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

Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Summary – Chapter 215 of the Laws of 2009</td>
<td>1</td>
</tr>
<tr>
<td>Income and Resource Levels for Health Insurance Programs</td>
<td>4</td>
</tr>
<tr>
<td>Text: Chapter 215 of the Laws of 2009</td>
<td>6</td>
</tr>
<tr>
<td>Medicaid Medical Support Transmittal Form – Draft</td>
<td>16</td>
</tr>
<tr>
<td>Wage and Health Benefits Report – Draft</td>
<td>19</td>
</tr>
<tr>
<td>New York State Medicaid – A Brief Summary</td>
<td>22</td>
</tr>
<tr>
<td>List of New and Amended Forms</td>
<td>24</td>
</tr>
<tr>
<td>Cash Medical Support Practice Scenarios</td>
<td>26</td>
</tr>
<tr>
<td>Changes in Medical Support</td>
<td>32</td>
</tr>
<tr>
<td>(with text of relevant statutes, as modified, and Child Health Plus and Medicaid charts)</td>
<td></td>
</tr>
<tr>
<td>Sample Scenarios (screens 1-5)</td>
<td>47</td>
</tr>
</tbody>
</table>

**Important CLE Administration Forms**

<table>
<thead>
<tr>
<th>Form</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrator’s Instruction Sheet</td>
<td>52</td>
</tr>
<tr>
<td>(Administrators must verify attendance for CLE accreditation by administering the Sign-in/Sign-out roster)</td>
<td></td>
</tr>
<tr>
<td>CLE Sign-in/Sign-out Roster</td>
<td>53</td>
</tr>
<tr>
<td>Evaluation Form</td>
<td>54</td>
</tr>
<tr>
<td>(To be completed by attendees requesting CLE credit)</td>
<td></td>
</tr>
</tbody>
</table>

**Questions I Have Form**

55
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 “arrears/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 be 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

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

*Pregnant Women count as 2 people

### Child Health Plus Premium Levels Chart

(For Enrollment Effective July 1, 2009)

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

*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

<table>
<thead>
<tr>
<th>Family Size</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>Each Add'l Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>FHPlus Income Limit</td>
<td>$1,354</td>
<td>$1,822</td>
<td>$2,289</td>
<td>$2,757</td>
<td>$3,224</td>
<td>$3,692</td>
<td>$468</td>
</tr>
</tbody>
</table>

Single adults and childless couples, 21-64, and Children 19-20 yrs NOT Residing with Their Parents

<table>
<thead>
<tr>
<th>Family Size</th>
<th>1</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>FHPlus Income Limit</td>
<td>$903</td>
<td>$1,215</td>
</tr>
</tbody>
</table>

### Medicaid and FHPlus Resource Levels

<table>
<thead>
<tr>
<th>No. of persons in Household</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>Each Add'l Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resource Allowance</td>
<td>$13,800</td>
<td>$20,100</td>
<td>$23,115</td>
<td>$26,130</td>
<td>$29,145</td>
<td>$32,160</td>
<td>$35,175</td>
<td>$38,190</td>
<td>$3,075</td>
</tr>
</tbody>
</table>

*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
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:

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

(5) 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

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.
ORDERED TO PROVIDE SUCH BENEFITS, THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH COSTS SHALL BE ADDRESSED 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:


(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 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
REMEDIIES 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 PROVID-
ER.
(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.
S 2. Subparagraph 5 of paragraph (c) of subdivision 1-b of section 240
of the domestic relations law is REPEALED and a new subparagraph 5 is
added to read as follows:
(5) THE COURT SHALL DETERMINE THE PARTIES' OBLIGATION TO PROVIDE
HEALTH INSURANCE BENEFITS PURSUANT TO THIS SECTION 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 ORGAN-
IZATIONS 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 SUBPARAGRAPH ONE AND
CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
ONE OF THIS SECTION 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 OBLI-
GATION.

(III) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
ONE OF THIS SECTION 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 ARTI-
CLE FIVE OF THE SOCIAL SERVICES LAW, THE COURT SHALL ORDER THE NON-CUS-
TODIAL 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 OBLI-
GATION, 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 OBLI-
GATION 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 ANNU-
AL 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 subparagraph one and clauses (I) and (II) of subparagraph two of paragraph (C) of subdivision one of this section 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), and (IV), the court shall prorate 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 this subdivision, 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.

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

(3) When the person on whose behalf the petition is brought is a child in accordance with subdivision (b) 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 COMPREHEN-
SIVENESS OF THE HEALTH INSURANCE BENEFITS FOR WHICH THE CHILD OR CHIL-
DREN 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, HOWE-
VER, 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.

