

The New Medical Support Laws Impacting Child Support Orders

Tuesday, October 27, 2009

Handout Materials



New York State
Office of Temporary and Disability Assistance
and
PDP Distance Learning Project

THE NEW MEDICAL SUPPORT LAWS IMPACTING CHILD SUPPORT ORDERS

**October 27, 2009
Teleconference**

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Chapter 215 of the Laws of 2009

September 15, 2009

I. Background

In 2008, the Federal government adopted amendments to its child support regulations relating to obtaining medical support for children. As amended, the regulations impose 4 new requirements on the state child support agency. First, states are required to adopt an income-based numeric standard for determining whether private health insurance is reasonable in cost. Second, States are required to set standards to determine if coverage under the private health care plan is accessible to the child. Third, states are *required* to award cash medical support if private health insurance coverage is not reasonable in cost or accessible; discretion was given to the states in determining when cash medical support should be awarded in addition to private health insurance coverage. Cash medical support awards must, like the cost of private health insurance, be reasonable, as determined by an income-based numeric standard. Finally, child support agencies must petition to modify support orders that do not currently contain a medical support component. They must periodically review cases with the Medicaid agency to identify cases needing medical support.

II. Chapter 215 of the Laws of 2009

In response to these requirements, New York enacted Chapter 215 of the laws of 2009, effective October 9, 2009. The bill sets standards for determining if private health insurance is reasonable in cost and accessible to the child. It defines “cash medical support” and sets out rules for determining the noncustodial parent’s medical support obligation. The bill also amends the priority of withholding between current support, medical support and arrears.

A. Reasonable Cost and Accessibility of Private Health Insurance

1. The bill defines the cost of private health insurance as the incremental cost of the premium and deductible associated with extending coverage to the child. The cost of private health insurance benefits refers to the cost of the premium and deductible attributable to adding the child or children to existing coverage; or, if no coverage currently exists, the difference between the cost of individual coverage (both the premium and deductible) and the cost of coverage extending to the child. The cost of private health insurance coverage is considered reasonable if it is equal to or less than five percent (5%) of the combined parental gross income. The presumption of reasonable cost can be rebutted if the cost is unjust or inappropriate. In addition, the cost of enrolling the children cannot reduce a parent’s income below the self-support reserve (SSR).

2. Health care is presumed accessible if the child lives in the area covered by the plan or within 30 minutes or 30 miles of services covered by the plan or a reciprocal agreement. The presumption may be rebutted for good cause shown, including the special needs of the child.

3. The regulations did not change the “future enrollment” requirement in existing state and federal law. If private health insurance is does not exist, is too costly, or is not accessible, the court must order the noncustodial parent to enroll the child if such coverage becomes available in the future.

B. Cash Medical Support

1. Definition – Cash medical support means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by a parent through an employer or organization, including such employers or organizations which are self-insured, or through other available health insurance or health care coverage plans, and/or for other health care expenses not covered by insurance. Cash medical support includes the obligation to pay confinement costs, unreimbursed health care costs, and private health insurance premiums. If the child is enrolled in the Child Health Plus (CHP) or Medicaid (MA) program, the noncustodial parent will be ordered to pay cash medical support as determined below.

2. Private Health Insurance Premium Costs – Private health insurance premiums are prorated between the parents in proportion to their share of the combined parental income. If the custodial parent enrolls the child in his/her plan, the noncustodial parent's share of the premium is added to the Basic Child Support Obligation. If the noncustodial parent is ordered to enroll the child, his/her share is deducted from the Basic Child Support Obligation.

3. Unreimbursed Costs where Child is Enrolled In Private Health Insurance or CHP – Unreimbursed health care costs (including any out-of-pocket costs of the custodial parent or confinement not paid by MA) are prorated between the parents in proportion to their share of the combined parental income.

- a. After these costs are incurred, the custodial parent must request that the noncustodial parent pay his or her share of the costs. If payment is not made, CSEU shall bring an enforcement petition to obtain a court order fixing the amount due. The court determines the noncustodial parent's share of the costs and the amount is treated as "arrear/past due support." There is no difference between cash support arrears, cash medical support arrears, or other arrears.
- b. The court may order a lump sum payment or a payment schedule.

4. CHP – The noncustodial parent will be ordered to pay cash medical support to the custodial parent. The family contribution payable by the custodial parent is prorated between the parents in proportion to their share of the combined parental income. The noncustodial parent's share is added to the Basic Child Support Obligation. The obligation may not exceed 5% of the noncustodial parent's gross income or reduce his or her income below the self-support reserve.

5. MA Managed Care – The noncustodial parent will be ordered to pay cash medical support to the local district DSS. The monthly premium incurred to enroll the child in a managed care program is NOT used to calculate the cash medical support obligation. Instead, the obligation is determined by the hypothetical CHP family contribution if the parents were in an intact household. The noncustodial parent must pay the family contribution amount (pursuant to the most recent current sliding scale chart published by the Department of Health) using the combined parental income as if the family was intact. If the family contribution is greater than the actual premium paid by the state/county, the obligation equals the actual premium paid. The obligation cannot exceed 5% of the noncustodial parent's gross income or reduce his/her income below the self-support reserve.

6. MA Fee-for-services – Future Costs – The noncustodial parent will be ordered to pay cash medical support to the local district DSS.

a. In establishing the cash medical support obligation, the court will set an annual cap on repayment of MA costs incurred in the future. The local district DSS, after giving the noncustodial parent notice and an opportunity to pay incurred costs, can recover actual MA expenditures up to the annual cap amount. If payment is not made after the notice was sent, the CSEU brings an enforcement petition to obtain a court order fixing the amount due. The court determines the amount due and that amount is treated as “arrears/past due support.”

b. The annual cap equals the monthly obligation calculated using the family contribution amount (pursuant to the most recent current sliding scale chart published by the Department of Health) based on the combined parental income as if the family was intact, times 12 months. If the child is enrolled less than 12 months, the cap for that year is based on the number of months of enrollment. The obligation cannot exceed 5% of the noncustodial parent’s gross income or reduce his or her income below the self support reserve.

7. MA Expenditures – Pre-petition Costs – The court can calculate the amount due to the local district DSS for years prior to the establishment of the medical support obligation using the same rules as above. Confinement costs are treated as any other fee-for-service expenditure subject to the cap pertaining to the year the cost was incurred.

C. Priority of Withholdings

Employers receiving both an Income Execution and a National Medical Support Notice (Medical Execution) must deduct the full amounts due up to the CCPA limits. If there is not enough income to pay everything, the priority of withholdings will be:

- First – current support
- Second – deductions for private health insurance premiums
- Third – deductions for the additional amount (arrears)

ATTACHMENT 1

CHP AND MEDICAID

ELIGIBILITY LEVELS

Income and Resources Levels* for Health Insurance Programs Desk Aid

Medicaid and PCAP Income Eligibility Levels							
Monthly Income by Family Size							
	1	2	3	4	5	6	Each Add'l Person
Children under 1 yr; Pregnant Women*	\$1,805	\$2,429	\$3,052	\$3,675	\$4,299	\$4,922	\$624
Children 1-5 yrs	\$1,201	\$1,615	\$2,030	\$2,444	\$2,859	\$3,273	\$415
Children 6-18 yrs	\$903	\$1,215	\$1,526	\$1,838	\$2,150	\$2,461	\$312
Children 19 -20 yrs; Parents/Disabled Indiv	\$767	\$1,117	\$1,285	\$1,452	\$1,620	\$1,787	\$168
Non-Disabled single adults and childless couples, 21-64 yrs	\$706	\$881					

*Pregnant Women count as 2 people

Child Health Plus Premium Levels Chart (For Enrollment Effective July 1, 2009)							
Premium Categories	1	2	3	4	5	6	Each Add'l Person
Free Insurance	\$1,443	\$1,942	\$2,441	\$2,939	\$3,438	\$3,937	\$499
\$9/Child/Month (Max. \$27/Family)	\$2,004	\$2,696	\$3,388	\$4,080	\$4,772	\$5,464	\$692
\$15/Child/Month (Max \$45/Family)	\$2,257	\$3,036	\$3,815	\$4,594	\$5,373	\$6,153	\$780
\$30/Child/Month (Max \$90/Family)	\$2,708	\$3,643	\$4,578	\$5,513	\$6,448	\$7,383	\$935
\$45/Child/Month (Max \$135/Family)	\$3,159	\$4,250	\$5,341	\$6,432	\$7,523	\$8,613	\$1,091
\$60/Child/Month (Max \$180/Family)	\$3,610	\$4,857	\$6,104	\$7,350	\$8,597	\$9,844	\$1,247
Full Premium*/ Child/Month	Over \$3,610	Over \$4,857	Over \$6,104	Over \$7,350	Over \$8,597	Over \$9,844	

*The full premium varies, depending on the health plan chosen by the family.

FHPlus Income Eligibility Levels							
Parents with Children Under 21 in Their Household, and Children 19-20 yrs Residing with Their Parents							
Family Size	1	2	3	4	5	6	Each Add'l Person
FHPlus Income Limit	\$1,354	\$1,822	\$2,289	\$2,757	\$3,224	\$3,692	\$468
Single adults and childless couples, 21-64, and Children 19-20 yrs NOT Residing with Their Parents							
Family Size	1	2					
FHPlus Income Limit	\$903	\$1,215					

Medicaid and FHPlus Resource Levels									
No. of persons in Household	1	2	3	4	5	6	7	8	Each Add'l Person
Resource Allowance	\$13,800	\$20,100	\$23,115	\$26,130	\$29,145	\$32,160	\$35,175	\$38,190	\$3,015

*NYS Income and Resource Standards and Federal Poverty Levels Effective February 1, 2009

(Rev. 5/7/09)

ATTACHMENT 2

CHAPTER 215 OF THE LAWS OF 2009

8977

2009-2010 Regular Sessions

I N A S S E M B L Y

June 17, 2009

Introduced by M. of A. WEINSTEIN -- (at request of the Office of Temporary and Disability Assistance) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to establishing definitions for "cash medical support", and when health insurance benefits are "reasonable in cost" and "reasonably accessible"; to amend the civil practice law and rules, in relation to amending the priority for deductions via an income execution; and to repeal certain provisions of the family court act and the domestic relations law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subparagraph 5 of paragraph (c) of subdivision 1 of section
2 413 of the family court act is REPEALED and a new subparagraph 5 is
3 added to read as follows:

4 (5) THE COURT SHALL DETERMINE THE PARTIES' OBLIGATION TO PROVIDE
5 HEALTH INSURANCE BENEFITS PURSUANT TO SECTION FOUR HUNDRED SIXTEEN OF
6 THIS PART AND TO PAY CASH MEDICAL SUPPORT AS PROVIDED UNDER THIS SUBPAR-
7 AGRAPH.

8 (I) "CASH MEDICAL SUPPORT" MEANS AN AMOUNT ORDERED TO BE PAID TOWARD
9 THE COST OF HEALTH INSURANCE PROVIDED BY A PUBLIC ENTITY OR BY A PARENT
10 THROUGH AN EMPLOYER OR ORGANIZATION, INCLUDING SUCH EMPLOYERS OR ORGAN-
11 IZATIONS WHICH ARE SELF INSURED, OR THROUGH OTHER AVAILABLE HEALTH
12 INSURANCE OR HEALTH CARE COVERAGE PLANS, AND/OR FOR OTHER HEALTH CARE
13 EXPENSES NOT COVERED BY INSURANCE.

14 (II) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND
15 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF
16 SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO
17 BE AVAILABLE, THE COST OF PROVIDING HEALTH INSURANCE BENEFITS SHALL BE
18 PRORATED BETWEEN THE PARTIES IN THE SAME PROPORTION AS EACH PARENT'S
19 INCOME IS TO THE COMBINED PARENTAL INCOME. IF THE CUSTODIAL PARENT IS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD07704-07-9

1 ORDERED TO PROVIDE SUCH BENEFITS, THE NON-CUSTODIAL PARENT'S PRO RATA
2 SHARE OF SUCH COSTS SHALL BE ADDED TO THE BASIC SUPPORT OBLIGATION. IF
3 THE NON-CUSTODIAL PARENT IS ORDERED TO PROVIDE SUCH BENEFITS, THE CUSTO-
4 DIAL PARENT'S PRO RATA SHARE OF SUCH COSTS SHALL BE DEDUCTED FROM THE
5 BASIC SUPPORT OBLIGATION.

