

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

RIN 0970-AB97

45 CFR Part 303

National Medical Support Notice

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families, HHS.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This proposed regulation implements provisions of the Child Support Performance and Incentives Act of 1998 (CSPIA), Public Law 105-200, that require State child support enforcement agencies, under title IV-D of the Social Security Act (the Act), to enforce the health care coverage provision in a child support order, and to use the National Medical Support Notice (NMSN) to aid enforcement.

DATES: Consideration will be given to written comments received by January 14, 2000.

ADDRESSES: Address comments to: Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW., Washington DC 20447. Attention: Division of Policy and Planning, Office of Child Support Enforcement. Comments will be available for public inspection Monday through Friday, 8:00 A.M. to 4:30 P.M. on the fourth floor of the Department's offices at the address mentioned above.

FOR FURTHER INFORMATION CONTACT: John Seneta, Division of Policy & Planning, OCSE, tel: (202) 401-5154, fax: (202) 401-3444, e-mail: jseneta@acf.dhhs.gov

SUPPLEMENTARY INFORMATION

Statutory Authority

This notice of proposed rulemaking is published under the authority of sections 452(f) and 466(a)(19) of the Social Security Act (the Act), 42 U.S.C. 652(f) and 666(a)(19), as amended by section 401 of the Child Support Performance and Incentive Act of 1998 (CSPIA), Public Law 105-200, and technical amendments in section 4(b) of the Noncitizen Benefit Clarification and other Technical Amendments Act of 1998, Public Law 105-306.

Section 401(b)(4) of CSPIA requires the Secretaries of Health and Human Services (HHS) and Labor to publish interim regulations providing for the NMSN not later than 10 months after the date of enactment of CSPIA. The date of enactment was July 16, 1998 and

10 months from that date is May 16, 1999. The Medical Child Support Working Group asked to be involved in the development of the notice prior to the original publication due date. In the interest of developing a proposed Notice that best addresses the needs and concerns of the affected parties, DOL and HHS solicited comments and suggestions regarding the Notice from the Working Group at its public meetings of April 13, and May 12 and 13, 1999, that proved very helpful in the development of the Notice that is proposed herein. In order to encourage greater public participation in this rulemaking and reduce the possibility of confusion, the agencies have decided to publish the Notice as a Proposed Rule, rather than as an interim regulation. We believe that this more closely comports with congressional intent to permit the affected parties, including the Working Group, to comment on the Notice before it becomes effective.

Also being published in the **Federal Register** today is a parallel proposed regulation developed by the Department of Labor (DOL) under section 609(a) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1169(a)), adopting the NMSN. Under ERISA section 609(a)(5)(C), if the NMSN is appropriately completed, and satisfies the conditions of ERISA section 609(a)(3) and (4), the NMSN is deemed to be a "qualified medical child support order" as defined in section 609(a) of ERISA.

In this regulation, OCSE is implementing the provisions of CSPIA that require States to have in effect laws that require procedures to enforce the health care coverage provisions in child support orders through the use of the NMSN. The NMSN notifies the noncustodial parent's employer of the provision for health care coverage of the child in a IV-D case.

Background

The enactment of the Child Support Enforcement Amendments of 1984, Public Law 98-378, added a new section 452(f) to the Act that required the Secretary to issue regulations to require State IV-D agencies to secure medical support information, and to secure and enforce medical support obligations whenever health care coverage is available to the noncustodial parent at a reasonable cost. Initially these regulations were placed in Subpart B at 45 CFR 306.50 and 51. Subsequently they were redesignated and placed where they appear now at 45 CFR 303.30 and 31. Since the enactment of this legislation and the implementing regulations, States have been making

efforts to establish and enforce medical support for children with limited success.

The Omnibus Budget Reconciliation Act of 1993 (OBRA), Public Law 103-66, was a significant piece of legislation that contained provisions intended to remove some of the impediments to State IV-D agency attempts to secure and enforce medical coverage for children in IV-D cases. OBRA contained many improvements that facilitated obtaining and enforcing medical coverage, including: prohibiting discriminatory health care coverage practices; creating "qualified medical child support orders" (QMCSOs) to obtain coverage from group health plans subject to ERISA; and allowing employers to deduct the costs of health insurance premiums from the employee/obligor's income. Some of the medical support provisions of OBRA were included as Medicaid State plan requirements under section 1908 of the Act [42 U.S.C. 1396g-1] and required States to enact laws governing employer and insurer compliance with health care provisions of support orders. The QMCSO provisions are contained in section 609 of ERISA (29 U.S.C. 1169).