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

(3) WHEN THE PERSON ON WHOSE BEHALF THE PETITION IS BROUGHT IS A CHILD
IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVISION, 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 COMPREHEN-
SIVENESS OF THE HEALTH INSURANCE BENEFITS FOR WHICH THE CHILD OR CHIL-
DREN 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, HOWE-
VER, 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.

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

(iii) 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. (If eligible for such coverage, the court
shall prorate the cost of any premium or family contribution in accord-
A. 8977

ance with subdivision (f) of this section.] 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.

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

(iii) 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. [If eligible for such coverage, the court shall prorate the cost of any premium or family contribution in accordance with paragraph (d) of this subdivision.] 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 paragraph (a) of this subdivision. 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.

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

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

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

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

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

S 514. Liability of father to mother. The father is liable [to pay] 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 [in its discretion may deem proper]; 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 [social services] HEALTH for [the full amount of] medical assistance so expended[, as the court in its discretion may deem proper]. 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.

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

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

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

(i) Where the court orders the debtor to provide health insurance benefits for specified dependents, an execution for medical support enforcement may, except as provided for herein, be issued by the support collection unit, or by the sheriff, the clerk of court or the attorney for the creditor as an officer of the court; provided, however, that when the court issues an order of child support or combined child and spousal support on behalf of persons other than those in receipt of public assistance or in receipt of services pursuant to section one hundred eleven of the social services law, such medical execution...
shall be in the form of a separate qualified medical child support order as provided by subdivision [(f)] (J) of section four hundred sixteen of the family court act and paragraph [(f)] (H) of subdivision one of section two hundred forty of the domestic relations law. Such execution for medical support enforcement may require the debtor's employer, organization or group health plan administrator to purchase on behalf of the debtor and the debtor's dependents such available health insurance benefits. Such execution shall direct the employer, organization or group health plan administrator to provide to the dependents for whom such benefits are required to be provided or such dependents' custodial parent or legal guardian or social services district on behalf of persons applying for or in receipt of public assistance any identification cards and benefit claim forms and to withhold from the debtor's income the employee's share of the cost of such health insurance benefits, and to provide written confirmation of such enrollment indicating the date such benefits were or become available or that such benefits are not available and the reasons therefor to the issuer of the execution. An execution for medical support enforcement shall not require a debtor's employer, organization or group health plan administrator to purchase or otherwise acquire health insurance or health insurance benefits that would not otherwise be available to the debtor by reason of his or her employment or membership. Nothing herein shall be deemed to obligate or otherwise hold any employer, organization or group health plan administrator responsible for an option exercised by the debtor in selecting medical insurance coverage by an employee or member.

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

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

§ 13. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to any proceeding to establish or modify a child support obligation, including a medical support obligation, commenced on or after such date.
ATTACHMENT 3

FORMS
Medicaid Medical Support Transmittal

<table>
<thead>
<tr>
<th>County Name</th>
<th>WMS CASE NUMBER</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>To</td>
<td>UNIT/AGENCY</td>
<td>Phone #</td>
</tr>
<tr>
<td>From</td>
<td>UNIT/AGENCY</td>
<td>Phone #</td>
</tr>
</tbody>
</table>

************************************************

**PART 1: PERSONAL INFORMATION**

<table>
<thead>
<tr>
<th>Custodial Parent (CP) Name</th>
<th>CP SSN</th>
<th>CP Date of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>CP Address</td>
<td>CP Telephone No</td>
<td>Medicaid Case Number</td>
</tr>
<tr>
<td>Medicaid Case Name</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Non-Custodial Parent (NCP) Name</th>
<th>NCP SSN</th>
<th>NCP Date of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>NCP Address</td>
<td>NCP Telephone No</td>
<td></td>
</tr>
</tbody>
</table>

**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# __________
- [ ] Request for OCSE to determine Good Cause
- [□] Approved - Date ________________
- [ ] Not Approved
- [□] 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
  - Coverage type: [□] Fee-for-Service
  - Coverage Dates: Start ____________ OR ____________ CLOSING Date
  - Prior Years: Year ____________
  - Fee-for-Services expenditures for child $ ____________
  - Managed care – Monthly Premium: $ ____________
  - 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: $________
Coverage Dates: Start □ Open OR □ Closing Date

□ Prior Years: Year ________ □ Fee-for-Services expenditures for child $________ OR □ Managed care premium $________
Year ________ □ Fee-for-Services 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

*****************************************************************************************************************************************