6 (III) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND
7 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF
8 SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO
9 BE UNAVAILABLE, IF THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR
10 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO
11 TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, THE COURT SHALL
12 ORDER THE NON-CUSTODIAL PARENT TO PAY CASH MEDICAL SUPPORT AS FOLLOWS:

13 (A) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR MANAGED CARE
14 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM, THE LESSER OF THE AMOUNT
15 THAT WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
16 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
17 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
18 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
19 NON-CUSTODIAL AND CUSTODIAL PARENTS OR THE PREMIUM PAID BY THE MEDICAL
20 ASSISTANCE PROGRAM ON BEHALF OF THE CHILD OR CHILDREN TO THE MANAGED
21 CARE PLAN. THE COURT SHALL SEPARATELY STATE THE NON-CUSTODIAL PARENT'S
22 MONTHLY OBLIGATION. THE NON-CUSTODIAL PARENT'S CASH MEDICAL SUPPORT
23 OBLIGATION UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER
24 GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S
25 INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

26 (B) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR FEE-FOR-SERVICE
27 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM OTHER THAN A CHILD OR
28 CHILDREN DESCRIBED IN ITEM (A) OF THIS CLAUSE, THE COURT SHALL DETERMINE
29 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
30 GATION, WHICH SHALL BE EQUAL TO THE LESSER OF THE MONTHLY AMOUNT THAT
31 WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
32 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
33 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
34 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
35 NON-CUSTODIAL AND CUSTODIAL PARENTS TIMES TWELVE MONTHS OR THE NUMBER OF
36 MONTHS THAT THE CHILD OR CHILDREN ARE AUTHORIZED FOR FEE-FOR-SERVICE
37 COVERAGE DURING ANY YEAR. THE COURT SHALL SEPARATELY STATE IN THE ORDER
38 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
39 GATION AND, UPON PROOF TO THE COURT THAT THE NON-CUSTODIAL PARENT, AFTER
40 NOTICE OF THE AMOUNT DUE, HAS FAILED TO PAY THE PUBLIC ENTITY FOR
41 INCURRED HEALTH CARE EXPENSES, THE COURT SHALL ORDER THE NON-CUSTODIAL
42 PARENT TO PAY SUCH INCURRED HEALTH CARE EXPENSES UP TO THE MAXIMUM ANNU-
43 AL CASH MEDICAL SUPPORT OBLIGATION. SUCH AMOUNTS SHALL BE SUPPORT
44 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
45 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.
46 THE TOTAL ANNUAL AMOUNT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY
47 UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS
48 INCOME OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND
49 THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

50 (C) THE COURT SHALL ORDER CASH MEDICAL SUPPORT TO BE PAID BY THE NON-
51 CUSTODIAL PARENT FOR HEALTH CARE EXPENSES OF THE CHILD OR CHILDREN PAID
52 BY THE MEDICAL ASSISTANCE PROGRAM PRIOR TO THE ISSUANCE OF THE COURT'S
53 ORDER. THE AMOUNT OF SUCH SUPPORT SHALL BE CALCULATED AS PROVIDED UNDER
54 ITEM (A) OR (B) OF THIS CLAUSE, PROVIDED THAT THE AMOUNT THAT THE
55 NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER THIS ITEM SHALL NOT EXCEED
56 FIVE PERCENT OF HIS OR HER GROSS INCOME OR THE DIFFERENCE BETWEEN THE

1 NON-CUSTODIAL PARENT'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS
2 LESS, FOR THE YEAR WHEN THE EXPENSE WAS INCURRED. SUCH AMOUNTS SHALL BE
3 SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
4 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.

5 (IV) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND
6 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF
7 SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO
8 BE UNAVAILABLE, AND THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR
9 COVERAGE UNDER THE STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT TO TITLE
10 ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, THE COURT SHALL
11 PRORATE EACH PARENT'S SHARE OF THE COST OF THE FAMILY CONTRIBUTION
12 REQUIRED UNDER SUCH CHILD HEALTH INSURANCE PLAN IN THE SAME PROPORTION
13 AS EACH PARENT'S INCOME IS TO THE COMBINED PARENTAL INCOME, AND STATE
14 THE AMOUNT OF THE NON-CUSTODIAL PARENT'S SHARE IN THE ORDER. THE TOTAL
15 AMOUNT OF CASH MEDICAL SUPPORT THAT THE NON-CUSTODIAL PARENT IS ORDERED
16 TO PAY UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER
17 GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S
18 INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

19 (V) IN ADDITION TO THE AMOUNTS ORDERED UNDER CLAUSE (II), (III), OR
20 (IV) OF THIS SUBPARAGRAPH, THE COURT SHALL PRO RATE EACH PARENT'S SHARE
21 OF REASONABLE HEALTH CARE EXPENSES NOT REIMBURSED OR PAID BY INSURANCE,
22 THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO TITLE ELEVEN OF
23 ARTICLE FIVE OF THE SOCIAL SERVICES LAW, OR THE STATE'S CHILD HEALTH
24 INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE
25 PUBLIC HEALTH LAW, IN THE SAME PROPORTION AS EACH PARENT'S INCOME IS TO
26 THE COMBINED PARENTAL INCOME, AND STATE THE NON-CUSTODIAL PARENT'S SHARE
27 AS A PERCENTAGE IN THE ORDER. THE NON-CUSTODIAL PARENT'S PRO RATA SHARE
28 OF SUCH HEALTH CARE EXPENSES DETERMINED BY THE COURT TO BE DUE AND OWING
29 SHALL BE SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY
30 REMEDIES PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE
31 SUPPORT. IN ADDITION, THE COURT MAY DIRECT THAT THE NON-CUSTODIAL
32 PARENT'S PRO RATA SHARE OF SUCH HEALTH CARE EXPENSES BE PAID IN ONE SUM
33 OR IN PERIODIC SUMS, INCLUDING DIRECT PAYMENT TO THE HEALTH CARE PROVID-
34 ER.

35 (VI) UPON PROOF BY EITHER PARTY THAT CASH MEDICAL SUPPORT PURSUANT TO
36 CLAUSE (II), (III), (IV) OR (V) OF THIS SUBPARAGRAPH WOULD BE UNJUST OR
37 INAPPROPRIATE PURSUANT TO PARAGRAPH (F) OF SUBDIVISION ONE OF THIS
38 SECTION, THE COURT SHALL:

39 (A) ORDER THE PARTIES TO PAY CASH MEDICAL SUPPORT AS THE COURT FINDS
40 JUST AND APPROPRIATE, CONSIDERING THE BEST INTERESTS OF THE CHILD; AND

41 (B) SET FORTH IN THE ORDER THE FACTORS IT CONSIDERED, THE AMOUNT
42 CALCULATED UNDER THIS SUBPARAGRAPH, THE REASON OR REASONS THE COURT DID
43 NOT ORDER SUCH AMOUNT, AND THE BASIS FOR THE AMOUNT AWARDED.

44 S 2. Subparagraph 5 of paragraph (c) of subdivision 1-b of section 240
45 of the domestic relations law is REPEALED and a new subparagraph 5 is
46 added to read as follows:

47 (5) THE COURT SHALL DETERMINE THE PARTIES' OBLIGATION TO PROVIDE
48 HEALTH INSURANCE BENEFITS PURSUANT TO THIS SECTION AND TO PAY CASH
49 MEDICAL SUPPORT AS PROVIDED UNDER THIS SUBPARAGRAPH.

50 (I) "CASH MEDICAL SUPPORT" MEANS AN AMOUNT ORDERED TO BE PAID TOWARD
51 THE COST OF HEALTH INSURANCE PROVIDED BY A PUBLIC ENTITY OR BY A PARENT
52 THROUGH AN EMPLOYER OR ORGANIZATION, INCLUDING SUCH EMPLOYERS OR ORGAN-
53 IZATIONS WHICH ARE SELF INSURED, OR THROUGH OTHER AVAILABLE HEALTH
54 INSURANCE OR HEALTH CARE COVERAGE PLANS, AND/OR FOR OTHER HEALTH CARE
55 EXPENSES NOT COVERED BY INSURANCE.

1 (II) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
2 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
3 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE AVAILABLE, THE
4 COST OF PROVIDING HEALTH INSURANCE BENEFITS SHALL BE PRORATED BETWEEN
5 THE PARTIES IN THE SAME PROPORTION AS EACH PARENT'S INCOME IS TO THE
6 COMBINED PARENTAL INCOME. IF THE CUSTODIAL PARENT IS ORDERED TO PROVIDE
7 SUCH BENEFITS, THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH COSTS
8 SHALL BE ADDED TO THE BASIC SUPPORT OBLIGATION. IF THE NON-CUSTODIAL
9 PARENT IS ORDERED TO PROVIDE SUCH BENEFITS, THE CUSTODIAL PARENT'S PRO
10 RATA SHARE OF SUCH COSTS SHALL BE DEDUCTED FROM THE BASIC SUPPORT OBLI-
11 GATION.

12 (III) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
13 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
14 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE UNAVAILABLE, IF
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23 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
24 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
25 NON-CUSTODIAL AND CUSTODIAL PARENTS OR THE PREMIUM PAID BY THE MEDICAL
26 ASSISTANCE PROGRAM ON BEHALF OF THE CHILD OR CHILDREN TO THE MANAGED
27 CARE PLAN. THE COURT SHALL SEPARATELY STATE THE NON-CUSTODIAL PARENT'S
28 MONTHLY OBLIGATION. THE NON-CUSTODIAL PARENT'S CASH MEDICAL SUPPORT
29 OBLIGATION UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER
30 GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S
31 INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

32 (B) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR FEE-FOR-SERVICE
33 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM OTHER THAN A CHILD OR
34 CHILDREN DESCRIBED IN ITEM (A) OF THIS CLAUSE, THE COURT SHALL DETERMINE
35 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
36 GATION, WHICH SHALL BE EQUAL TO THE LESSER OF THE MONTHLY AMOUNT THAT
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42 MONTHS THAT THE CHILD OR CHILDREN ARE AUTHORIZED FOR FEE-FOR-SERVICE
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46 NOTICE OF THE AMOUNT DUE, HAS FAILED TO PAY THE PUBLIC ENTITY FOR
47 INCURRED HEALTH CARE EXPENSES, THE COURT SHALL ORDER THE NON-CUSTODIAL
48 PARENT TO PAY SUCH INCURRED HEALTH CARE EXPENSES UP TO THE MAXIMUM ANNU-
49 AL CASH MEDICAL SUPPORT OBLIGATION. SUCH AMOUNTS SHALL BE SUPPORT
50 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
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54 INCOME OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND
55 THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

1 (C) THE COURT SHALL ORDER CASH MEDICAL SUPPORT TO BE PAID BY THE NON-
2 CUSTODIAL PARENT FOR HEALTH CARE EXPENSES OF THE CHILD OR CHILDREN PAID
3 BY THE MEDICAL ASSISTANCE PROGRAM PRIOR TO THE ISSUANCE OF THE COURT'S
4 ORDER. THE AMOUNT OF SUCH SUPPORT SHALL BE CALCULATED AS PROVIDED UNDER
5 ITEM (A) OR (B) OF THIS CLAUSE, PROVIDED THAT THE AMOUNT THAT THE
6 NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER THIS ITEM SHALL NOT EXCEED
7 FIVE PERCENT OF HIS OR HER GROSS INCOME OR THE DIFFERENCE BETWEEN THE
8 NON-CUSTODIAL PARENT'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS
9 LESS, FOR THE YEAR WHEN THE EXPENSE WAS INCURRED. SUCH AMOUNTS SHALL BE
10 SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
11 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.