Section 382 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, added a new paragraph 19 to section 466(a) of the Act (466(a)(19)) that requires a provision for health care coverage in all child support orders established or enforced by IV-D agencies. Prior to enactment of PRWORA, health care coverage was required for cases with an assignment of medical support rights for public assistance cases under titles IV-A, XIX, and IV-E, and, by regulation, individuals not receiving public assistance could choose not to seek medical support. Despite improved medical support requirements (such as procedures for including health care coverage in all child support orders under title IV-D) and a focus on enforcement of medical support by OCSE and the State IV-D programs, the enforcement of medical support coverage for children under the IV-D program has remained elusive.

Extensive consultations with State IV-D agencies, employers, HHS, DOL, and advocates of medical support coverage, resulted in an array of medical support provisions in CSPIA. These provisions were enacted in order to further eliminate barriers that prevent meaningful establishment and enforcement of medical child support coverage.

In addition to the requirements that are contained in this regulation, CSPIA

provides for the establishment of a Medical Child Support Working Group. The Working Group is charged with submitting a report to the Secretaries of Health and Human Services and Labor containing recommendations regarding appropriate measures to address impediments to the effective enforcement of medical support by IV-D agencies. This report is due not later than January 2000. The Secretaries in turn will jointly submit a report to Congress not later than two months after receiving the Working Group's report. The Working Group includes 30 members representing: HHS and DOL, State child support directors, State Medicaid directors, employers (including payroll professionals), sponsors and administrators of group health plans (as defined in section 607(1) of ERISA), children potentially eligible for medical support, such as child advocacy organizations, State medical child support programs, and organizations representing State child support programs.

Section 401 of CSPIA modified section 452(f) of the Act to make it consistent with the requirement in section 466(a)(19) of the Act, as amended by section 382 of PRWORA, that medical support be included as part of any child support order under title IV-D of the Act. Section 401 of CSPIA further strengthens the enforcement of medical support coverage for children by requiring HHS and DOL to jointly develop a NMSN to be issued by States to enforce the medical support obligations of a non-custodial parent. The NMSN must comply with requirements of section 609(a)(3) and (4) of ERISA, which pertain to informational requirements and restrictions against requiring new types or forms of benefits. In addition to complying with ERISA requirements and all title IV-D requirements, the NMSN must include a severable employer withholding notice informing the employer of: (1) applicable provisions of State law requiring the employer to withhold any employee contributions due under any group health plan in connection with coverage required to be provided; (2) the duration of the withholding requirement; (3) the applicability of limitations on any such withholding under title III of the Consumer Credit Protection Act; (4) the applicability of any prioritization required under State law between amounts to be withheld for purposes of cash support and amounts to be withheld for purposes of medical support, in cases where available funds are insufficient for full withholding for

both purposes; and (5) the name and telephone number of the appropriate unit or division to contact at the State agency regarding the NMSN.

We believe that employers will welcome the use of a standard form that will be used by all State IV-D agencies as required in these regulations. This will simplify processing for all concerned and most importantly enhance health care coverage for children who are excluded from their noncustodial parent's group health plan.

Section 466(a)(19) of the Act, as amended by section 401(c)(3) of CSPIA, requires States to have in effect laws requiring the use of procedures providing for IV-D agencies to use the NMSN to enforce child support orders which include a provision for the health care coverage of the child. Section 466(a)(19)(B) of the Act requires the use of the NMSN in all cases where the noncustodial parent is required to provide health care coverage for the child pursuant to the order and the noncustodial parent's employer is known to the State agency. The statute provides an exception, under section 466(a)(19)(B), to using the NMSN if a court or administrative order stipulates alternative health care coverage to the noncustodial parent's employment-based coverage.

