

## **When is Medical Child Support “Reasonable” in Cost?**

### Background

Current federal law requires state child support agencies to pursue provision of medical support in all child support orders whenever such support is available to the non-custodial parent at “reasonable cost.”<sup>1</sup> Federal regulations consider health care coverage to be reasonable in cost if it is employment-related or is available through other group health insurance.<sup>2</sup> This definition may have been reasonable when it was issued in 1985, when the cost of dependent coverage to employees was lower, but circumstances are dramatically different today. Employer-based health coverage is considerably more expensive than ever before, and few employers provide such coverage to their employees at no or negligible cost. The GAO estimates that in 1980, 51% of employers who offered family coverage fully subsidized the cost, but in 1993, only 21% of employers did so.<sup>3</sup>

The current definition of reasonable cost fails to consider how much of a non-custodial parent’s income may be required to pay for the health coverage. Consequently, the cost of coverage may constitute a large part of the support order, reducing the amount of cash support provided to the child or increasing the non-custodial parent’s total obligation, depending on the manner in which the state takes the cost of coverage into account. The high cost of premiums therefore can deprive children of adequate cash support. Low-income non-custodial parents who are ordered to pay for costly premiums are at greater risk of being unable to comply with the child support orders, and non-compliance deprives children of both health care coverage and cash support. As a result, the current definition of reasonable cost brings many children no closer to the vital health care coverage they need, and frustrates both non-custodial and custodial parents who are trying to provide adequate financial and medical support for their children. The National Medical Support Working Group, tasked by Congress to address this issue, as well as other barriers to the effective establishment and enforcement of medical child support, have recommended that reasonable cost be redefined as 5% of the gross income of the parent who is providing health coverage to the child.

Several states are interested in developing workable definitions of reasonable cost. Many states have begun to use the National Medical Support Notice, in accordance with Congressional mandate through the Child Support Performance and Incentive Act of 1998, in order to automate and coordinate the procedure of notifying employers nation-wide when children of employees must be enrolled in employment-related health care plans. States recognize that the impracticable current definition of reasonable cost must be revised if implementation of the notice is to result in the efficient enforcement of medical support orders that increase health coverage for children, without withholding unreasonably expensive premium costs from employees’ incomes. However, states interested in developing workable definitions of reasonable cost may be unable to do so without coming into conflict with federal law.

## Recommendation

States that wish to revise the definition of reasonable cost should have the option to do so. States should have the authority to develop an income-based standard as a definition of reasonable cost, or adopt the 5% definition of reasonable cost, as recommended by the National Medical Support Working Group. A revised definition of reasonable cost would allow state child support agencies to concentrate their efforts on creating enforceable orders and should not result in any revenue loss for state or federal governments, which have no share in medical support orders. A definition revised according to this proposal can benefit both families and states by ensuring that cash and medical support are provided to children by their parents and by preventing the creation of unenforceable medical support orders.

---

<sup>1</sup> 42 U.S.C. § 652(f) (2001).

<sup>2</sup> 45 C.F.R. § 303.31(a) (2001).

<sup>3</sup> U.S. General Accounting Office, *Private Health Insurance: Continued Erosion of Coverage Linked to Cost Pressures* 34-35, GAO/HEHS-97-122 (1997).