12 (IV) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
13 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
14 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE UNAVAILABLE, AND
15 THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR COVERAGE UNDER THE
16 STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE
17 TWENTY-FIVE OF THE PUBLIC HEALTH LAW, THE COURT SHALL PRORATE EACH
18 PARENT'S SHARE OF THE COST OF THE FAMILY CONTRIBUTION REQUIRED UNDER
19 SUCH CHILD HEALTH INSURANCE PLAN IN THE SAME PROPORTION AS EACH PARENT'S
20 INCOME IS TO THE COMBINED PARENTAL INCOME, AND STATE THE AMOUNT OF THE
21 NON-CUSTODIAL PARENT'S SHARE IN THE ORDER. THE TOTAL AMOUNT OF CASH
22 MEDICAL SUPPORT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER
23 THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS INCOME, OR
24 THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND THE
25 SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

26 (V) IN ADDITION TO THE AMOUNTS ORDERED UNDER CLAUSE (II), (III), OR
27 (IV), THE COURT SHALL PRO RATE EACH PARENT'S SHARE OF REASONABLE HEALTH
28 CARE EXPENSES NOT REIMBURSED OR PAID BY INSURANCE, THE MEDICAL ASSIST-
29 ANCE PROGRAM ESTABLISHED PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE
30 SOCIAL SERVICES LAW, OR THE STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT
31 TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, IN THE
32 SAME PROPORTION AS EACH PARENT'S INCOME IS TO THE COMBINED PARENTAL
33 INCOME, AND STATE THE NON-CUSTODIAL PARENT'S SHARE AS A PERCENTAGE IN
34 THE ORDER. THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH HEALTH CARE
35 EXPENSES DETERMINED BY THE COURT TO BE DUE AND OWING SHALL BE SUPPORT
36 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES PROVIDED
37 BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT. IN ADDI-
38 TION, THE COURT MAY DIRECT THAT THE NON-CUSTODIAL PARENT'S PRO RATA
39 SHARE OF SUCH HEALTH CARE EXPENSES BE PAID IN ONE SUM OR IN PERIODIC
40 SUMS, INCLUDING DIRECT PAYMENT TO THE HEALTH CARE PROVIDER.

41 (VI) UPON PROOF BY EITHER PARTY THAT CASH MEDICAL SUPPORT PURSUANT TO
42 CLAUSE (II), (III), (IV), OR (V) OF THIS SUBPARAGRAPH WOULD BE UNJUST OR
43 INAPPROPRIATE PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION, THE COURT
44 SHALL:

45 (A) ORDER THE PARTIES TO PAY CASH MEDICAL SUPPORT AS THE COURT FINDS
46 JUST AND APPROPRIATE, CONSIDERING THE BEST INTERESTS OF THE CHILD; AND

47 (B) SET FORTH IN THE ORDER THE FACTORS IT CONSIDERED, THE AMOUNT
48 CALCULATED UNDER THIS SUBPARAGRAPH, THE REASON OR REASONS THE COURT DID
49 NOT ORDER SUCH AMOUNT, AND THE BASIS FOR THE AMOUNT AWARDED.

50 S 3. Subdivision (d) of section 416 of the family court act is amended
51 by adding a new paragraph 3 to read as follows:

52 (3) WHEN THE PERSON ON WHOSE BEHALF THE PETITION IS BROUGHT IS A CHILD
53 IN ACCORDANCE WITH SUBDIVISION (E) OF THIS SECTION, HEALTH INSURANCE
54 BENEFITS SHALL BE CONSIDERED "REASONABLE IN COST" IF THE COST OF HEALTH
55 INSURANCE BENEFITS DOES NOT EXCEED FIVE PERCENT OF THE COMBINED PARENTAL
56 GROSS INCOME. THE COST OF HEALTH INSURANCE BENEFITS SHALL REFER TO THE

1 COST OF THE PREMIUM AND DEDUCTIBLE ATTRIBUTABLE TO ADDING THE CHILD OR
2 CHILDREN TO EXISTING COVERAGE OR THE DIFFERENCE BETWEEN SUCH COSTS FOR
3 SELF-ONLY AND FAMILY COVERAGE. PROVIDED, HOWEVER, THE PRESUMPTION THAT
4 THE HEALTH INSURANCE BENEFITS ARE REASONABLE IN COST MAY BE REBUTTED
5 UPON A FINDING THAT THE COST IS UNJUST OR INAPPROPRIATE WHICH FINDING
6 SHALL BE BASED ON THE CIRCUMSTANCES OF THE CASE, THE COST AND COMPREHEN-
7 SIVENESS OF THE HEALTH INSURANCE BENEFITS FOR WHICH THE CHILD OR CHIL-
8 DREN MAY OTHERWISE BE ELIGIBLE, AND THE BEST INTERESTS OF THE CHILD OR
9 CHILDREN. IN NO INSTANCE SHALL HEALTH INSURANCE BENEFITS BE CONSIDERED
10 "REASONABLE IN COST" IF A PARENT'S SHARE OF THE COST OF EXTENDING SUCH
11 COVERAGE WOULD REDUCE THE INCOME OF THAT PARENT BELOW THE SELF-SUPPORT
12 RESERVE. HEALTH INSURANCE BENEFITS ARE "REASONABLY ACCESSIBLE" IF THE
13 CHILD LIVES WITHIN THE GEOGRAPHIC AREA COVERED BY THE PLAN OR LIVES
14 WITHIN THIRTY MINUTES OR THIRTY MILES OF TRAVEL TIME FROM THE CHILD'S
15 RESIDENCE TO THE SERVICES COVERED BY THE HEALTH INSURANCE BENEFITS OR
16 THROUGH BENEFITS PROVIDED UNDER A RECIPROCAL AGREEMENT; PROVIDED, HOWEV-
17 ER, THIS PRESUMPTION MAY BE REBUTTED FOR GOOD CAUSE SHOWN INCLUDING, BUT
18 NOT LIMITED TO, THE SPECIAL HEALTH NEEDS OF THE CHILD. THE COURT SHALL
19 SET FORTH SUCH FINDING AND THE REASONS THEREFOR IN THE ORDER OF SUPPORT.

20 S 4. Paragraph (b) of subdivision 1 of section 240 of the domestic
21 relations law is amended by adding a new subparagraph 3 to read as
22 follows:

23 (3) WHEN THE PERSON ON WHOSE BEHALF THE PETITION IS BROUGHT IS A CHILD
24 IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVISION, HEALTH INSURANCE
25 BENEFITS SHALL BE CONSIDERED "REASONABLE IN COST" IF THE COST OF HEALTH
26 INSURANCE BENEFITS DOES NOT EXCEED FIVE PERCENT OF THE COMBINED PARENTAL
27 GROSS INCOME. THE COST OF HEALTH INSURANCE BENEFITS SHALL REFER TO THE
28 COST OF THE PREMIUM AND DEDUCTIBLE ATTRIBUTABLE TO ADDING THE CHILD OR
29 CHILDREN TO EXISTING COVERAGE OR THE DIFFERENCE BETWEEN SUCH COSTS FOR
30 SELF-ONLY AND FAMILY COVERAGE. PROVIDED, HOWEVER, THE PRESUMPTION THAT
31 THE HEALTH INSURANCE BENEFITS ARE REASONABLE IN COST MAY BE REBUTTED
32 UPON A FINDING THAT THE COST IS UNJUST OR INAPPROPRIATE WHICH FINDING
33 SHALL BE BASED ON THE CIRCUMSTANCES OF THE CASE, THE COST AND COMPREHEN-
34 SIVENESS OF THE HEALTH INSURANCE BENEFITS FOR WHICH THE CHILD OR CHIL-
35 DREN MAY OTHERWISE BE ELIGIBLE, AND THE BEST INTERESTS OF THE CHILD OR
36 CHILDREN. IN NO INSTANCE SHALL HEALTH INSURANCE BENEFITS BE CONSIDERED
37 "REASONABLE IN COST" IF A PARENT'S SHARE OF THE COST OF EXTENDING SUCH
38 COVERAGE WOULD REDUCE THE INCOME OF THAT PARENT BELOW THE SELF-SUPPORT
39 RESERVE. HEALTH INSURANCE BENEFITS ARE "REASONABLY ACCESSIBLE" IF THE
40 CHILD LIVES WITHIN THE GEOGRAPHIC AREA COVERED BY THE PLAN OR LIVES
41 WITHIN THIRTY MINUTES OR THIRTY MILES OF TRAVEL TIME FROM THE CHILD'S
42 RESIDENCE TO THE SERVICES COVERED BY THE HEALTH INSURANCE BENEFITS OR
43 THROUGH BENEFITS PROVIDED UNDER A RECIPROCAL AGREEMENT; PROVIDED, HOWEV-
44 ER, THIS PRESUMPTION MAY BE REBUTTED FOR GOOD CAUSE SHOWN INCLUDING, BUT
45 NOT LIMITED TO, THE SPECIAL HEALTH NEEDS OF THE CHILD. THE COURT SHALL
46 SET FORTH SUCH FINDING AND THE REASONS THEREFOR IN THE ORDER OF SUPPORT.

47 S 5. Subparagraph (iii) of paragraph 2 of subdivision (e) of section
48 416 of the family court act, as added by chapter 624 of the laws of
49 2002, is amended to read as follows:

50 (iii) If neither parent has available health insurance benefits, the
51 court shall direct in the order of support that the custodial parent
52 apply for the state's child health insurance plan pursuant to title
53 one-A of article twenty-five of the public health law and the medical
54 assistance program established pursuant to title eleven of article five
55 of the social services law. [If eligible for such coverage, the court
56 shall prorate the cost of any premium or family contribution in accord-

1 ance with subdivision (f) of this section.] A direction issued under
2 this subdivision shall not limit or alter either parent's obligation to
3 obtain health insurance benefits at such time as they become available
4 as required pursuant to subdivision (c) of this section. NOTHING IN
5 THIS SUBDIVISION SHALL ALTER OR LIMIT THE AUTHORITY OF THE MEDICAL
6 ASSISTANCE PROGRAM TO DETERMINE WHEN IT IS CONSIDERED COST EFFECTIVE TO
7 REQUIRE A CUSTODIAL PARENT TO ENROLL A CHILD IN AN AVAILABLE GROUP
8 HEALTH INSURANCE PLAN PURSUANT TO PARAGRAPHS (B) AND (C) OF SUBDIVISION
9 ONE OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

10 S 6. Clause (iii) of subparagraph 2 of paragraph (c) of subdivision 1
11 of section 240 of the domestic relations law, as amended by chapter 624
12 of the laws of 2002, is amended to read as follows:

13 (iii) If neither parent has available health insurance benefits, the
14 court shall direct in the order of support that the custodial parent
15 apply for the state's child health insurance plan pursuant to title
16 one-A of article twenty-five of the public health law and the medical
17 assistance program established pursuant to title eleven of article five
18 of the social services law. [If eligible for such coverage, the court
19 shall prorate the cost of any premium or family contribution in accord-
20 ance with paragraph (d) of this subdivision.] A direction issued under
21 this subdivision shall not limit or alter either parent's obligation to
22 obtain health insurance benefits at such time as they become available,
23 as required pursuant to paragraph (a) of this subdivision. NOTHING IN
24 THIS SUBDIVISION SHALL ALTER OR LIMIT THE AUTHORITY OF THE MEDICAL
25 ASSISTANCE PROGRAM TO DETERMINE WHEN IT IS CONSIDERED COST EFFECTIVE TO
26 REQUIRE A CUSTODIAL PARENT TO ENROLL A CHILD IN AN AVAILABLE GROUP
27 HEALTH INSURANCE PLAN PURSUANT TO PARAGRAPHS (B) AND (C) OF SUBDIVISION
28 ONE OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

29 S 7. Subdivision (f) of section 416 of the family court act is
30 REPEALED and a new subdivision (f) is added to read as follows:

31 (F) THE COST OF PROVIDING HEALTH INSURANCE BENEFITS OR BENEFITS UNDER
32 THE STATE'S CHILD HEALTH INSURANCE PLAN OR THE MEDICAL ASSISTANCE
33 PROGRAM, PURSUANT TO SUBDIVISION (E) OF THIS SECTION, SHALL BE DEEMED
34 CASH MEDICAL SUPPORT, AND THE COURT SHALL DETERMINE THE OBLIGATION OF
35 EITHER OR BOTH PARENTS TO CONTRIBUTE TO THE COST THEREOF PURSUANT TO
36 SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION FOUR
37 HUNDRED THIRTEEN OF THIS PART.