Under section 466(a)(19)(B)(i), States must use the NMSN to transfer notice of the provision for health care coverage of the child to employers, including State or local governments and churches. Section 466(a)(19)(B)(ii) requires the employer within 20 business days after the date of the NMSN, to transfer the NMSN, without the employer withholding notice, to the appropriate plan which provides health care coverage for which the child is eligible.

Upon notification by the plan administrator(s) that enrollment of the child(ren) has been completed and withholding is required for employee contributions to one or more plans under this notice, the employer implements the withholding from the employee's income. The employer withholds employee contributions within the limitations on withholding in accordance with the amounts allowed by the State of the employee's principal place of employment (which may equal or be less than that allowed by the Federal Consumer Credit Protection Act (15 U.S.C., section 1673(b)), or the amounts allowed for medical support by the child support order whichever is less. The employer also observes the State law of the employee's principal place of employment for prioritization purposes if withholding is required for

both cash and medical support payments.

Section 466(a)(19)(B)(iii) of the Act requires, in cases where the noncustodial parent is a newly hired employee, that the State agency send the NMSN, together with the income withholding notice pursuant to section 466(b) of the Act, within 2 business days after the date the newly hired employee is entered into the State Directory of New Hires, pursuant to section 453A of the Act.

Under section 466(a)(19)(B)(iv) when the employment of a noncustodial parent with any employer who has received an NMSN is terminated, the employer is required to notify the State IV-D agency of this termination. Finally, under paragraph (C), any liability of a noncustodial parent employee to a group health plan for contributions necessary for enrollment of a child is subject to appropriate enforcement, unless the employee contests such enforcement based on a mistake of fact.

States must implement use of the NMSN no later than the first day of the first quarter beginning after the close of the first regular State legislative session that begins after October 1, 2001. This deadline provides States ample opportunity to enact implementing State legislation after publication of final regulations, issuance of the Medical Child Support Working Group's recommendations, and the Secretaries' report to Congress.

Description of Regulatory Provisions

We are implementing the statutory requirement for the development and use of the NMSN by adding a new section, 45 CFR 303.32, "National Medical Support Notice," to existing rules governing the Child Support Enforcement program under title IV-D of the Act. This section restates statutory requirements.

Section 303.32(a) requires the State to have laws requiring procedures for the mandatory use of the NMSN in accordance with section 466(a)(19) of the Act.

Section 303.32(b) provides for an exception to the use of the NMSN. The exception applies to cases with court or administrative orders that stipulate alternative health care coverage.

Section 303.32(c) includes the mandatory procedures for enforcement of health care coverage for the child through the use of the NMSN.

Section 303.32(c)(1) requires State IV-D agencies to use the NMSN to provide notice of the provision for health care coverage of the child(ren) to employers.

Section 303.32(c)(2) requires State agencies to send the NMSN to the employer within 2 business days after the date of entry into the State Directory of New Hires of an employee who is an obligor in a IV-D case.

Section 303.32(c)(3) requires employers to transfer the NMSN to the appropriate group health care plan providing any such health care coverage for which the child(ren) is eligible (excluding the severable employer withholding notice directing the employer to withhold any mandatory contributions to the plan) within 20 business days after the date of the NMSN.

Section 303.32(c)(4) requires employers to withhold any mandatory employee contributions to the plan and send any employee contributions withheld directly to the plan. If the employee contests such withholding, we are proposing that employers initiate withholding until such time as the employer receives notice that the contest is resolved.

Employers are specifically directed to transfer contributions to the plan because employers may also be directed by a separate child support withholding notice to forward support payments withheld from the employee's wages to a State IV-D agency.

Section 303.32(c)(5) requires employers to notify the State agency promptly whenever the employment of a noncustodial parent for whom the employer received an NMSN is terminated. This is consistent with the requirement for notification of termination in income withholding cases pursuant to 45 CFR 303.100(e)(1)(x).

To comply with statutory requirements, section 303.32(d) requires laws requiring the use of the NMSN to be enacted by States. The requirements for NMSN use must be effective the later of October 1, 2001 or the effective date of implementing State law. Such State laws must be effective no later than the first day of the first calendar quarter beginning after the first session of the State legislature that begins after October 1, 2001. For States that have 2-year legislative sessions, each year of such session would be regarded as a separate regular session.

