

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



February 7, 2011

CSS LETTER: 11-02

ALL IV-D DIRECTORS
 ALL COUNTY ADMINISTRATIVE OFFICERS
 ALL BOARDS OF SUPERVISORS

SUBJECT: MEDICAL SUPPORT

REFERENCE: 45 CFR 303.31, Federal Register / Vol. 73, No. 140 / Monday, July 21, 2008 / Rules and Regulations, OCSE AT-10-10, 22 CCR 115510, 115520, FC 3751, 4061, 4062, 4063, 17400, 17422. Supersedes FSDIN No. I-57-98.

The purpose of this letter is to communicate statewide policy to local child support agencies (LCSAs) regarding medical support requirements in child support orders to comply with Senate Bill (SB) 580 (Chapter 103, Statutes of 2010), effective January 1, 2011.

SB 580 provides compliance with federal regulations pertaining to medical support orders by:

- Amending Family Code (FC) Section 3751(a)(2) to define health insurance as reasonable if the cost does not exceed five percent of the obligor's gross income. When applying the five percent standard, cost is the difference between self-only and family coverage. Health insurance is deemed unreasonable if the obligor is entitled to a low-income adjustment, unless a court decides otherwise. Previously, health insurance was presumed to be reasonable if it was provided by an employer.
- Amending FC Section 4063 (g)(1) to define accessible health insurance as coverage that provides services within 50 miles of the supported child's residence. Accessibility was not previously delineated in numeric terms.
- Amending FC Section 4061 to require parents to share uninsured medical expenses in all orders as cash medical support. This provision was previously optional.

Reasonable

A provision for health insurance must be included in every child support order. If insurance is not immediately available, it must be ordered to be provided when it

Reason for this Transmittal

- State Law or Regulation Change
 Federal Law or Regulation Change
 Court Order or Settlement Change
 Clarification requested by One or More Counties
 Initiated by DCSS

becomes available at no cost or at reasonable cost. As of January 1, 2011, "reasonable" is rebuttably presumed to be not more than five percent of the obligor's gross income. The cost to add coverage for the child(ren) subject to the support order to an obligor's individual policy is subject to the five percent standard.

All available information should be examined to determine whether health insurance is available at reasonable cost; however, LCSAs are not required to research health insurance costs for parents. Documents that may be presented for review by the LCSA include, but are not limited to, pay stubs, tax returns, proof of insurance and insurance quotes. In the absence of any information regarding health insurance coverage, health insurance cost should be presumed to be reasonable.

In addition to private health insurance, the federal Office of Child Support Enforcement's Action Transmittal 10-10 allows for, and the California Department of Child Support Services has determined that, other health care coverage such as Medicaid (known as Medi-Cal in California), Children's Health Insurance Program (known as Healthy Families in California), other state coverage plans and cash medical support, meet the requirement for medical support.

Health insurance shall be presumed unreasonable if the obligor is entitled to a low-income adjustment. The court retains jurisdiction to determine that this presumption would be unjust and inappropriate in a particular case.

Accessible

Health insurance is presumed to be accessible unless evidence is presented to rebut that presumption. LCSAs are not required to research service areas for parents.

Cash Medical

To comply with the federal requirement in 45 CFR 303.31 that cash medical support be paid toward medical costs not covered by insurance, all orders shall contain a provision that reasonable uninsured health care costs must be shared by the parents. This provision is no longer optional. Costs are to be divided one-half to each parent unless a court determines that a sum-certain amount or another proportion is appropriate.

The following language should be included in all orders: "Obligor is required to pay fifty percent (50%) of the reasonable uninsured health care costs for the children as provided in Family Code Section 4062."

LCSAs shall only enforce cash medical support to the extent it is included in a court order as ongoing medical support or lump-sum reimbursement. The LCSA is not

CSS Letter: 11-02
February 7, 2011
Page 3

responsible for obtaining orders for reimbursement. This does not change previous practice.

Review and Adjustment

If the provisions for health insurance and cash medical support outlined in this letter were not included when the order was established or last modified, LCSAs must address these provisions when seeking modifications.

The court is not precluded from making an alternative finding on the record.

If you have any questions regarding this matter, please contact Cindi Pocaroba at (916) 464-5883.

Sincerely,

/os/

BILL OTTERBECK
Deputy Director
Child Support Services Division