38 S 8. Paragraph (d) of subdivision 1 of section 240 of the domestic
39 relations law is REPEALED and a new paragraph (d) is added to read as
40 follows:

41 (D) THE COST OF PROVIDING HEALTH INSURANCE BENEFITS OR BENEFITS UNDER
42 THE STATE'S CHILD HEALTH INSURANCE PLAN OR THE MEDICAL ASSISTANCE
43 PROGRAM, PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE DEEMED
44 CASH MEDICAL SUPPORT, AND THE COURT SHALL DETERMINE THE OBLIGATION OF
45 EITHER OR BOTH PARENTS TO CONTRIBUTE TO THE COST THEREOF PURSUANT TO
46 SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVISION ONE-B OF THIS SECTION.

47 S 9. Section 514 of the family court act, as amended by chapter 81 of
48 the laws of 1995, is amended to read as follows:

49 S 514. Liability of father to mother. The father is liable [to pay]
50 FOR the reasonable expenses of the mother's confinement and recovery and
51 such reasonable expenses in connection with her pregnancy as DETERMINED
52 BY the court [in its discretion may deem proper]; provided, however,
53 where the mother's confinement, recovery and expenses in connection with
54 her pregnancy were paid under the medical assistance program on the
55 mother's behalf, the father may be liable to the social services
56 district furnishing such medical assistance and to the state department

1 of [social services] HEALTH for [the full amount of] medical assistance
2 so expended[, as the court in its discretion may deem proper]. SUCH
3 EXPENSES, INCLUDING SUCH EXPENSES PAID BY THE MEDICAL ASSISTANCE PROGRAM
4 ON THE MOTHER'S BEHALF, SHALL BE DEEMED CASH MEDICAL SUPPORT AND THE
5 COURT SHALL DETERMINE THE OBLIGATION OF THE PARTIES TO CONTRIBUTE TO THE
6 COST THEREOF PURSUANT TO SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVI-
7 SION ONE OF SECTION FOUR HUNDRED THIRTEEN OF THIS ACT.

8 S 10. Subdivision 1 of section 545 of the family court act, as amended
9 by chapter 214 of the laws of 1998, is amended to read as follows:

10 1. In a proceeding in which the court has made an order of filiation,
11 the court shall direct the parent or parents possessed of sufficient
12 means or able to earn such means to pay weekly or at other fixed periods
13 a fair and reasonable sum according to their respective means as the
14 court may determine and apportion for such child's support and educa-
15 tion, until the child is twenty-one. The order shall be effective as of
16 the earlier of the date of the application for an order of filiation,
17 or, if the children for whom support is sought are in receipt of public
18 assistance, the date for which their eligibility for public assistance
19 was effective. Any retroactive amount of child support shall be support
20 arrears/past-due support and shall be paid in one sum or periodic sums
21 as the court shall direct, taking into account any amount of temporary
22 support which has been paid. In addition, such retroactive child support
23 shall be enforceable in any manner provided by law including, but not
24 limited to, an execution for support enforcement pursuant to subdivision
25 (b) of section fifty-two hundred forty-one of the civil practice law and
26 rules. The court shall direct such parent to make his or her residence
27 known at all times should he or she move from the address last known to
28 the court by reporting such change to the support collection unit desig-
29 nated by the appropriate social services district. The order shall
30 contain the social security numbers of the named parents. The order may
31 also direct each parent to pay an amount as the court may determine and
32 apportion for the support of the child prior to the making of the order
33 of filiation, and may direct each parent to pay an amount as the court
34 may determine and apportion for [(i)] the funeral expenses if the child
35 has died[; (ii) the]. THE necessary expenses incurred by or for the
36 mother in connection with her confinement and recovery[;] and [(iii)]
37 such expenses in connection with the pregnancy of the mother [as the
38 court may deem proper] SHALL BE DEEMED CASH MEDICAL SUPPORT, AND THE
39 COURT SHALL DETERMINE THE OBLIGATION OF EITHER OR BOTH PARENTS TO
40 CONTRIBUTE TO THE COST THEREOF PURSUANT TO SUBPARAGRAPH FIVE OF PARA-
41 GRAPH (C) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED THIRTEEN OF THIS
42 ACT. In addition, the court shall make provisions for health insurance
43 benefits in accordance with the requirements of section four hundred
44 sixteen of this act.

45 S 11. Subparagraph (i) of paragraph 2 of subdivision (b) of section
46 5241 of the civil practice law and rules, as amended by chapter 533 of
47 the laws of 1999, is amended to read as follows:

48 (i) Where the court orders the debtor to provide health insurance
49 benefits for specified dependents, an execution for medical support
50 enforcement may, except as provided for herein, be issued by the support
51 collection unit, or by the sheriff, the clerk of court or the attorney
52 for the creditor as an officer of the court; provided, however, that
53 when the court issues an order of child support or combined child and
54 spousal support on behalf of persons other than those in receipt of
55 public assistance or in receipt of services pursuant to section one
56 hundred eleven-g of the social services law, such medical execution

1 shall be in the form of a separate qualified medical child support order
2 as provided by subdivision [(f)] (J) of section four hundred sixteen of
3 the family court act and paragraph [(f)] (H) of subdivision one of
4 section two hundred forty of the domestic relations law. Such execution
5 for medical support enforcement may require the debtor's employer,
6 organization or group health plan administrator to purchase on behalf of
7 the debtor and the debtor's dependents such available health insurance
8 benefits. Such execution shall direct the employer, organization or
9 group health plan administrator to provide to the dependents for whom
10 such benefits are required to be provided or such dependents' custodial
11 parent or legal guardian or social services district on behalf of
12 persons applying for or in receipt of public assistance any identifica-
13 tion cards and benefit claim forms and to withhold from the debtor's
14 income the employee's share of the cost of such health insurance bene-
15 fits, and to provide written confirmation of such enrollment indicating
16 the date such benefits were or become available or that such benefits
17 are not available and the reasons therefor to the issuer of the
18 execution. An execution for medical support enforcement shall not
19 require a debtor's employer, organization or group health plan adminis-
20 trator to purchase or otherwise acquire health insurance or health
21 insurance benefits that would not otherwise be available to the debtor
22 by reason of his or her employment or membership. Nothing herein shall
23 be deemed to obligate or otherwise hold any employer, organization or
24 group health plan administrator responsible for an option exercised by
25 the debtor in selecting medical insurance coverage by an employee or
26 member.

27 S 12. Subdivision (h) of section 5241 of the civil practice law and
28 rules, as amended by chapter 398 of the laws of 1997, is amended to read
29 as follows:

30 (h) Priority. A levy pursuant to this section or an income deduction
31 order pursuant to section 5242 of this chapter shall take priority over
32 any other assignment, levy or process. If an employer or income payor is
33 served with more than one execution pursuant to this section, or with an
34 execution pursuant to this section and also an order pursuant to section
35 5242 of this chapter, and if the combined total amount of the deductions
36 to be withheld exceeds the limits set forth in subdivision (g) of this
37 section, the employer or income payor shall withhold the maximum amount
38 permitted thereby and pay to each creditor that proportion thereof which
39 such creditor's claim bears to the combined total. Any additional
40 deduction authorized by subdivision (g) of this section to be applied to
41 the reduction of arrears shall be applied to such arrears in proportion
42 to the amount of arrears due to each creditor. Deductions to satisfy
43 CURRENT support obligations[, including any additional deductions
44 authorized by subdivision (g) of this section,] shall have priority over
45 deductions for the debtor's share of health insurance premiums WHICH
46 SHALL HAVE PRIORITY OVER ANY ADDITIONAL DEDUCTION AUTHORIZED BY SUBDIVI-
47 SION (G) OF THIS SECTION.

48 S 13. This act shall take effect on the ninetieth day after it shall
49 have become a law and shall apply to any proceeding to establish or
50 modify a child support obligation, including a medical support obli-
51 gation, commenced on or after such date.

ATTACHMENT 3

FORMS

Medicaid Medical Support Transmittal

County Name _____ WMS CASE NUMBER _____ Date _____
To _____ UNIT/AGENCY _____ Phone # _____
From _____ UNIT/AGENCY _____ Phone # _____

PART 1: PERSONAL INFORMATION

Custodial Parent (CP) Name _____ CP SSN _____ CP Date of Birth _____
CP Address _____ CP Telephone No _____
Medicaid Case Name _____ Medicaid Case Number _____
Non-Custodial Parent (NCP) Name _____ NCP SSN _____ NCP Date of Birth _____
NCP Address _____ NCP Telephone No _____

PART 2: PURPOSE FOR TRANSMITTAL

New Case Recovery of Fee for Service Medicaid Costs Addition to Existing Case (see child listed below in Part 3)
 Good Cause Claim Request: Child # _____
 Good Cause Request approved by MA - Date _____ child# _____
 Child already in case is now exempted - Child # _____
 Change in Status/Case (Identify Change):
 Temporary Suspension of Medical Support Action due to:
 Pregnancy - EDC _____ NCP in receipt of Medicaid Good Cause Claim Request Other _____
 Resume Medical Support Action due to:
 Pregnancy /Post Partum-End Date _____ Other _____

PART 3: CHILD INFORMATION FOR THE NCP NAMED ABOVE

Check if additional children are on separate transmittal

Note: Check box after child's name/line # only if EXEMPT from Medical Support Requirements

(1) Child Name _____ WMS Line # _____ CIN _____ EXEMPT
 Establishment of Medical Support Obligation Paternity Establishment Only
Coverage type: Fee-for-Service Managed care - Monthly Premium: \$ _____
Coverage Dates: Start _____ Open Closing Date _____
 Prior Years: Year _____ Fee-for-Service expenditures for child \$ _____ OR Managed care premium \$ _____
Year _____ Fee-for-Service expenditures for child \$ _____ OR Managed care premium \$ _____
 Check if other years attached Printout of expenditures attached
 Recovery of Fee-For-Services Costs: For the period from _____ to _____ Total paid on behalf of child: \$ _____
Billing notice(s) of medical support sent to NCP on: _____ Total payment(s) received from NCP \$ _____ Net due: _____
 Printout of expenditures attached Copy of billing notice(s) to NCP attached

(2) Child Name _____ WMS Line # _____ CIN _____ EXEMPT

Establishment of Medical Support Obligation

Coverage type: Fee-for-Service Managed care - Monthly Premium: \$ _____
 Open Closing Date Paternity Establishment Only
Coverage Dates: Start _____ OR Managed care premium \$ _____
 Prior Years: Year _____ Fee-for-Services expenditures for child \$ _____ OR Managed care premium \$ _____
Year _____ Fee-for-Services expenditures for child \$ _____
 Check if other years attached Printout of expenditures attached

Recovery of Fee-For-Services Costs: For the period from _____ to _____ Total paid on behalf of child: \$ _____
Billing notice(s) of medical support sent to NCP on: _____ Total payment(s) received from NCP \$ _____ Net due: _____
 Printout of expenditures attached Copy of billing notice(s) to NCP attached

(3) Child Name _____ WMS Line # _____ CIN _____ EXEMPT

Establishment of Medical Support Obligation

Coverage type: Fee-for-Service Managed care - Monthly Premium: \$ _____
 Open Closing Date Paternity Establishment Only
Coverage Dates: Start _____ OR Managed care premium \$ _____
 Prior Years: Year _____ Fee-for-Services expenditures for child \$ _____ OR Managed care premium \$ _____
Year _____ Fee-for-Services expenditures for child \$ _____
 Check if other years attached Printout of expenditures attached

Recovery of Fee-For-Services Costs: For the period from _____ to _____ Total paid on behalf of child: \$ _____
Billing notice(s) of medical support sent to NCP on: _____ Total payment(s) received from NCP \$ _____ Net due: _____
 Printout of expenditures attached Copy of billing notice(s) to NCP attached

Attach additional pages if more than three children are associated with the NCP

PART 4: CERTIFICATION

I hereby certify that: 1) I am an employee of the _____ County Department of Social Services, which is required by the NYS Social Services Law to provide correct and complete information from its records in response to requests by the Support Collection Unit; 2) that the information in this transmittal was taken from records of the _____ County Department of Social Services; 3) that such information is maintained in the regular course of business; 4) that it is the regular course of such business to maintain such information; and 5) that a memorandum or record of the information was made at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter. I certify that I have been designated by the Commissioner of Social Services for the purpose of making this certification.