Description of the National Medical Support Notice

In the development of this notice, we involved the Medical Child Support Working Group. The Working Group provided substantive comments, recommendations for changes, and a changed format that will be easy to follow by all parties concerned.

A State IV-D agency will issue a two part NMSN to an employer who maintains or contributes to a group health plan. Part A of the NMSN, the Employer Withholding Notice, is modeled on the Federally-approved standardized income withholding form that was issued to State IV-D agencies by action transmittal (OCSE-AT-98-03) on January 27, 1998. Employers have voiced approval of this form indicating that the standardized uniform withholding form has greatly facilitated the processing of child support income attachments.

Part A, the Employer Withholding Notice, includes information for, and responsibilities of the employer. The "Instructions to Employer" segment of the form explains the responsibilities of the employer. The issuing agency provides this information starting with the name and address of the issuing agency, date of the notice, case number, telephone number of the issuing agency, court name (if applicable), date of the support order, and the support order number.

The issuing agency provides pertinent information with respect to the employer, the employee/obligor, the custodial parent, and the child or children also known as alternate recipients. The issuing agency provides the employer's Federal EIN number (if known) and the employer's name and address. Information on the employee/obligor is also provided including the employee/obligor's name, social security number, and mailing address. Information is provided on the custodial parent, and the child or children (the children are also referred to as alternate recipients). These include the names and address of the custodial parent and children. If there is a danger of domestic violence and abuse to the custodial parent and/or the children, provision is made to substitute the address of the custodial parent and children with name and address of an agency official. Finally, the Notice includes a provision for the type of family group health care coverage that is required by the order, e.g., basic, dental, vision, prescription drug, mental health, and other.

The "Employer Response", attached to Part A, is to be completed by the employer, as appropriate when either (1) the employer does not offer or participate in plans providing family health care coverage or the employee is among a class of employees that are not eligible for family health coverage under any group health plan maintained by the employer or to which the employer contributes, (2) coverage is unavailable because the employee is no longer employed by the employer, or (3) State

or Federal withholding limitations and/or prioritization preclude the withholding from the employee's income of the amount necessary for coverage.

Under the proposed DOL regulation published today at FR Part B of the NMSN, the Medical Support Notice, notifies the administrator of the group health plan in which the named employee is enrolled or eligible for enrollment, that the employee is obligated by a court or administrative child support order to provide medical support coverage for the named child(ren). Part B provides the information necessary for the plan administrator to treat the notice as a "qualified medical child support order" under section 609(a) of ERISA, and to enroll the child(ren) as dependents in the group health plan. Part B of the NMSN was also developed to comply with the requirements placed on group health plans under State laws described in section 1908 of the Act, and to accommodate the requirements on State agencies to use automated processing of medical child support orders as well. Part B also includes a "Plan Administrator Response" that is used by the plan administrator to inform the Issuing Agency, that either the child has been enrolled, or not enrolled with a reason, and other information regarding coverage that is pertinent or lacking for enrollment. The specific contents of Part B are explained in detail in the DOL regulation published today.

In order to provide an opportunity for maximum review and public comment on the National Medical Support Notice (NMSN), we have attached the proposed NMSN (including instructions) as an Appendix. We will revise this notice following the comment period on the NPRM and will issue it to States through the ACF policy issuance system. We will not re-publish this appendix as a part of the final rule. However, we will make appropriate changes as a result of comments received.

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this proposed rule is consistent with these priorities and principles. The changes in this proposed rule reiterate the language in the statute, and do not add any nonstatutory requirements.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Public Law 96-354) requires the Federal

government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The Secretary certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because the primary impact of these regulations is on State governments.

Paperwork Reduction Act of 1995

Section 303.32(c)(1) contains an information collection requirement. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

- *Title:* National Medical Support Notice.
- *Summary:* The information collected by State title IV–D agencies will be used to complete the National Medical Support Notice (NMSN) which will be sent to employers of employee/obligors and used as a means of enforcing the health care coverage provision in a child support order. Primarily, the information State agencies will use to complete the NMSN will be the information regarding appropriate persons which is necessary for the enrollment of the child in employer related health care coverage, such as the employee/obligor (name, SSN, mailing address); employer's name/address; the name/address of the Alternate Recipient who is the child; and the custodial parent's name and address. The employer forwards the second part of the NMSN to the group health plan administrator which contains the same individual identifying information. The plan administrator requires this information to determine whether to enroll the Alternate Recipient in the group health plan. If necessary, the employer would also initiate wage withholding from the employee's wages for the purpose of paying premiums to the group health plan for enrollment of the child.

