

HOUSE BILL REPORT

SHB 1845

As Amended by the Senate

Title: An act relating to medical support obligations.

Brief Description: Concerning medical support obligations.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Rodne and Pedersen; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Judiciary: 2/16/09, 2/19/09 [DPS];

Health & Human Services Appropriations: 2/25/09 [DPS(JUDI)].

Floor Activity

Passed House: 3/6/09, 96-0.

Senate Amended.

Passed Senate: 4/8/09, 48-0.

Senate Amended.

Passed Senate: 4/23/09, 47-0.

Brief Summary of Substitute Bill

- Requires a court to order an obligated parent to provide medical support for a child by providing health insurance coverage through the parent's employer or, if no employer insurance is available, through cash medical support.
- Establishes procedures for the Department of Social and Health Services (DSHS) to enforce medical support obligations by requiring the obligated parent to pay the other party a proportion of the health insurance premium paid by the other party or by the state.
- Allows the DSHS, when the child is on Medicaid and the DSHS is enforcing cash medical support, to disburse amounts collected from an obligated parent to the other parent or to retain amounts and apply them toward the cost of providing the child's state-funded medical coverage.

HOUSE COMMITTEE ON JUDICIARY

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Trudes Tango (786-7384)

HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS

Staff: Wendy Polzin (786-7137)

Background:

As a condition of receiving federal funds for various programs, federal law requires states to have an approved child support program. As part of their program, states are required to take steps to provide for a child's health care coverage as part of any child support order. Federal regulations adopted in July of 2008 require states to: (1) consider health insurance available to either parent at the time of entering a support order; and (2) require an obligated parent to pay a cash medical support obligation if health insurance is not available through the obligated parent.

The regulations also define a reasonable cost for health insurance as 5 percent of a parent's gross income or a comparable standard determined by the state. A cash medical support obligation may require the parent to pay a proportional amount of an insurance premium for private insurance that is paid by the other parent, or an amount paid by the state to cover the child through Medicaid. If the child is covered by the state through Medicaid, the parent's proportional share may be retained by the state as reimbursement, or it may be passed through to the parent for payment of medical expenses. If no insurance is available, the parent must be required to contribute to the uninsured expenses of the child.

Under state law, the court must require either or both parents to provide health insurance coverage for the child if coverage is or becomes available through the parents' employer and the cost is less than 25 percent of the obligated parent's basic child support obligation. The court may also require the parent to provide for the uninsured medical costs of the children.

Health insurance coverage is enforced by the Department of Social and Health Services (DSHS) through a standardized notice developed by the federal government called the "National Medical Support Notice." When a notice is issued to an employer, the employer must respond. If health insurance is available, the employer must withhold the necessary premium and forward the notice to a health insurance provider. The provider is required to enroll the children or child in health care coverage.

Summary of Substitute Bill:

The court must require either or both parents to provide medical support for any child named in the support order in the following order of priority:

- The obligated parent must provide health insurance coverage if it is available through the parent's employer and costs less than 25 percent of the parent's basic child support obligation.
- If the cost is greater than 25 percent of the parent's basic support obligation, the court may still order the obligated parent to provide coverage if it is in the best interest of the child.

- If no coverage is available to the obligated parent, the obligated parent must pay cash medical support equal to the parent's proportionate share of the health insurance premium paid by the other party or by the state if:
 - the child is covered by private insurance provided by the other party or by Medicaid; and
 - The amount does not exceed 25 percent of the parent's basic child support obligation.
- Each parent must pay his or her proportionate share of uninsured medical expenses.

These provisions also apply to administrative support orders established through the DSHS.

The DSHS must first seek to enforce health insurance coverage against an obligated parent. If coverage is not available, the DSHS will enforce a cash medical support obligation. If a sum certain amount is not specified in the order for cash medical support, the DSHS may serve notice on the parent to determine the amount. Parties may seek enforcement of a medical support obligation on their own through superior court.

When cash medical support is collected and the child is covered through Medicaid, the DSHS may retain the funds as reimbursement or pass the funds through to the parent to be used for medical costs. A receiving parent may be required to account for how cash medical support is being used to benefit the child. Enforcement of health insurance coverage using the National Medical Support Notice is limited to enforcing coverage against the obligated parent.

A parent required to provide health insurance coverage must notify the DSHS and the other parent when coverage terminates.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes technical changes for readability and to clarify the definition and use of the term “cash medical support.” The Senate amendment also contains the same provisions in the previous Senate amendment, which: (1) adds language allowing the court to determine which parent must provide health insurance coverage and which parent is required to pay cash medical support if there is sufficient evidence provided at the time the support order is entered; (2) gives the court discretion to determine which health insurance will be used to cover the child when both parents have health insurance coverage; (3) adds language requiring both parents to share the obligation to provide medical support by providing health insurance coverage or contributing cash medical support, and paying a proportionate share of uninsured medical expenses; and (4) changes the definition of cash medical support to include uninsured medical expenses and adds other definitions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on October 1, 2009.

Staff Summary of Public Testimony (Judiciary):

(In support) This is request legislation from DSHS. The state must make these changes in order for the state to keep in compliance with federal laws. The state could lose federal money for the Temporary Aid to Needy Families program and its child support program if it is not in compliance. Currently, the DSHS enforces medical support by enrolling the child in health insurance available through the obligated parent's employer or by collecting uninsured costs. Health insurance premiums are becoming more expensive. The piece that is missing in state law, and was missing in federal law, is the ability to collect from the obligated parent a share of the premium that the other parent pays for private health insurance for the child. This allows the other parent to get help from the obligated parent. It provides a mechanism for the DSHS to determine an amount and then to collect that amount. In cases where the state provides subsidized health care coverage for the child, this bill would allow the DSHS to assess and collect from the obligated parent a reasonable amount for that coverage. The bill gives the DSHS the option of passing it through to the parent or retaining it. The fiscal note shows some cost at first because of computer programming that is necessary, but there will be a positive impact.

(Opposed) None.

Staff Summary of Public Testimony (Health & Human Services Appropriations):

(In support) This is DSHS request legislation. This bill enacts new federal requirements relating to how child support obligations are collected.

(With concerns) This legislation is mandated by federal law and is supported. There are concerns that the bill could be read to mean that both parents must purchase medical insurance.

(Opposed) None.

Persons Testifying (Judiciary): David Stillman, Department of Social and Human Services.

Persons Testifying (Health & Human Services Appropriations): (In support) David Stillman, Director, Division of Child Support, Department of Social and Health Services.

(With concerns) Robin Zukowski, Columbia Legal Services.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Health & Human Services Appropriations): None.