Dated: _____ Signature: _____
Print Name: _____
Title: _____

----- County
Support Collection Unit

-----, NY -----

WAGE and HEALTH BENEFITS REPORT

New York Case Identifier:
JCA worker code:
Employer/ Income Withholder number:
Source code:
Qtr/Yr Last Wages:
CIN numbers:

----- (name of employer/income withholder)
----- (street address)
----- (city), -- (state) ----- (zip code)

Date: ____ / ____ / ____
Regarding: -----
(employee/beneficiary name)
Date of birth: -----
Social Security Number: -----

Dear Employer/Income Withholder:
Please review your records and provide the information requested in this report for the above named individual who is, or has recently been, in your employ or under contract with you or receiving benefits from you. This employee/beneficiary is, or may be, legally responsible for a person receiving child support enforcement services or public assistance and care. Sections 111-h (9), 111-r and 143 of the New York State Social Services Law (SSL) require that employers furnish the information requested to the Support Collection Unit (SCU). Section 111-s of SSL authorizes SCU access to information contained in government and private records, such as benefits information.

Employers must complete sections 1, 2, 3, 4, 5, 7, and 8. Income withholders must complete sections 1, 3, 6, 7, and 8. You must complete and submit this report no later than 30 days from the above date. If the employee/beneficiary is no longer in your employ or under contract with you, or receiving benefits from you, all information must still be completed and submitted as indicated. No substitute for this report is acceptable.

WARNING
FAILURE TO COMPLY MAY RESULT IN A \$500 PENALTY FOR INITIAL NON-COMPLIANCE AND A \$700 PENALTY FOR ANY
SUBSEQUENT NON-COMPLIANCE (SECTION 111-r, NYS SOCIAL SERVICES LAW).
YOU MUST RESPOND FULLY AND COMPLETELY TO THIS REQUEST

SECTION 1 – EMPLOYER/INCOME WITHHOLDER INFORMATION

Name: _____
Address: _____
Telephone number: (____) _____
Federal Employer Identification Number (FEIN): _____

SECTION 2 - STATUS OF EMPLOYEE

Date hired or rehired: ____ / ____ / ____
Current or most recent position held: _____
Is individual still employed by you? YES NO
Circle employee work days: Monday Tuesday Wednesday Thursday Friday Saturday Sunday
Employee work hours: _____ AM / PM to _____ AM / PM
 full time part time seasonal from _____ to _____
Pay rate: \$ _____ per _____
Employee worksite address, if different from employer address: _____
Date of separation (if appropriate): ____ / ____ / ____ Reason for separation: _____
New employer/income withholder name, if known: _____
New employer/income withholder address: _____

SECTION 3 – EMPLOYEE/BENEFICIARY INFORMATION

Mailing address: _____
Residential address, if different than mailing: _____
Home telephone number: (_____) _____
Social Security number on file with employer/income withholder: _____ (If different from information on front)
Date of birth on file with employer/income withholder: ____/____/____ (If different from information on front)
Union affiliation (name and local number) : _____
Address of union local: _____
Person to be notified in case of emergency: _____
Address of emergency contact: _____
Home telephone number of emergency contact: (_____) _____
Work telephone number of emergency contact: (_____) _____

SECTION 4 – EMPLOYEE WAGES ON MOST RECENTLY FILED W-2

Tax year: _____ Wages, tips, and other compensation: \$ _____
Social Security withheld: \$ _____ Medicare withheld: \$ _____
Federal tax withheld: \$ _____ State tax withheld: \$ _____
New York City or Yonkers City tax withheld: \$ _____

SECTION 5 – EMPLOYEE EARNINGS-TO- DATE CURRENT CALENDAR YEAR

From: ____/____/____ to ____/____/____ Gross earnings: \$ _____
Social Security withheld: \$ _____ Medicare withheld: \$ _____
Federal tax withheld: \$ _____ State tax withheld: \$ _____
New York City or Yonkers City tax withheld: \$ _____
Total pre-tax deductions (these are the actual pre-tax deductions/contributions, and include retirement contributions): \$ _____
Total after-tax deductions (these are the actual after-tax deductions and include union dues, if any): \$ _____
Net pay: \$ _____

SECTION 6 – EMPLOYEE BENEFIT INFORMATION

Benefit type: SSA Title II SSA Title XVI Veterans' Benefits Workers' Compensation Other _____
 Public or Private Retirement Benefits – Provider name: _____
Status of benefit: Pending Active Terminated
Effective Date of Benefit: _____
Benefit amount: Recurring amount \$ _____ per _____ Lump sum amount \$ _____

SECTION 7 - HEALTH INSURANCE BENEFITS INFORMATION

1. Is the employee currently enrolled in a family (dependent) health care plan? YES (go to question 2) NO (go to question 3)

2. If you answered "YES" to question 1, provide the following information:

a. DEPENDENTS ENROLLED:

	NAME	DATE OF BIRTH	START DATE
(1)	_____	___/___/___	___/___/___
(2)	_____	___/___/___	___/___/___
(3)	_____	___/___/___	___/___/___
(4)	_____	___/___/___	___/___/___

b. HEALTH INSURANCE CARRIER:

Name: _____

Address: _____

Telephone No. (____) _____ FAX No. (____) _____

c. GROUP POLICY IDENTIFICATION NO. _____

d. EMPLOYEE'S POLICY IDENTIFICATION NO. _____

3. If you answered "NO" to question 1, check the box below to indicate the reason the Employee is not enrolled in a family (dependent) health care plan:

a. We (the employer) do not offer health care plans to our employees.

b. Employee is not currently eligible to enroll, but will become eligible on ___/___/___.

c. Employee is not eligible for health care coverage.

d. Employee has failed to enroll in the family (dependent) health care plan, and IS IS NOT enrolled in individual plan.

e. Employee is no longer employed here.

If box "e" is checked, has employee enrolled in COBRA coverage? YES NO

4. Regardless of whether or not the employee is enrolled in a health care plan, provide the employee's cost of the health care plans that are available to this employee. Please specify the employee's cost of each option. If more than one plan is offered, indicate the plan, if any, this employee is enrolled in. If you offer multiple plan options, use additional pages to provide the cost information for each plan.

Individual Plan	Single Plus One Plan	Family Plan
<input type="checkbox"/> Employee is enrolled in this plan	<input type="checkbox"/> Employee is enrolled in this plan	<input type="checkbox"/> Employee is enrolled in this plan
\$ _____ per _____	\$ _____ per _____	\$ _____ per _____
	Annual Deductibles \$ _____	Annual Deductibles \$ _____

5. If you offer multiple plan options, attach a copy of printed descriptions of covered services available under ALL family (dependent) health care plans available to this employee.

SECTION 8 - CERTIFICATION

I hereby certify that: 1) I am required by the NYS Social Services Law to provide a correct and complete report regarding the employee/beneficiary, based on the records maintained by the employer/income withholder; 2) that the information in this report was taken from records of the employment, compensation and benefits of this employee/beneficiary; 3) that such information is maintained in the regular course of business; 4) that it is the regular course of such business to maintain such information; and 5) that a memorandum or record of the information was made at the time of the act, transaction, occurrence or event, or within a reasonable time thereafter. I certify that I am the head of this business or entity or an employee designated by such person for the purpose of making this certification.

EMPLOYER/INCOME WITHHOLDER OR AUTHORIZED DESIGNEE:		Telephone number:	Date:
Signature: _____		()	
Print Name: _____			

The New Medical Support Laws Impacting Child Support Orders
October 27, 2009 Tele-Training

New York State Medicaid – A Brief Summary

The primary purpose of the Medicaid Program is to make covered health and medical services available to eligible individuals. As the single State agency, the New York State Department of Health (DOH) promulgates all necessary regulations and guidelines for Program administration, as well as develops professional standards for the Program, develops rates and fees for medical services, hospital utilization review and professional consultation to local department of social service officials for determining adequacy of medical services submitted for Medicaid reimbursement. The Director of the New York State Division of the Budget promulgates fees and rates for the Medicaid Program.

DOH is responsible for the determination of provider eligibility, and determining covered services and exclusions in New York's Medicaid Program. Local departments of social services retain the responsibility for determining enrollee eligibility. Every person who furnishes care, services or supplies and who wishes to receive payment under the Medicaid Program must enroll as a provider of services prior to being eligible to receive such payments.

Under the Medicaid Program, eligible individuals can obtain a wide variety of medical care and services. When a provider accepts a Medicaid enrollee as a patient, the provider agrees to bill Medicaid for services provided, which is referred to as fee-for-service. In the case of a Medicaid Managed Care enrollee, the provider participating in the managed care plan, agrees to bill the enrollee's Managed Care Plan for services covered by the contract.

A provider who participates in the Medicaid program and delivers Medicaid covered care and services to a Medicaid recipient who is not enrolled in Medicaid Managed Care bills DOH's billing agent fee-for-service.

Medicaid Managed Care

Managed Care is a term that is used to describe a health insurance plan or health care system that coordinates the provision, quality and cost of care for its enrolled members. In general, when people enroll in a managed care plan, they select a regular doctor, called a primary care practitioner (PCP), who will be responsible for coordinating all their health care. The PCP will refer the enrollee to specialists or other health care providers or procedures as necessary. It is usually required that people select health care providers from the managed care plan's network of professionals and hospitals.

Managed care companies that contract with DOH receive a monthly amount called a capitation payment or premium for each person in their plan. This is called risk-sharing, because for each month that they get paid for that person, some people may receive medical services and others won't. The health plans pay the health care providers directly, so enrollees do not have to pay out-of-pocket for covered services or submit claim forms for care received from the plan's network of doctors. However, managed care plans can require co-pays paid directly to the provider at the time of service.

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The New Medical Support Laws Impacting Child Support Orders October 27, 2009 Tele-Training

List of New and Amended Forms

New Forms:

- **Medicaid Transmittal Form** - This form will be used by Medicaid offices to identify MA eligibility, type of MA coverage and MA cost information.
- **Noncustodial Parent Medicaid Billing Form** – This form will be used by Medicaid offices to bill noncustodial parents for Medicaid expenditures when the noncustodial parent is obligated to pay cash medical support.
- **Children's Health Insurance Notice** – This is a new notice to be used by SCUs to obtain private and public health insurance information from parents under court obligation.

Amended Forms:

- **Support Petitions (CSS and DSS)** - These forms are revised to simplify language to petition for support and medical support.
- **Support Orders (CSS and DSS)** – These forms are revised to provide for cash medical support obligations.

- **Wage and Health Benefits Form** – This form is issued by Child Support for obtaining employer-sponsored private health insurance information including cost and deductible information.
- **Medical Support Execution** – The “MEDX” has been revised to incorporate recent changes to the federally prescribed form that address issues of confidentiality and waiting periods.
- **LDSS 2859 Child Support Information Transmittal** – This form is revised to address private health insurance information, other details about support obligations, and to provide dates of redirection of payment in TA cases.
- **Withholding Limitations Worksheet for Support and Medical Support**– This form is revised to address the new hierarchy of income withholding (i.e. current support obligations, health care premiums, and then support arrears).

CASH MEDICAL SUPPORT

PRACTICE SCENARIOS

OCTOBER 27, 2009

Scenario 1: Reasonable or not?

NCP has 2 children. NCP's employer offer PHI to its employees, with a \$250/person deductible.

Annual Employee share of PHI Premiums:

Single coverage: \$ 965
Plus 1 coverage: \$1,415
Family coverage: \$2,660

1. What is the "cost" of coverage if the NCP has no coverage or single coverage?
2. What is the "cost" of coverage if the NCP has Plus 1 coverage?

Scenario 2: Child Health Plus

2 Children. CPI and Gross Income = \$100,000

CP Gross Income	NCP Gross Income	Pro Rata Share of CPI (CP/NCP)	CP Monthly Income	CP Monthly Family Contribution - Household of 3	NCP Share of Monthly Family Contribution
\$25,000	\$75,000	25/75	\$2,083		
\$35,000	\$65,000	35/65	\$2,917		
\$50,000	\$50,000	50/50	\$4,167		
\$70,000	\$30,000	70/30	\$5,833		
\$90,000	\$10,000	90/10	\$7,500	*	

*Full premium varies with plan selected

Question: At 90/10 split, what is the NCP's contribution? (2009 SSR = 14,620)

Scenario 3: Cash Medical Support in MA Cases – First Steps

Finding the basic monthly “Family Contribution” as if the CP and NCP were an intact family with 1 child enrolled in MA.