• *Description of the likely respondents:* State and local title IV–D agencies initiate the process of enforcing medical health care coverage for the child by completing and sending the notice to known employers of the noncustodial parents (employee/obligors). Employers and plan administrators are on the receiving end of the NMSN.

Information collection	(1)
Number of respondents	54
Responses per respondent	13,454
Average burden hours per response1666

Total annual burden hours 123,507

¹ 45 CFR 303.32.

ACF will consider comments by the public on this proposed rule in:

- Evaluating the accuracy of ACF's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumption used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this interim final regulation between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulation. Written comments to OMB for the information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington DC 20503, Attn: Ms. Wendy Taylor.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 203 requires a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

We have determined that the rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly

or uniquely impacted small governments.

Congressional Review

This rule is not a major rule as defined in 5 U.S.C., Chapter 8.

List of Subjects in 45 CFR Part 303

Child support, Grant programs/social programs, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program No 93.563, Child Support Enforcement Program)

Dated: July 14, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: August 3, 1999.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons discussed above, we are proposing to amend 45 CFR chapter III as follows:

PART 303—STANDARDS FOR PROGRAM OPERATIONS

1. The authority citation of part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396(d)(2), 1396b(o), 1396b(p) and 1396(k).

2. A new 303.32 is added to read as follows:

§ 303.32 National Medical Support Notice.

(a) *Mandatory State laws.* States must have laws, in accordance with section 466(a)(19) of the Act, requiring procedures specified under paragraph (c) of this section for the use of the National Medical Support Notice (NMSN) to this section, to enforce the provision of health care coverage for children of noncustodial parents who are required to provide health care coverage through an employment-related group health plan pursuant to a child support order and for whom the employer is known to the State agency.

(b) *Exception.* States are not required to use the NMSN in cases with court or administrative orders that stipulate alternative health care coverage to employer-based coverage.

(c) *Mandatory procedures.* The State must have in effect and use procedures that require:

(1) The State agency to use the NMSN to transfer notice of the provision for health care coverage of the child(ren) to the employer.

(2) The State agency to send the NMSN to the employer within 2 business days after the date of entry of an employee who is an obligor in a IV–D case in the State Directory of New Hires.

(3) Employers to transfer the NMSN to the appropriate group health plan providing any such health care coverage for which the child(ren) is eligible (excluding the severable employer withholding notice directing the employer to withhold any mandatory employee contributions to the plan) within 20 business days after the date of the NMSN.

(4) Employers to withhold any obligation of the employee for employee contributions necessary for coverage of the child(ren) and send any amount

withheld directly to the plan. If the employee contests such withholding, the employer initiates withholding until such time as the employer receives notice that the contest is resolved.

(5) Employers to notify the State agency promptly whenever the noncustodial parent's employment is terminated in the same manner as required for income withholding cases in accordance with § 303.100(e)(1)(x) of this part.

(d) *Effective date.* This section is effective October 1, 2001, or, if later, the

effective date of State laws described in paragraph (a) of this section. Such State laws must be effective no later than the close of the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after October 1, 2001. For States with 2-year legislative sessions, each year of such session would be regarded as a separate regular session.

Note: The following appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4184-01-U

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Appendix

NATIONAL MEDICAL SUPPORT NOTICE

PART A

EMPLOYER WITHHOLDING NOTICE

This Notice is issued under Section 466(a)(19) of the Social Security Act and Section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 (ERISA).

