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ENGROSSED HOUSE BILL 1745

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Lambert and Dickerson; by request of Department of Social and Health Services

Read first time 02/02/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to child support technical amendments regarding  
2 medical support; amending RCW 26.18.170; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 26.18.170 and 2000 c 86 s 2 are each amended to read  
5 as follows:

6 (1) Whenever an obligor parent who has been ordered to provide  
7 health insurance coverage for a dependent child fails to provide such  
8 coverage or lets it lapse, the department or the obligee may seek  
9 enforcement of the coverage order as provided under this section.

10 (2)(a) If the obligor parent's order to provide health insurance  
11 coverage contains language notifying the obligor that failure to  
12 provide such coverage or proof that such coverage is unavailable may  
13 result in direct enforcement of the order and orders payments through,  
14 or has been submitted to, the Washington state support registry for  
15 enforcement, then the department may, without further notice to the  
16 obligor, send a notice of enrollment to the obligor's employer or  
17 union. The notice shall be served:

18 (i) By regular mail;

1 (ii) In the manner prescribed for the service of a summons in a  
2 civil action;

3 (iii) By certified mail, return receipt requested; or

4 (iv) By electronic means if there is an agreement between the  
5 secretary of the department and the person, firm, corporation,  
6 association, political subdivision, department of the state, or agency,  
7 subdivision, or instrumentality of the United States to accept service  
8 by electronic means.

9 (b) The notice shall require the employer or union to enroll the  
10 child in the health insurance plan as provided in subsection (3) of  
11 this section.

12 (c) The returned answer to the division of child support by the  
13 employer constitutes proof of service of the notice of enrollment in  
14 the case where the notice was served by regular mail.

15 (d) The division of child support may use (~~uniform interstate~~  
16 ~~forms adopted by the United States department of health and human~~  
17 ~~services)) the national medical support notice to take insurance  
18 enrollment actions under this section. The department may specify by  
19 rule the responsibilities of employers and plan administrators to  
20 comply with the requirements of the national medical support notice.  
21 The division of child support must, where appropriate, send the  
22 national medical support notice with a notice of payroll deduction or  
23 income withholding order within two days after a noncustodial parent is  
24 reported to the Washington state support registry as a new hire.~~

25 (e) If the obligor parent's order to provide health insurance  
26 coverage does not order payments through, and has not been submitted  
27 to, the Washington state support registry for enforcement:

28 (i) The obligee may, without further notice to the obligor send a  
29 certified copy of the order requiring health insurance coverage to the  
30 obligor's employer or union by certified mail, return receipt  
31 requested; and

32 (ii) The obligee shall attach a notarized statement to the order  
33 declaring that the order is the latest order addressing coverage  
34 entered by the court and require the employer or union to enroll the  
35 child in the health insurance plan as provided in subsection (3) of  
36 this section.

37 (3) Upon receipt of an order that provides for health insurance  
38 coverage, or a notice of enrollment:

1 (a) The obligor's employer or union shall answer the party who sent  
2 the order or notice within twenty days and confirm that the child:

3 (i) Has been enrolled in the health insurance plan;

4 (ii) Will be enrolled; or

5 (iii) Cannot be covered, stating the reasons why such coverage  
6 cannot be provided;

7 (b) The employer or union shall withhold any required premium from  
8 the obligor's income or wages;

9 (c) If more than one plan is offered by the employer or union, and  
10 each plan may be extended to cover the child, then the child shall be  
11 enrolled in the obligor's plan. If the obligor's plan does not provide  
12 coverage which is accessible to the child, the child shall be enrolled  
13 in the least expensive plan otherwise available to the obligor parent;

14 (d) The employer or union shall provide information about the name  
15 of the health insurance coverage provider or issuer and the extent of  
16 coverage available to the obligee or the department and shall make  
17 available any necessary claim forms or enrollment membership cards.

18 (4) If the order for coverage contains no language notifying the  
19 obligor that failure to provide health insurance coverage or proof that  
20 such coverage is unavailable may result in direct enforcement of the  
21 order, the department or the obligee may serve a written notice of  
22 intent to enforce the order on the obligor by certified mail, return  
23 receipt requested, or by personal service. If the obligor fails to  
24 provide written proof that such coverage has been obtained or applied  
25 for or fails to provide proof that such coverage is unavailable within  
26 twenty days of service of the notice, the department or the obligee may  
27 proceed to enforce the order directly as provided in subsection (2) of  
28 this section.

