also mean "cost of coverage."

(19) This section does not limit the authority of the court to enter or modify support orders containing provisions for payment of uninsured health expenses, health care costs, or insurance premiums which are in addition to and not inconsistent with this section.

(20) The department of social and health services has rule-making authority to enact rules in compliance with 45 C.F.R. Parts 302, 303, 304, 305, and 308. [2018 c 150 s 101; 2009 c 476 s 1; 1994 c 230 s 1; 1989 c 416 s 1; 1985 c 108 s 1; 1984 c 201 s 1.]

***Reviser's note:** The reference to RCW 26.23.050 appears to refer to the amendments made by 1989 c 416 s 8, which was vetoed by the governor.

Effective date—2009 c 476: "This act takes effect October 1, 2009." [2009 c 476 s 10.]