Issuing Agency: _____ Issuing Agency Address: _____ Date of Notice: _____ Case Number: _____ Telephone Number: _____	Court Name: _____ Date of Support Order: _____ Support Order Number: _____
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_____)
Employer/Withholder's Federal EIN Number
_____)
Employer/Withholder's Name
_____)
Employer/Withholder's Address
_____)
Custodial Parent's Name (Last, First, MI)
_____)
Custodial Parent's Mailing Address

RE* _____
Employee/Obligor's Name (Last, First, MI)
_____)
Employee/Obligor's Social Security Number
_____)
Employee/Obligor's Mailing Address
_____)
Substituted Official/Agency Name and Address

_____)
Alternate Recipient/Child(ren)'s Mailing Address (if
different from Custodial Parent's)
_____)
_____)
_____)
Name, Mailing Address, and Telephone
Number of a Representative of the Alternate
Recipient(s)/Child(ren)

Alternate Recipient/Child(ren)'s Name(s) DOB SSN

_____ + _____

Alternate Recipient/Child(ren)'s Name(s) DOB SSN

Type of family group health care coverage required by the order: ___(Basic); ___(Dental); ___(Vision); ___(Prescription drug); ___(Mental health); ___(Other) - _____

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EMPLOYER RESPONSE

(To be completed by Employer, as appropriate)

If either 1 or 2 below applies, indicate here and return this Part A to the Issuing Agency and custodial parent. NO OTHER ACTION IS NECESSARY. If neither 1 nor 2 applies, forward Part B to the appropriate plan administrator(s).

1. Employer does not maintain or contribute to plans providing family health care coverage or the employee is among a class of employees (for example, part-time or non-union) that are not eligible for family health coverage under any group health plan maintained by the employer or to which the employer contributes.

2. Health care coverage is not available because employee is no longer employed by the employer:

Last known address: _____

Last known telephone number: _____

New employer (if known): _____

New employer address: _____

New employer telephone number: _____

3. State or Federal withholding limitations and/or prioritization prevent the withholding from the employee's income of the amount required to obtain coverage under the terms of the plan.

Employer Representative:

Name: _____

Telephone Number: _____

Title: _____

Date: _____

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INSTRUCTIONS TO EMPLOYER

This document serves as notice that the employee identified above is obligated by a court or administrative child support order to provide health care coverage for the child(ren) also identified above. This National Medical Support Notice replaces any Notice that the Issuing Agency has previously served on you with respect to the employee and the children listed on this Notice. Such child(ren) are also referred to as Alternate Recipient(s) in the Notice.

The document consists of **Part A - Employer Withholding Notice** for the employer to withhold any employee contributions required by the group health plan(s) in which the alternate recipient(s) is/are enrolled; and **Part B - Medical Support Notice to the Plan Administrator**, which must be forwarded to the administrator of each group health plan identified by the employer to enroll the eligible alternate recipient(s)/child(ren).

EMPLOYER RESPONSIBILITIES

As the employer of the employee, you are required to:

1. If the individual named above is not your employee, or if family health care coverage is not available, please complete item 1 or 2 of the Employer Response as appropriate, and return it to the Issuing Agency. **NO FURTHER ACTION IS NECESSARY.**
2. If family health care coverage is available for which the alternate recipient(s)/child(ren) identified above may be eligible, you are required to:
 - a. Transfer, not later than 20 business days after the date of this Notice, a copy of **Part B - Medical Support Notice to the Plan Administrator** to the administrator of each appropriate group health plan for which the alternate recipient(s)/child(ren) may be eligible, and
 - b. Upon notification from the plan administrator(s) that the alternate recipient(s)/child(ren) is/are enrolled, either
 - 1) withhold from the employee's income any employee contributions required under each group health plan, in accordance with the applicable law of the employee's principal place of employment and transfer employee contributions to the appropriate plan(s), or
 - 2) complete item 3 of the Employer Response to notify the Issuing Agency and the parties that enrollment cannot be completed because of prioritization or limitations on withholding.

LIMITATIONS ON WITHHOLDING

The amount withheld cannot exceed ___% of the employee's aggregate disposable weekly earnings. The employer may not withhold more than the lessor of:

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1. The amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C., section 1673(b));
2. The amounts allowed by the State of the employee's principal place of employment; or
3. The amounts allowed for medical support by the child support order.

The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as State, Federal, local taxes; Social Security taxes; and Medicare taxes.

PRIORITY OF WITHHOLDING

If withholding is required for employee contributions to one or more plans under this notice and for a support obligation under a separate notice and available funds are insufficient for withholding for both cash and medical support contributions, the employer must withhold amounts for purposes of cash support and medical support contributions in accordance with the law, if any, of the State of the employee's principal place of employment requiring prioritization between cash and medical support.