Combined Parental Annual Gross Income	Combined Parental Monthly Gross Income	Monthly Family Contribution - Household of 3	NCP Share of Monthly Family Contribution
\$25,000	\$2,083		
\$35,000	\$2,917		
\$50,000	\$4,167		
\$70,000	\$5,833		
\$90,000	\$7,500		

Scenario 4: Cash Medical Support in MA Cases – Managed Care Plans

Facts: 2 Children enrolled in a managed care plan. Monthly plan premium is \$230 (\$115/child). Support petition filed 10/1/2009.

Income	Year	Annual Gross	Monthly Gross	Annual AGI	CSSA % Amount	SSR
NCP	2008	\$16,000		\$14,776	\$3,694*	\$14,040
CP		\$28,000				
Combined		\$44,000	\$3,667			
NCP	2009	\$45,000		\$41,558	\$10,389	\$14,620
CP		\$28,000				
Combined		\$73,000	\$6,083			

*The CSSA % amount would reduce the NCP's income below the SSR, so his child support obligation will be the difference between his income and the SSR, or \$736/year

Step I Calculate the NCP's monthly obligation

1. What is the Monthly Family Contribution for the combined household income in 2009?
2. Is the Monthly Family Contribution less than the managed care premium paid to the Plan o/b/o the child? Use the lesser amount
3. Is the Monthly Family Contribution greater than 5% of the NCP's gross income?
4. Will the Monthly Family Contribution reduce the NCP's income below the SSR?
 - If **No**, the NCP pays the Monthly Family Contribution as part of the CMSO
 - If **Yes**, the monthly payment equals the difference between the SSR and the NCP's annual income.

Step II Calculate the prior medical support for 2009

Step III Calculate the prior medical support for 2008

1. What is the Monthly Family Contribution for the combined household income in 2008?
2. Is the Monthly Family Contribution less than the managed care premium paid to the Plan o/b/o the child? Use the lesser amount
3. Is the Monthly Family Contribution greater than 5% of the NCP's gross income?

4. Will the Monthly Family Contribution reduce the NCP's income below the SSR?
Scenario 5: Cash Medical Support in MA Cases – Fee For Service

Facts: 1st child enrolled in a MA fee for service on July 1, 2007. 2nd child born in October 2007 (CP's confinement expense = \$3000, child's confinement expense = \$1,500). Support petition filed 10/1/2009.

Income	Year	Annual Gross	Monthly Gross	Annual AGI	CSSA % Amount	SSR
NCP	2007	\$24,000		\$22,164	\$5,541	\$13,873
CP		\$13,000				
Combined		\$37,000	\$3,083			
NCP	2008	\$16,000		\$14,776	\$3,694*	\$14,040
CP		\$28,000				
Combined		\$44,000	\$3,667			
NCP	2009	\$45,000		\$41,558	\$10,389	\$14,620
CP		\$28,000				
Combined		\$73,000	\$6,083			

*The CSSA % amount would reduce the NCP's income below the SSR, so his child support obligation will be the difference between his income and the SSR, or \$736/year

Step I Calculate the NCP's maximum annual CMSO for 2010

1. What is the Monthly Family Contribution for the combined household income in 2009?

2. Is the Family Contribution greater than 5% of the NCP's gross income?

3. Will the Monthly Family Contribution reduce the NCP's income below the SSR?

- **No**, the NCP's maximum annual CMSO equals the Monthly Family Contribution times 12 months
- **Yes**, maximum annual CMSO equals the difference between the SSR and the NCP's annual income.

Step II Calculate NCP's maximum annual CMSO for 2009 OR the CMSO for 2009

The petition being filed in 10/2009 splits the year between future medical support obligations and past medical support obligations. Using the income figures above, the NCP's maximum annual CMSO for 2009 will be \$1,080. There are 2 ways to proceed:

1. If the fee for services expenditures to date exceed \$1,080, the maximum recovery amount has been reached. The court could set the amount due at \$1,080. This amount is child support arrears/past due support.
2. If the fee for services expenditures to date are less than \$1,080, the court could state that the NCP's maximum annual CMSO for 2009 will be \$1,080. The county's MA unit will bill the NCP for fee for services expenditures o/b/o the children. If the NCP does not pay these costs (up to \$1,080), the MA unit will refer the case to the SCU for enforcement.

Step III Calculate the medical support due for 2007

Total Medicaid FFS expenditures in 2008: \$1,800

1. What is the Monthly Family Contribution for the combined household income in 2008?
2. Is the Family Contribution greater than 5% of the NCP's gross income?
3. Will the Monthly Family Contribution reduce the NCP's income below the SSR?
4. Will the Monthly Family Contribution reduce the NCP's income below the SSR?

Step IV Calculate the medical support due for 2007

Total Medicaid FFS expenditures in 2007: \$6,000

1. What is the Monthly Family Contribution for the combined household income in 2007?
2. Is the Family Contribution greater than 5% of the NCP's gross income?
3. Will the Monthly Family Contribution reduce the NCP's income below the SSR?
4. Will the Monthly Family Contribution reduce the NCP's income below the SSR?

*Note: The maximum annual CMSO is based on 12 months OR the number of months the child was in receipt of MA.

4. Will the Monthly Family Contribution reduce the NCP's income below the SSR?

Tom Gordon*
Support Magistrate
Rensselaer County Family Court
October 2009

Changes in Medical Support

1. On July 11, 2009, the governor signed into law an act (L.2009, c. 215) that significantly alters the medical support provisions of the Child Support Standards Act. The bill, which goes into effect on October 9, defines availability of health insurance and creates a new term – “cash medical support” – which encompasses the various costs of health insurance, both public and private, and unreimbursed health care expenses. The bill provides a specific mechanism for collecting past and future medicaid expenses, including confinement costs.

2. Availability of Health Insurance

FCA § 416(d) was amended to more specifically define availability of private health insurance. A new section, 416(d)(3), was added which defined “reasonable in cost” and “reasonably accessible.”

- a. Reasonable in Cost – Health insurance is reasonable in cost if the cost of the benefits do not exceed 5% of the combined parental *gross* income.
 - i. Definition of Cost – The section defines the cost of health insurance as the cost of the premium and the deductible attributable to adding the child(ren) to the policy or the difference between such costs for individual and family coverage.
 - ii. The cost is not reasonable if a parent's share of the cost of extending such coverage would reduce the income of that parent below the self-support reserve.
 - iii. The presumption that the cost of health insurance is reasonable may be rebutted based on the circumstances of the case, the cost and comprehensiveness of the health insurance benefits for which the child or children may otherwise be eligible, and the best interests of the child or children.

Comments:

- Right off the bat, we are thrown a curve. Instead of using the CSSA definition of income, the statute specifies that when making the 5% determination, we should use *gross*

* The analysis contained within this outline represents my opinion only. It is not the official policy of OCA, the 125 or so other Support Magistrates, or OTDA. Some of the opinions are first impressions, representing my best guess about how parts of the legislation will ultimately be interpreted. Other magistrates and judges may differ in their approaches. In fact, I cannot guarantee that I will not change my mind about some of the points in the face of a well-crafted argument.

income. Fair enough, but what is gross income? FCA § 413(1)(b)(5) defines income as “the sum of the amounts determined by the application of clauses (i), (ii), (iii), (iv), (v) and (vi) of this subparagraph reduced by the amount determined by the application of clause (vii) of this subparagraph.” I would submit that “gross income” is “the sum of the amounts determined by the application of clauses (i), (ii), (iii), (iv), (v) and (vi)” before the reductions specified in clause (vii).

- Instead of using the § 413(1)(f) factors to rebut the reasonableness of the cost, the statute enumerates only three factors. The three factors are broadly defined, but it appears that the major area of inquiry is whether the health care available to the parent is comparable to that obtainable through Child Health Plus. For instance, are there unreasonable co-payments? Is the choice of physicians too limited?
- b. Reasonably Accessible – Benefits are reasonably accessible if the child lives within 30 miles or 30 minutes from the provided services. This presumption may be rebutted by a showing of good cause, including “the special health needs of the child.”

Comment: 30 miles or 30 minutes is a pretty minimal standard. There are many parts of this state, NYC included, where there is no health care of any substance within 30 minutes or 30 miles. Even so, the statute allows a finding that the “the special health needs of the child” makes the health care inaccessible even where it is obtainable within 30 miles or 30 minutes.

- c. Once availability has been determined, Section 416(e) continues to require the court to order one or both parents to provide such health insurance. In the event no health insurance is available, then the court shall order the custodial parent to apply for Child Health Plus and/or Medicaid.

3. Cash Medical Support (CMS)

- a. Previously, the allocation of the cost of health insurance was provided for in § 416. The allocation provisions were removed from § 416 and placed in § 413. Section 413(1)(c)(5), which previously only provided for the pro rata allocation of unreimbursed health care expenses, has been completely revamped.
- b. Cash medical support defined – § 413(1)(c)(5)(i)

Cash medical support is the combination of health insurance premiums, whether publicly or privately provided, and unreimbursed health care expenses.

- c. Allocation of premiums for employer-provided plans – § 413(1)(c)(5)(ii)

The premiums are prorated between the parties. If the custodial parent provides the health insurance, then the non-custodial parent’s share is added to the basic child support

obligation. If the non-custodial parent provides the health insurance, then the custodial parent's share is deducted from the basic child support obligation.

Comment: There is no cap stated in this section on the non-custodial parent's obligation for health insurance coverage. However, since the determination of CMS is made within §413(1)(c), it is part of the basic child support obligation, which also consists of the basic percentage payment and the child care expenses. Under section 413(1)(d), if the basic child support obligation reduces the non-custodial parent's income below the self support reserve, then the support is limited to the difference between the non-custodial parent's income and the self support reserve or \$50 monthly, whichever is greater. Courts have consistently held that the add-on expenses cannot be considered separately to further reduce a parent's income below the self support reserve. Callen v Callen, 287 AD2d 818 (3rd Dept 2001); In Re Rhianna R., 256 AD2d 1184 (4th Dept 1998), Matter of Cary v. Megerell, 219 AD2d 334 (3rd Dept 1996); Dunbar v. Dunbar, 233 AD2d 922 (4th Dept 1996).

d. Allocation of premiums where employer-provided plans are not available

i. Child Health Plus – § 413(1)(c)(5)(iv)

If the child(ren) are eligible for Child Health Plus, the premium cost is prorated. However, the non-custodial parent's obligation for the cost is limited to 5% of his/her *gross* income or the difference between his income and the self support reserve, whichever is less.

Comments:

- Here's where the statute gets interesting. As noted above, CMS is part of the basic child support obligation and if the combined elements of the basic child support obligation reduce the non-custodial parent's income below the self support reserve, then the combination of the elements of support is limited to the difference between the non-custodial parent's income and the self support reserve or \$50 monthly, whichever is greater. In the case of Child Health Plus and Medicaid (detailed below), the legislature has allowed for the possibility that while the other elements of support may only reduce the non-custodial parent's income to the self support reserve, there may be an obligation for CMA which reduces the obligation below the self support reserve.

Example: The parties have one child. The non-custodial parent earns \$9 per hour or \$360 weekly. After deducting FICA, the income is \$332.46. Since 17% of his income, \$56.52, would reduce his income below the self-support reserve (currently \$281.16 weekly), the support obligation is limited to the difference between his income and the self support reserve, or \$51.30 weekly.

At the same time, according to the new statute, if the custodial parent does not have private health insurance, then the non-custodial parent has a potential liability of 5% of his gross income or the difference between his income and the self support reserve. Since 5% of his gross income is \$18.00, he may be assessed a pro rata share of the cost of Child Health Plus up to \$18.00

Before anyone gets too worked up over this, the chances are that the non-custodial parent's liability will be far less. You will note from the Child Health Plus tables in Appendix B that for the Child Health Plus premium to reach \$60 monthly (\$13.85 weekly), if Mom were in a two-person household, her gross income would have to exceed \$51,000 annually. Even if that were the case, the non-custodial parent would only be responsible for a small percentage of the cost.