(3) Child Name ______________________ WMS Line # ________ CIN ________ □ EXEMPT

□ Establishment of Medical Support Obligation

Coverage type: □ Fee-for-Service □ Managed care – Monthly Premium: $________
Coverage Dates: Start □ Open OR □ Closing Date

□ Prior Years: Year ________ □ Fee-for-Services expenditures for child $________ OR □ Managed care premium $________
Year ________ □ Fee-for-Services 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

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: _______________________________
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**
   □ Employee is enrolled in this plan
   $________ per __________

   **Single Plus One Plan**
   □ Employee is enrolled in this plan
   $________ per __________
   Annual Deductibles $________

   **Family Plan**
   □ Employee is enrolled in this plan
   $________ per __________
   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:**

Signature: ________________________________
Print Name: ________________________________
Telephone number: ( )
Date: ________________________________
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.

IMPORTANT NOTICE: This e-mail and any attachments may contain confidential or sensitive information which is, or may be, legally privileged or otherwise protected by law from further disclosure. It is intended only for the addressee. If you received this in error or from someone who was not authorized to send it to you, please do not distribute, copy or use it or any attachments. Please notify the sender immediately by reply e-mail and delete this from your system. Thank you for your cooperation.
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

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$25,000</td>
<td>$75,000</td>
<td>25/75</td>
<td>$2,083</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$35,000</td>
<td>$65,000</td>
<td>35/65</td>
<td>$2,917</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$50,000</td>
<td>$50,000</td>
<td>50/50</td>
<td>$4,167</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$70,000</td>
<td>$30,000</td>
<td>70/30</td>
<td>$5,833</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$90,000</td>
<td>$10,000</td>
<td>90/10</td>
<td>$7,500</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*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.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>$25,000</td>
<td>$2,083</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$35,000</td>
<td>$2,917</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$50,000</td>
<td>$4,167</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$70,000</td>
<td>$5,833</td>
<td></td>
<td></td>
</tr>
<tr>
<td>$90,000</td>
<td>$7,500</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Scenario 4:  Cash Medical Support in MA Cases – Managed Care Plans


<table>
<thead>
<tr>
<th>Income</th>
<th>Year</th>
<th>Annual Gross</th>
<th>Monthly Gross</th>
<th>Annual AGI</th>
<th>CSSA % Amount</th>
<th>SSR</th>
</tr>
</thead>
<tbody>
<tr>
<td>NCP</td>
<td>2008</td>
<td>$16,000</td>
<td>$14,776</td>
<td>$3,694*</td>
<td>$14,040</td>
<td></td>
</tr>
<tr>
<td>CP</td>
<td></td>
<td>$28,000</td>
<td>$28,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Combined</td>
<td></td>
<td>$44,000</td>
<td>$3,667</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NCP</td>
<td>2009</td>
<td>$45,000</td>
<td>$41,558</td>
<td>$10,389</td>
<td>$14,620</td>
<td></td>
</tr>
<tr>
<td>CP</td>
<td></td>
<td>$28,000</td>
<td>$28,000</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Combined</td>
<td></td>
<td>$73,000</td>
<td>$6,083</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*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


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

*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 that 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 that 5% of the NCP’s gross income?

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 that 5% of the NCP’s gross income?

*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?
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 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 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 financially 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 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 rata 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

<table>
<thead>
<tr>
<th>Family Contributions</th>
<th>Monthly Income by Family Size*</th>
<th>Each Additional Person, Add:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Free Insurance</td>
<td>$1,443</td>
<td>$1,942</td>
</tr>
<tr>
<td>$9 per child per month (Maximum of $27 per family)</td>
<td>$2,004</td>
<td>$2,696</td>
</tr>
<tr>
<td>$15 per child per month (Maximum of $45 per family)</td>
<td>$2,257</td>
<td>$3,036</td>
</tr>
<tr>
<td>$20 per child per month (Maximum of $60 per family)</td>
<td>$2,708</td>
<td>$3,643</td>
</tr>
<tr>
<td>$30 per child per month (Maximum of $90 per family)</td>
<td>$3,159</td>
<td>$4,250</td>
</tr>
<tr>
<td>$40 per child per month (Maximum of $120 per family)</td>
<td>$3,610</td>
<td>$4,857</td>
</tr>
<tr>
<td>Full Premium* per Child per Month</td>
<td>Over</td>
<td>Over</td>
</tr>
</tbody>
</table>

*The full premium varies, depending on the health plan chosen by the family.*
## Appendix C
2009 Medicaid Income Eligibility Levels