DURATION OF WITHHOLDING

The alternate recipient(s)/child(ren) shall be treated as dependents under the terms of the plan. Coverage of an alternate recipient as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA may entitle the alternate recipient to continuation coverage under the plan. The employer must continue to withhold employee contributions and may not disenroll (or eliminate coverage for) the alternate recipient/child(ren) unless:

1. The employer is provided satisfactory written evidence that:
 - a. The court or administrative child support order referred to above is no longer in effect; or
 - b. The alternate recipient(s)/child(ren) is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan; or
2. The employer eliminates family health coverage for all of its employees.

POSSIBLE SANCTIONS

An employer may be subject to sanctions or penalties imposed under State law and/or ERISA for discharging an employee from employment, refusing to employ, or taking disciplinary action against any employee because of medical child support withholding, or for failing to withhold income, or transmit such withheld amounts to the applicable plan(s), as the Notice directs.

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NOTICE OF TERMINATION OF EMPLOYMENT

In any case in which the above employee's employment with the above employer terminates, the employer must promptly notify the Issuing Agency listed above of such termination. This requirement may be satisfied by sending to the Issuing Agency named above a copy of any notice the employer is required to provide under the continuation coverage provisions of ERISA or the Health Insurance Portability and Accountability Act.

EMPLOYEE LIABILITY FOR CONTRIBUTION TO PLAN

The employee is liable for any employee contributions that are required under the plan(s) for enrollment of the alternate recipient(s)/child(ren) and is subject to appropriate enforcement. The employee may contest enforcement based on a mistake of fact (such as the identity of the obligor). Should an employee contest, the employer must proceed to comply with the employer responsibilities in this Notice until notified to discontinue withholding.

CONTACT FOR QUESTIONS

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed above.

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NATIONAL MEDICAL SUPPORT NOTICE
PART B
MEDICAL SUPPORT NOTICE TO PLAN ADMINISTRATOR

This Notice is issued under section 466(a)(19) of the Social Security Act and section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 (ERISA). RECEIPT OF THIS NOTICE CONSTITUTES RECEIPT OF A MEDICAL CHILD SUPPORT ORDER UNDER ERISA SECTION 609(a)(5)(A) and (B). The rights of the parties and the duties of the plan administrator under this NOTICE are in addition to the existing rights and duties established under such section.

Form with fields: Issuing Agency, Issuing Agency Address, Date of Notice, Case Number, Telephone Number, Court Name, Date of Support Order, Support Order Number.

Employer/Withholder's Federal EIN Number

Employer/Withholder's Name

Employer/Withholder's Address

Custodial Parent's Name (Last, First, MI)

Custodial Parent's Address

Alternate Recipient/Child(ren)'s Address (if Different from Custodial Parent's)

Name(s), Mailing Address, and Telephone Number of a Representative of the Alternate Recipient(s)/Child(ren)

Table with 3 columns: Name(s), DOB, SSN. Header: Alternate Recipient/Child(ren)'s Name(s) DOB SSN.

RE* Employee/Obligor's Name (Last, First, MI)

Employee/Obligor's Social Security Number

Employee/Obligor's Address

Substituted Official/Agency Name and Address

Table with 3 columns: Name(s), DOB, SSN. Header: Alternate Recipient/Child(ren)'s Name(s) DOB SSN.

Type of health care coverage required by the order: (Basic); (Dental); (Vision); (Prescription drug); (Mental health); (Other) -

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PLAN ADMINISTRATOR RESPONSE

(To be completed by the plan administrator and returned to the Issuing Agency)

This Notice was received by the plan administrator on _____.

1. **This Notice does not constitute a "qualified medical child support order" because:**

- The name of the alternate recipient(s) or participant is missing.
- The mailing address of the alternate recipient(s) or participant is missing.
- The alternate recipient(s) is/are at or above the age at which dependents are no longer eligible for coverage under the plan.