The question remains, however, where the combination of the basic payment and CMS reduces the non-custodial parent's income below the self support reserve, how do we set the CMS? There are three approaches:

1. Assess the CMS on top of the basic payment despite the fact that the basic payment reduces the payor's income to the self support reserve.
2. Notwithstanding the language of 413(1)(c), do not fix an obligation for CMS where such an obligation would reduce the non-custodial parent's income below the self support reserve.
3. Do the calculations in reverse. Fix the CMS first and then determine how much income is left over the self support reserve.

Each approach is problematical. While the first approach follows § 414(1)(c), it violates the separate mandate of 413(d). In stating that the basic child support obligation shall not reduce the income below the self support reserve, § 413(d) does not distinguish among its various components. The second approach ignores the language of § 413(1)(c) in cases where there is a combined support/health insurance order. The third approach, while appearing to harmonize the limits of § 413(1)(c)(5) and § 413(1)(d), is also problematical. As noted below, a non-custodial parent's obligation for medicaid premiums is subject to the same limits. In a case where the custodial parent is receiving only medicaid, determining the non-custodial parent's obligation for medicaid to the county prior to determining the basic payment to the custodial parent unfairly reduces the amount of support paid to the custodial parent and is not in the best interest of the child(ren).

My inclination is to follow the second approach. Notwithstanding the limits to one component of the basic child support obligation, 413(1)(d) provides an overall limit. In a case where DSS is seeking contribution of CMS, but the custodial parent is not

seeking support, then the limits spelled out in 413(1)(c)(5) will match those in 413(1)(d).

- Note the use again of *gross* income. This time the statute refers to the NCP's gross income only when limiting the NCP's obligation for Child Health Plus.

ii. Medicaid – § 413(1)(c)(5)(iii)(A)

(1) Managed care coverage

If the children are covered under a medicaid managed care plan, the non-custodial parent's obligation is the lesser of:

(a) the premium that would be paid for Child Health Plus if the parents were together in a household along with their children with income equal to the combined parental income.

(b) the premium paid by the medicaid program for the managed care plan.

In addition, the non-custodial parent's obligation for the cost is limited to 5% of his gross income or the difference between his income and the self support reserve, whichever is less.

Comments:

- See the commentary under the Child Health Plus provision. Again, a non-custodial parent whose obligation would otherwise be capped by the self support reserve may be required to make an additional payment toward the Medicare premium.
- I would bet that in the overwhelming majority of cases, if not 100% of them, the cost of the Child Health Plus premium will be less than the county's expenditure for the managed care plan. However, it would appear that in order to recover the cost of health insurance, DSS must be prepared to demonstrate what it costs are for the managed care plan. According to Brian Wootan from OTDA, there are more than 20 managed care plans, each with its own premium structure. SCU will have to get the info from the medicaid unit on a case by case basis.
- There is no mechanism in the act for what happens when the child goes off medicaid. Does the Medicaid Unit notify the Support Collection Unit, who deletes the charge from the account? If this is the mechanism, can these units be relied upon to promptly notify the SCU? Should separate notification go to the payor and the payee?

Or will SCU treat this like a PA case where the custodial parent goes off? In this case, SCU would switch the payment over to the custodial parent.

(2) Fee-for service coverage – § 413(1)(c)(5)(iii)(B)

The non-custodial parent's obligation is the monthly amount that would be paid for Child Health Plus if the parents were together in a household along with the subject children with income times twelve months or the number of months that the child(ren) are authorized for fee-for-service coverage during the year.

The annual obligation cannot exceed 5% of the non-custodial parent's gross income or the difference between his income and the self support reserve, whichever is less.

For future health care expenses, the Court is required to state in the order what the maximum annual cash medical support obligation is. "[U]pon proof to the court that the non-custodial parent, after notice of the amount due, has failed to pay the public entity for incurred health care expenses, the court shall order the non-custodial parent to pay such incurred health care expenses up to the maximum annual cash medical support obligation."

Comments:

- Once again, see the comments under the Child Health Plus section concerning the interplay between this section and 413(d).
- The recovery of future medicaid costs is a bit of a mystery. The section requires the court to state in the order the annual amount for which the non-custodial parent is liable. Then DSS will presumably send a bill to the non-custodial parent as the expenses are incurred. If the non-custodial parent fails to make payments up to the annual maximum, DSS may file a petition seeking to fix the amount as arrears. I am not clear at this point what kind of a petition would be filed, but it would not be appropriate given the language of this section to treat the failure to pay as a violation of the obligation.

iii. Unreimbursed health care expenses - § 413(1)(c)(5)(v)

The statute maintains the requirement that reasonable unreimbursed health care expenses be apportioned pro rata. There is no 5% /self support reserve limit stated in this section, but the expenses are still subject to the limitations in FCA § 413(1)(d).

iv. Payment of Cash Medical Support incurred prior to the court order

(1) Medicaid expenses - § 413(1)(c)(5)(iii)(C)

The court shall compute medicaid expenses payable by the non-custodial parent using the formulas outlined above for managed care and fee-for-service coverage. The amount due may not exceed 5% of gross income or exceed the difference between the non-custodial parent's income and the self support reserve for the year when the expense was incurred. The retroactive amount will be collected in the same manner as retroactive support under FCA § 440.

Comments:

- Although not specifically stated here, DSS may seek reimbursement for expenses incurred prior to the filing of the petition. FCA § 449(2).
- There is a split in the departments about whether retroactive support for prior years is computed using the income computations for the ongoing obligation or whether retroactive support for prior years should be computed on a year-to-year basis. See, Kalapodas v. Kalapodas, 305 A.D.2d 1047 (4th Dept., 2003) and Gezelter v. Shoshani, 283 A.D.2d 455 (2nd Dept., 2001)(retroactive support should be based on the parties' income for each year that child support is awarded.); Spilman-Conklin v. Conklin, 11 A.D.3d 798 (3rd Dept., 2004) (retroactive support is based upon the most recent tax-year even when several years have passed since the commencement of the action). With regard to retroactive medicaid expenses, the legislature has come down on the side of a year-to-year computation based upon the incomes during the year in which the medical expenses were incurred.
- In order to compute the retroactive medicare obligation, both the non-custodial parent's and the custodial parent's income must be taken into consideration. If DSS fails to produce proof of the custodial parent's income, then it may be appropriate to use the non-custodial parent's income as the combined parental income.
- Where the child was not covered by medicaid for the entire year, the obligation for that year is determined by multiplying the monthly obligation by the number of months that the child was covered by medicaid.

(2) Other unreimbursed health care expenses - § 413(1)(c)(5)(v)

The court shall compute the retroactive unreimbursed health care expenses and that they shall be collected in the same manner as retroactive support under FCA § 440.

e. Deviation from the guidelines - FCA § 413(1)(c)(5)(vi)

In the event that either party demonstrates that the amount of CMS would be unjust or inappropriate under FCA § 413(1)(f), the court must order the parties to pay CMS as appropriate, considering the best interests of the child. As with the basic payment, the order must state the presumptively correct amount, the reasons that the court did not order that amount and the basis for the amount ordered.

4. Confinement costs. FCA § 514.

The costs of confinement and recovery shall be deemed cash medical support and the father shall be liable under FCA § 413(1)(c)(5). In other words, the confinement costs will be computed in the same way as past medicaid expenses under § 413(1)(c)(5)(iii)(C). The amount due may not exceed 5% of income or exceed the difference between the non-custodial parent's income and the self support reserve for the year when the expense was incurred. The retroactive amount will be collected in the same manner as retroactive support under FCA § 440.

Comments:

- This represents a sea change in the computation of confinement costs. The prior rule was that the father's obligation to repay the birth expenses incurred on behalf of the child was based on his financial ability at the time of the birth, Matter of Steuben County Department of Social Services v. Deats, 76 N.Y.2d 451 (1990), and his obligation for the mother's expenses incurred in connection with the birth was based on his present ability to pay such expenses, Matter of Le Page v. Glen L., 242 A.D.2d 105 (3d Dept. 1998). Not only was this a confusing standard, but it encouraged local DSS's to hold off filing until a father's financial condition improved. It also allowed for an open-ended obligation, sometimes subjecting the father to a massive obligation. The statute now lays out a fairly clear path for the assessment of confinement costs. There is no reason that local DSS's cannot seek payment for the costs at the time that they file paternity petitions or, in the case of acknowledgments, when they file the first support petition.
- Keep in mind that the rules for computing confinement costs are the same as for computing other past medicaid expenses. It is therefore important to determine the number of months that the pregnant mother and/or the child received medicaid during the year in question.

Appendix A

Relevant statutes, as modified

Note: Changes were made to DRL § 240 which mirror the changes made in Article 4 of the FCA.

FCA § 413(1)(c)(5) was repealed and replaced with the following:

The court shall determine the parties' obligation to provide health insurance benefits pursuant to section four hundred sixteen of this part and to pay cash medical support as provided under this subparagraph.

(i) "Cash Medical Support" means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by a parent through an employer or organization, including such employers or organizations which are self insured, or through other available health insurance or health care coverage plans, and/or for other health care expenses not covered by insurance.

(ii) Where health insurance benefits pursuant to paragraph one and subparagraphs (i) and (ii) of paragraph two of subdivision (e) of section four hundred sixteen of this part are determined by the court to be available, the cost of providing health insurance benefits shall be prorated between the parties in the same proportion as each parent's income is to the combined parental income. If the custodial parent is ordered to provide such benefits, the non-custodial parent's pro rata share of such costs shall be added to the basic support obligation. If the non-custodial parent is ordered to provide such benefits, the custodial parent's pro rata share of such costs shall be deducted from the basic support obligation.

(iii) Where health insurance benefits pursuant to paragraph one and subparagraphs (i) and (ii) of paragraph two of subdivision (e) of section four hundred sixteen of this part are determined by the court to be unavailable, if the child or children are determined eligible for coverage under the medical assistance program established pursuant to title eleven of article five of the social services law, the court shall order the non-custodial parent to pay cash medical support as follows:

(A) In the case of a child or children authorized for managed care coverage under the medical assistance program, the lesser of the amount that would be required as a family contribution under the state's child health insurance plan pursuant to title one-a of article twenty-five of the public health law for the child or children if they were in a two-parent household with income equal to the combined income of the non-custodial and custodial parents or the premium paid by the medical assistance program on behalf of the child or children to the managed care plan. The court shall separately state the non-custodial parent's monthly obligation. The non-custodial parent's cash medical support obligation

under this clause shall not exceed five percent of his or her gross income, or the difference between the non-custodial parent's income and the self-support reserve, whichever is less.

(B) In the case of a child or children authorized for fee-for-service coverage under the medical assistance program other than a child or children described in item (A) of this clause, the court shall determine the non-custodial parent's maximum annual cash medical support obligation, which shall be equal to the lesser of the monthly amount that would be required as a family contribution under the state's child health insurance plan pursuant to title one-a of article twenty-five of the public health law for the child or children if they were in a two-parent household with income equal to the combined income of the non-custodial and custodial parents times twelve months or the number of months that the child or children are authorized for fee-for-service coverage during any year. The court shall separately state in the order the non-custodial parent's maximum annual cash medical support obligation and, upon proof to the court that the non-custodial parent, after notice of the amount due, has failed to pay the public entity for incurred health care expenses, the court shall order the non-custodial parent to pay such incurred health care expenses up to the maximum annual cash medical support obligation. Such amounts shall be support arrears/past due support and shall be subject to any remedies as provided by law for the enforcement of support arrears/past due support. The total annual amount that the non-custodial parent is ordered to pay under this clause shall not exceed five percent of his or her gross income or the difference between the non-custodial parent's income and the self-support reserve, whichever is less.

(C) the court shall order cash medical support to be paid by the non-custodial parent for health care expenses of the child or children paid by the medical assistance program prior to the issuance of the court's order. The amount of such support shall be calculated as provided under item (A) or (B) of this clause, provided that the amount that the non-custodial parent is ordered to pay under this item shall not exceed five percent of his or her gross income or the difference between the non-custodial parent's income and the self-support reserve, whichever is less, for the year when the expense was incurred. Such amounts shall be support arrears/past due support and shall be subject to any remedies as provided by law for the enforcement of support arrears/past due support.