29 (5) If the obligor ordered to provide health insurance coverage  
30 elects to provide coverage that will not be accessible to the child  
31 because of geographic or other limitations when accessible coverage is  
32 otherwise available, the department or the obligee may serve a written  
33 notice of intent to purchase health insurance coverage on the obligor  
34 by certified mail, return receipt requested. The notice shall also  
35 specify the type and cost of coverage.

36 (6) If the department serves a notice under subsection (5) of this  
37 section the obligor shall, within twenty days of the date of service:

38 (a) File an application for an adjudicative proceeding; or

1 (b) Provide written proof to the department that the obligor has  
2 either applied for, or obtained, coverage accessible to the child.

3 (7) If the obligee serves a notice under subsection (5) of this  
4 section, within twenty days of the date of service the obligor shall  
5 provide written proof to the obligee that the obligor has either  
6 applied for, or obtained, coverage accessible to the child.

7 (8) If the obligor fails to respond to a notice served under  
8 subsection (5) of this section to the party who served the notice, the  
9 party who served the notice may purchase the health insurance coverage  
10 specified in the notice directly. The amount of the monthly premium  
11 shall be added to the support debt and be collectible without further  
12 notice. The amount of the monthly premium may be collected or accrued  
13 until the obligor provides proof of the required coverage.

14 (9) The signature of the obligee or of a department employee shall  
15 be a valid authorization to the coverage provider or issuer for  
16 purposes of processing a payment to the child's health services  
17 provider. An order for health insurance coverage shall operate as an  
18 assignment of all benefit rights to the obligee or to the child's  
19 health services provider, and in any claim against the coverage  
20 provider or issuer, the obligee or the obligee's assignee shall be  
21 subrogated to the rights of the obligor. Notwithstanding the  
22 provisions of this section regarding assignment of benefits, this  
23 section shall not require a health care service contractor authorized  
24 under chapter 48.44 RCW or a health maintenance organization authorized  
25 under chapter 48.46 RCW to deviate from their contractual provisions  
26 and restrictions regarding reimbursement for covered services. If the  
27 coverage is terminated, the employer shall mail a notice of termination  
28 to the department or the obligee at the obligee's last known address  
29 within thirty days of the termination date.

30 (10) This section shall not be construed to limit the right of the  
31 obligor or the obligee to bring an action in superior court at any time  
32 to enforce, modify, or clarify the original support order.

33 (11) Where a child does not reside in the issuer's service area, an  
34 issuer shall cover no less than urgent and emergent care. Where the  
35 issuer offers broader coverage, whether by policy or reciprocal  
36 agreement, the issuer shall provide such coverage to any child  
37 otherwise covered that does not reside in the issuer's service area.

38 (12) If an obligor fails to pay his or her portion of any  
39 deductible required under the health insurance coverage or fails to pay

1 his or her portion of medical expenses incurred in excess of the  
2 coverage provided under the plan, the department or the obligee may  
3 enforce collection of the obligor's portion of the deductible or the  
4 additional medical expenses through a wage assignment order. The  
5 amount of the deductible or additional medical expenses shall be added  
6 to the support debt and be collectible without further notice if the  
7 obligor's share of the amount of the deductible or additional expenses  
8 is reduced to a sum certain in a court order.

9 NEW SECTION. **Sec. 2.** (1) The legislature's delegation of  
10 authority to an agency under this act is strictly limited to:

11 (a) The minimum delegation necessary to administer the act's clear  
12 and unambiguous directives; and

13 (b) The administration of circumstances and behaviors foreseeable  
14 at the time of enactment.

15 (2) Agency actions or rules authorized by this act are subject to  
16 the following additional standards of judicial review, which supercede  
17 RCW 34.05.570 (1) and (2) to the extent of any conflict:

18 (a) Agencies bear the burden of demonstrating that the agency  
19 action:

20 (i) Was authorized by law; and

21 (ii) Was valid, when the interest of a party asserting invalidity  
22 arises from agency actions imposing a penalty on the asserting party;

23 (b) The validity of a rule may be determined upon petition for  
24 declaratory judgment addressed to any superior court in this state; and

25 (c) In determining whether, under RCW 34.05.570(2)(c), a rule  
26 exceeds the agency's statutory authority, the court must also consider  
27 whether the rule exceeds the limited delegation under subsection (1) of  
28 this section.

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