

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 7 - SOCIAL SECURITY
SUBCHAPTER XIX - GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

§ 1396g-1. Required laws relating to medical child support

(a) In general

The laws relating to medical child support, which a State is required to have in effect under section 1396a (a)(60) of this title, are as follows:

- (1)** A law that prohibits an insurer from denying enrollment of a child under the health coverage of the child's parent on the ground that—
 - (A)** the child was born out of wedlock,
 - (B)** the child is not claimed as a dependent on the parent's Federal income tax return, or
 - (C)** the child does not reside with the parent or in the insurer's service area.
- (2)** In any case in which a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, a law that requires such insurer—
 - (A)** to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);
 - (B)** if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this subchapter or part D of subchapter IV of this chapter; and
 - (C)** not to disenroll (or eliminate coverage of) such a child unless the insurer is provided satisfactory written evidence that—
 - (i)** such court or administrative order is no longer in effect, or
 - (ii)** the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of such disenrollment.
- (3)** In any case in which a parent is required by a court or 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, a law that requires such employer—
 - (A)** to permit such parent to enroll under such family coverage any such child who is otherwise eligible for such coverage (without regard to any enrollment season restrictions);
 - (B)** if such a parent is enrolled but fails to make application to obtain coverage of such child, to enroll such child under such family coverage upon application by the child's other parent or by the State agency administering the program under this subchapter or part D of subchapter IV of this chapter; and
 - (C)** not to disenroll (or eliminate coverage of) any such child unless—
 - (i)** the employer is provided satisfactory written evidence that—
 - (I)** such court or administrative order is no longer in effect, or
 - (II)** the child is or will be enrolled in comparable health coverage which will take effect not later than the effective date of such disenrollment, or
 - (ii)** the employer has eliminated family health coverage for all of its employees; and
 - (D)** to withhold from such employee's compensation the employee's share (if any) of premiums for health coverage (except that the amount so withheld may not exceed the maximum amount permitted to be withheld under section 1673 (b) of title 15), and to pay such share of premiums to the insurer, except that the Secretary may provide by regulation for appropriate circumstances under which an employer may withhold less than such employee's share of such premiums.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscript.html>).

(4) A law that prohibits an insurer from imposing requirements on a State agency, which has been assigned the rights of an individual eligible for medical assistance under this subchapter and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

(5) A law that requires an insurer, in any case in which a child has health coverage through the insurer of a noncustodial parent—

(A) to provide such information to the custodial parent as may be necessary for the child to obtain benefits through such coverage;

(B) to permit the custodial parent (or provider, with the custodial parent’s approval) to submit claims for covered services without the approval of the noncustodial parent; and

(C) to make payment on claims submitted in accordance with subparagraph (B) directly to such custodial parent, the provider, or the State agency.

(6) A law that permits the State agency under this subchapter to garnish the wages, salary, or other employment income of, and requires withholding amounts from State tax refunds to, any person who—

(A) is required by court or administrative order to provide coverage of the costs of health services to a child who is eligible for medical assistance under this subchapter,

(B) has received payment from a third party for the costs of such services to such child, but

(C) has not used such payments to reimburse, as appropriate, either the other parent or guardian of such child or the provider of such services,

to the extent necessary to reimburse the State agency for expenditures for such costs under its plan under this subchapter, but any claims for current or past-due child support shall take priority over any such claims for the costs of such services.

(b) “Insurer” defined

For purposes of this section, the term “insurer” includes a group health plan, as defined in section 1167 (1) of title 29, a health maintenance organization, and an entity offering a service benefit plan.

(Aug. 14, 1935, ch. 531, title XIX, § 1908A, formerly § 1908, as added Pub. L. 103–66, title XIII, § 13623(b), Aug. 10, 1993, 107 Stat. 633, renumbered § 1908A, Pub. L. 106–113, div. B, § 1000(a)(6) [title VI, § 608(y)(1)], Nov. 29, 1999, 113 Stat. 1536, 1501A–398.)

References in Text

Part D of subchapter IV of this chapter, referred to in subsec. (a)(2)(B), (3)(B), is classified to section 651 et seq. of this title.

Effective Date

Section 13623(c) of Pub. L. 103–66 provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting this section and amending section 1396a of this title] apply to calendar quarters beginning on or after April 1, 1994, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

“(2) In the case of a State plan under title XIX of the Social Security Act [this subchapter] which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act [Aug. 10, 1993]. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.”