2. **This Notice was determined to be a "qualified medical child support order," on _____.** If the employee is not enrolled, and dependent-only coverage is not available under the plan, the employee is to be enrolled in family coverage as indicated below.

a. **There is only one type of coverage provided under the plan.** The alternate recipient(s) is/are included as dependents of the participant under the plan.

b. **There is more than one option available under the plan.** The Issuing Agency must select from the available options and return this Part B to the Plan Administrator named below for processing. Each alternate recipient is to be included as a dependent under one of the following options that provide family coverage:

- (1) _____ [if enrolled, participant has elected this option]
- (2) _____
- (3) _____

3. **The plan administrator received all information necessary for enrollment on _____ (date). Coverage is effective as of _____. Any necessary withholding should commence if permitted under State and Federal withholding and/or prioritization limitations.** The alternate recipient(s) has/have been enrolled in the following option(s):

Name and address of plan or insurance carrier(s):	PIN or Contract number:	Address to submit claims:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Plan Administrator or Representative:

Name: _____

Telephone Number: _____

Title: _____

Date: _____

Address: _____

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INSTRUCTIONS TO PLAN ADMINISTRATOR

This Notice has been forwarded from the employer identified above to you as the plan administrator of a group health plan maintained by the employer (or a group health plan to which the employer contributes) and in which the noncustodial parent/participant identified above is enrolled or is eligible for enrollment.

This Notice serves to inform you that the noncustodial parent/participant is obligated by an order issued by the court or agency identified above to provide health care coverage for the alternate recipient(s)/child(ren) if available under the group health plan(s) as described on **Part B**.

(A) If the participant and alternate recipient(s)/child(ren) and their mailing addresses (or that of a Substituted Official or Agency) are identified above, and if coverage for the alternate recipient(s) is or will become available, this Notice constitutes a "qualified medical child support order" under ERISA, and you must, within 40 business days of the date of this Notice, or sooner if reasonable:

(1) Complete **Part B - Plan Administrator Response** and send it to the Issuing Agency, notify the noncustodial parent/participant named above, each named alternate recipient/child, and the custodial parent that coverage of the alternate recipient(s) is or will become available (**notification of the custodial parent will be deemed notification of the alternate recipient(s) if they reside at the same address**);

(2) furnish the Issuing Agency and custodial parent a description of the coverage available and the effective date of the coverage;

(3) provide to the custodial parent any forms, documents, or information necessary to effectuate such coverage (including the applicability of creditable coverage under HIPAA):

(4)(a) if no other information or action is required, include the alternate recipient(s) in the available coverage, or,

(b) notify the Issuing Agency and the custodial parent of any additional steps to be taken, and

(5) upon completion of the enrollment information, transfer the applicable information on **Part B** to the employer for a determination that the necessary employee contributions are available.

(B) If within 40 business days of the date of this Notice, or sooner if reasonable, you determine that this Notice does not constitute a "qualified medical child support order," you must complete **Part B - Plan Administrator Response** and send it to the Issuing Agency, and inform the noncustodial parent/participant, custodial parent, and alternate recipient(s) of the specific reasons for your determination.

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UNLAWFUL REFUSAL TO ENROLL

Enrollment of an alternate recipient may not be denied on the ground that: (1) the alternate recipient was born out of wedlock; (2) the alternate recipient is not claimed as a dependent on the participant's Federal income tax return; or (3) the alternate recipient does not reside with the participant or in the plan's service area. All enrollments are to be made without regard to open season restrictions.

PERIOD OF COVERAGE

The alternate recipient(s)/child(ren) shall be treated as dependents under the terms of the plan. Coverage of an alternate recipient as a dependent will end when similarly situated dependents are no longer eligible for coverage under the terms of the plan. However, the continuation coverage provisions of ERISA may entitle the alternate recipient to continuation coverage under the plan. Once an alternate recipient is enrolled in the plan as directed above, the alternate recipient may not be disenrolled unless:

- (1) The plan administrator is provided satisfactory written evidence that either:
 - (a) the court or administrative child support order referred to above is no longer in effect, or
 - (b) the alternate recipient is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan;
- (2) The employer eliminates family health coverage for all of its employees; or
- (3) Any available continuation coverage is not elected, or the period of such coverage expires.

CONTACT FOR QUESTIONS

If you have any questions regarding this Notice, you may contact the Issuing Agency at the address and telephone number listed above.