<table>
<thead>
<tr>
<th></th>
<th>Monthly Income by Family Size</th>
<th>Each Additional Person, Add:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1:1 2:2 3:3 4:4 5:5 6:6 7:7 8:8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Children under 1 year Pregnant Women*</td>
<td>$1,805 $2,429 $3,052 $3,675 $4,299 $4,922 $5,545 $6,169</td>
<td>$624</td>
</tr>
<tr>
<td>Children 1-5 year</td>
<td>$1,201 $1,615 $2,030 $2,444</td>
<td>$2,859 $3,273 $3,688 $4,102</td>
</tr>
<tr>
<td>Children 6-18 year</td>
<td>$903 $1,215 $1,526 $1,838</td>
<td>$2,150 $2,461 $2,773 $3,085</td>
</tr>
</tbody>
</table>

*Pregant women count as two
Screen 1 - Concepts

CMS - Cash Medical Support

MA - Medical Assistance (Medicaid)

MMC - Medicaid - Managed Care
MFFS - 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

<table>
<thead>
<tr>
<th>More than 5% of GPI?</th>
<th>Yes → PHI is not available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Does either parent’s share reduce his/her income below the SSR?</td>
<td>Yes → PHI is not available</td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Presumption of Affordability Rebutted?</td>
<td>Yes → PHI is not available</td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Outside of geographical limits?</td>
<td>Yes → PHI is not available</td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Geographic accessibility rebutted?</td>
<td>Yes → PHI is not available</td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>PHI is Available</td>
<td></td>
</tr>
<tr>
<td>Determine the Premium and pro-rate the cost</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Does the NCP’s share exceed 5% of his/her GI</strong></td>
<td><strong>Yes → Share is 5% subject to the SSR limits</strong></td>
</tr>
<tr>
<td></td>
<td><strong>No</strong></td>
</tr>
<tr>
<td></td>
<td><strong>↓</strong></td>
</tr>
<tr>
<td><strong>Does the NCP’s share reduce his/her income below SSR?</strong></td>
<td><strong>Yes → Share is Diff between income and SSR. If income is at or below SSR, obligation is $0.</strong></td>
</tr>
<tr>
<td></td>
<td><strong>No</strong></td>
</tr>
<tr>
<td></td>
<td><strong>↓</strong></td>
</tr>
<tr>
<td></td>
<td><strong>NCP’s share is his/her pro rata percentage</strong></td>
</tr>
<tr>
<td>Determine the MMC premium</td>
<td>Determine the CHP premium for the mythical Family consisting of the parents and the subject child(ren)</td>
</tr>
<tr>
<td>---------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>NCP’s potential obligation is the lesser of the MMC and the CHP premium for the mythical family.</td>
</tr>
<tr>
<td>Does the potential obligation exceed 5% of NCP’s GI</td>
<td>Yes → NCP’s obligation is 5% subject to the SSR limits</td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>↓</td>
<td></td>
</tr>
<tr>
<td>Does the NCP’s share reduce his/her income below SSR?</td>
<td>Yes → NCP’s obligation is Diff between income and SSR. If income is at or below SSR, obligation is $0.</td>
</tr>
<tr>
<td>No</td>
<td></td>
</tr>
<tr>
<td>↓</td>
<td></td>
</tr>
<tr>
<td>NCP’s obligation = his/her potential obligation</td>
<td></td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>Does the potential obligation exceed 5% of NCP’s GI</th>
<th>Yes – NCP’s obligation is 5% subject to the SSR limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does the NCP’s share reduce his/her income below SSR?</th>
<th>Yes – NCP’s obligation is Diff between income and SSR. If income is at or below SSR, obligation is $0.</th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td></td>
</tr>
</tbody>
</table>

NCP’s obligation = his/her potential obligation
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!

<table>
<thead>
<tr>
<th>Print Name</th>
<th>Sign In</th>
<th>Time</th>
<th>Sign Out</th>
<th>Time</th>
<th>Address and e-mail</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 |

<table>
<thead>
<tr>
<th>Poor</th>
<th>Average</th>
<th>Excellent</th>
</tr>
</thead>
<tbody>
<tr>
<td>How would you rate this session?</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>How would you rate the instructor?</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Tom Gordon</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Eileen M. Stack</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Donna Scocco Mazzeo</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Brian S. Wootan</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>How would you rate the quality of this training?</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>How would you rate the quality of this facility?</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>How would you rate the written materials?</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

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):
Questions I Have

Name: ___________________________ Daytime Phone: (___)_____________

E-mail address: ________________________________

Site Location: ________________________________

Question(s): __________________________________

_____________________________________________

_____________________________________________

_____________________________________________

_____________________________________________

_____________________________________________

_____________________________________________

_____________________________________________

_____________________________________________

_____________________________________________

Fax this form to: (518)-408-3840