(iv) Where health insurance benefits pursuant to paragraph one and subparagraphs (i) and (ii) of paragraph two of subdivision (e) of section four hundred sixteen of this part are determined by the court to be unavailable, and the child or children are determined eligible for coverage under the state's child health insurance plan pursuant to title one-a of article twenty-five of the public health law, the court shall prorate each parent's share of the cost of the family contribution required under such child health insurance plan in the same proportion as each parent's income is to the

combined parental income, and state the amount of the non-custodial parent's share in the order. The total amount of cash medical support that the non-custodial parent is ordered to pay under this clause shall not exceed five percent of his or her gross income, or the difference between the non-custodial parent's income and the self-support reserve, whichever is less.

(v) In addition to the amounts ordered under clause (ii), (iii), or (iv) of this subparagraph, the court shall pro rate each parent's share of reasonable health care expenses not reimbursed or paid by insurance, the medical assistance program established pursuant to title eleven of article five of the social services law, or the state's child health insurance plan pursuant to title one-a of article twenty-five of the public health law, in the same proportion as each parent's income is to the combined parental income, and state the non-custodial parent's share as a percentage in the order. The non-custodial parent's pro rata share of such health care expenses determined by the court to be due and owing shall be support arrears/past due support and shall be subject to any remedies provided by law for the enforcement of support arrears/past due support. In addition, the court may direct that the non-custodial parent's pro rata share of such health care expenses be paid in one sum or in periodic sums, including direct payment to the health care provider.

(vi) Upon proof by either party that cash medical support pursuant to clause (ii), (iii), (iv) or (v) of this subparagraph would be unjust or inappropriate pursuant to paragraph (f) of subdivision one of this section, the court shall:

(A) Order the parties to pay cash medical support as the court finds just and appropriate, considering the best interests of the child; and

(B) Set forth in the order the factors it considered, the amount calculated under this subparagraph, the reason or reasons the court did not order such amount, and the basis for the amount awarded.

The following new section was added:

FCA § 416 (d)(3)

When the person on whose behalf the petition is brought is a child in accordance with subdivision (e) of this section, health insurance benefits shall be considered "reasonable in cost" if the cost of health insurance benefits does not exceed five percent of the combined parental gross income. The cost of health insurance benefits shall refer to the cost of the premium and deductible attributable to adding the child or children to existing coverage or the difference between such costs for self-only and family coverage. Provided, however, the presumption that the health insurance benefits are reasonable in cost may be rebutted upon a finding that the cost is unjust or inappropriate which finding shall be based on the circumstances of the case, the cost and comprehensiveness of the health insurance benefits for which the child or children may otherwise be eligible, and the best interests of the child or children. In no instance shall health insurance benefits be considered "reasonable in cost" if a parent's share of the cost of extending such coverage would reduce the income of that parent below the self-support reserve. Health insurance benefits are "reasonably accessible" if the child lives within the geographic area covered by the plan or lives within thirty minutes or thirty miles of travel time from the child's residence to the services covered by the health insurance benefits or through benefits provided under a reciprocal agreement; provided, however, this presumption may be rebutted for good cause shown including, but not limited to, the special health needs of the child. The court shall set forth such finding and the reasons therefor in the order of support.

FCA § 416(e)(2)(iii) (new provisions are in **bold**):

If neither parent has available health insurance benefits, the court shall direct in the order of support that the custodial parent apply for the state's child health insurance plan pursuant to title one-A of article twenty-five of the public health law and the medical assistance program established pursuant to title eleven of article five of the social services law. A direction issued under this subdivision shall not limit or alter either parent's obligation to obtain health insurance benefits at such time as they become available as required pursuant to subdivision (c) of this section. **Nothing in this subdivision shall alter or limit the authority of the medical assistance program to determine when it is considered cost effective to require a custodial parent to enroll a child in an available group health insurance plan pursuant to paragraphs (b) and (c) of subdivision one of section three hundred sixty-seven-a of the social services law.**

FCA § 514 (new provisions are in **bold**):

Liability of father to mother. The father is liable **for** the reasonable expenses of the mother's confinement and recovery and such reasonable expenses in connection with her pregnancy as **determined by** the court; provided, however, where the mother's confinement, recovery and expenses in connection with her pregnancy were paid under the medical assistance program on the mother's behalf, the father may be liable to the social services district furnishing such medical assistance and to the state department of **health** for medical assistance so expended. **Such expenses, including such expenses paid by the medical assistance program on the mother's behalf, shall be deemed cash medical support and the court shall determine the obligation of the parties to contribute to the cost thereof pursuant to subparagraph five of paragraph (c) of subdivision one of section four hundred thirteen of this act.**

Appendix B
Child Health Plus 2009 Family Contributions by Income and Household Size

Note: This table and the medicaid table that follows are available at
http://www.health.state.ny.us/nysdoh/chplus/who_is_eligible.htm

Family Contributions	Monthly Income by Family Size*								Each Additional Person, Add:
	1	2	3	4	5	6	7	8	
Free Insurance	\$1,443	\$1,942	\$2,441	\$2,939	\$3,438	\$3,937	\$4,435	\$4,934	\$499
\$9 per child per month (Maximum of \$27 per family)	\$2,004	\$2,696	\$3,388	\$4,080	\$4,772	\$5,464	\$6,155	\$6,847	\$692
\$15 per child per month (Maximum of \$45 per family)	\$2,257	\$3,036	\$3,815	\$4,594	\$5,373	\$6,153	\$6,932	\$7,711	\$780
\$20 per child per month (Maximum of \$60 per family)	\$2,708	\$3,643	\$4,578	\$5,513	\$6,448	\$7,383	\$8,318	\$9,253	\$935
\$30 per child per month (Maximum of \$90 per family)	\$3,159	\$4,250	\$5,341	\$6,432	\$7,523	\$8,613	\$9,704	\$10,795	\$1,091
\$40 per child per month (Maximum of \$120 per family)	\$3,610	\$4,857	\$6,104	\$7,350	\$8,597	\$9,844	\$11,090	\$12,337	\$1,247
Full Premium* per Child per Month	Over	Over	Over	Over	Over	Over	Over	Over	
	\$3,610	\$4,857	\$6,104	\$7,350	\$8,597	\$9,844	\$11,090	\$12,337	

*The full premium varies, depending on the health plan chosen by the family.

Appendix C
2009 Medicaid Income Eligibility Levels

	Monthly Income by Family Size								Each Addition al Person, Add:
	1	2	3	4	5	6	7	8	
Children under 1 year Pregnant Women*	\$1,805	\$2,429	\$3,052	\$3,675	\$4,299	\$4,922	\$5,545	\$6,169	\$624
Children 1-5 year	\$1,201	\$1,615	\$2,030	\$2,444	\$2,859	\$3,273	\$3,688	\$4,102	\$415
Children 6-18 year	\$903	\$1,215	\$1,526	\$1,838	\$2,150	\$2,461	\$2,773	\$3,085	\$312

*Pregnant women count as two

Screen 1 - Concepts

CMS - Cash Medical Support

MA - Medical Assistance (Medicaid)

MMC - Medicaid - Managed Care

MFSS - Medicaid - Fee for Service

GPI - Gross Parental Income

GNI - Gross Non-Custodial Parent Income

SSR Difference = Non-custodial parent's CSSA Income less the obligation for the subject children (either existing or ordered at the same time as the CMS)

Screen 2 - Private Health Insurance Availability

More than 5% of GPI?	Yes → PHI is not available
Yes	
↓	
Does either parent's share reduce his/her income below the SSR?	Yes → PHI is not available
No	
↓	
Presumption of Affordability Rebutted?	Yes → PHI is not available
No	
↓	
Outside of geographical limits?	Yes → PHI is not available
No	
↓	
Geographic accessibility rebutted?	Yes → PHI is not available
No	
↓	
PHI is Available	

Screen 3 - Child Health Plus

Determine the Premium and pro-rate the cost	
Does the NCP's share exceed 5% of his/her GI	Yes → Share is 5% subject to the SSR limits
No	
↓	
Does the NCP's share reduce his/her income below SSR?	Yes → Share is Diff between income and SSR. If income is at or below SSR, obligation is \$0.
No	
↓	
NCP's share is his/her pro rata percentage	

Screen 4 - MA - Managed Care

Determine the MMC premium	
Determine the CHP premium for the mythical Family consisting of the parents and the subject child(ren)	
NCP's potential obligation is the lesser of the MMC and the CHP premium for the mythical family.	
Does the potential obligation exceed 5% of NCP's GI	Yes → NCP's obligation is 5% subject to the SSR limits
No	
↓	
Does the NCP's share reduce his/her income below SSR?	Yes → NCP's obligation is Diff between income and SSR. If income is at or below SSR, obligation is \$0.
No	
↓	
NCP's obligation = his/her potential obligation	

Screen 5 - MA - Fee for Service

<p>NCP's potential obligation is the monthly CHP premium for the mythical Family consisting of the parents and the subject child(ren) times 12 months or the number of months the child(ren) are authorized for fee-for-service coverage during the year.</p>	
<p>Does the potential obligation exceed 5% of NCP's GI</p>	<p>Yes → NCP's obligation is 5% subject to the SSR limits</p>
<p>No</p>	
<p>↓</p>	
<p>Does the NCP's share reduce his/her income below SSR?</p>	<p>Yes → NCP's obligation is Diff between income and SSR. If income is at or below SSR, obligation is \$0.</p>
<p>No</p>	
<p>↓</p>	
<p>NCP's obligation = his/her potential obligation</p>	

Important Instructions for Administering Continuing Legal Education (CLE) Credit

The New Medical Support Laws Impacting Child Support Orders

To CLE Site Coordinators/CLE Administrators*:

1. Your CLE materials should include:
 - Sign-in/Sign-out Roster
 - CLE handouts
 - Evaluation form

(*Please make number of copies necessary to accommodate attendees requesting CLE credit. Thank you.)

2. Admittance for CLE credit must be discontinued 10 minutes into the start of programming.
3. Roster: All attendees must legibly print name and address, sign-in and sign-out and remain at the program for its entirety in order to receive their certificates. Reasonable accommodation may be made for bathroom breaks.
4. The completed sign-in/sign-out roster and evaluations are to be returned to:
Eileen M. Stack, 40 North Pearl Street, Room 16-C, Albany, NY 12243
5. Once we receive the sign-in/sign-out roster and completed evaluations, we will mail out CLE Certificates of Attendance to the address identified on the roster or, upon request, to your site coordinator.
6. **The site coordinator MUST be present throughout the entire program to verify that all attendees were indeed at the program until the very end.**

All attendees must sign in ***and out*** and provide a mailing address to receive a CLE Certificate of Attendance.

REGISTRY FOR CLE CERTIFICATE OF ATTENDANCE

New York State Office of Temporary and Disability Assistance
“The New Medical Support Laws Impacting Child Support Orders”

Location Site: _____, New York

(Note: Location Site to be filled in by Administrator)

Date: **October 27, 2009** Time: **12:00 p.m. – 2:00 p.m.**

You must sign in and provide a mailing address to receive a CLE Certificate of Attendance. PLEASE PRINT CLEARLY!

Print Name	Sign In	Time	Sign Out	Time	Address and e-mail

PAGE _____

Attorney Evaluations

Continuing Legal Education Evaluations
“The New Medical Support Laws Impacting Child Support Orders”
Course date: October 27, 2009
12:00 PM – 2:00 PM
Tele-Training via Satellite TV
Broadcast on SUNYSAT Digital Channel 1 - Closed Captioned
Eligible for 2.0 Hours – Non-transitional Credit

Please complete this form following the Continuing Legal Education Course. **Thank you!**

Directions: Please circle the appropriate answer or ranking.

Are you taking this course to fulfill your Mandatory Continuing Legal Education requirements?	Yes	No	N/A
Should we offer this course in the future?	Yes	No	N/A
Would you recommend this course to a colleague?	Yes	No	N/A

	<u>Poor</u>	<u>Average</u>	<u>Excellent</u>		
How would you rate this session?	1	2	3	4	5
How would you rate the instructor?	1	2	3	4	5
Tom Gordon	1	2	3	4	5
Eileen M. Stack	1	2	3	4	5
Donna Scocco Mazzeo	1	2	3	4	5
Brian S. Wootan	1	2	3	4	5
How would you rate the quality of this training?	1	2	3	4	5
How would you rate the quality of this facility?	1	2	3	4	5
How would you rate the written materials?	1	2	3	4	5

What did you like about this course?

Do you have any suggestions that would improve this course?

Do you have any suggestions for future CLE courses?

Name (Optional):

