

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 9 of Title 16 of the District of Columbia Official Code to revise definitions, to require support orders to contain provisions for health insurance coverage and cash medical support, to require one or both parents to obtain health insurance coverage for a child subject to a support order if the health insurance coverage is accessible and available at reasonable cost, to amend the definition of reasonable cost for health insurance coverage, to include contributions associated with public and private health insurance coverage in the definition of extraordinary medical expenses, and to require the review and modification of support orders every 3 years in cases where there has been an assignment of support rights under the District of Columbia Public Assistance Act of 1983; and to amend the Medical Support Establishment and Enforcement Amendment Act of 2004 to update definitions and revise the priority for the withholding of different types of support obligations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Child Support Compliance Amendment Act of 2008”.

Sec. 2. Chapter 9 of Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-901 is amended to read as follows:

**Amend
§ 16-901**

“§ 16-901. Definitions.

“For the purposes of this chapter, the term:

“(1) “Cash medical support” means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent, through employment or otherwise, or for extraordinary medical expenses as defined in § 16-916(j)(1), or for other medical costs not covered by insurance.

“(2) "Court" means the Superior Court of the District of Columbia.

”(3) "Domestic partner" shall have the same meaning as provided in § 32-701(3).

“(4) "Domestic partnership" shall have the same meaning as provided in § 32-701(4).

“(5) "IV-D agency" means the organizational unit of the District government, or any successor organizational unit, that is responsible for administering or supervising the administration of the District's State Plan under title IV, part D, of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C 42 U.S.C. § 651 *et seq.*), pertaining to parent locator services, paternity establishment, and the establishment, modification, and enforcement of support orders.

“(6) "IV-D case" means a case in which the IV-D agency provides services for the purpose of establishing paternity or establishing, modifying, or enforcing a child support obligation.

“(7) "Health insurance coverage" means benefits consisting of amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body (provided directly, through insurance or reimbursement, or otherwise, and includes items and services) under any hospital or medical service policy or certificate, hospital, or medical service plan contract, or health maintenance organization contract offered by a health insurer that is available to either parent, under which medical services could be provided to a dependent child.

“(8) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees, and other relief.”.

(b) Section 16-911(a)(1) is amended to read as follows:

Amend
§ 16-911

“(1) require the spouse or domestic partner to pay pendente lite alimony to the other spouse or domestic partner; require one party to pay pendente lite child support, including health insurance coverage, cash medical support, or both, for his or her minor children committed to another party's care; and require the spouse or domestic partner to pay suit money, including counsel fees, to enable such other spouse to conduct the case. The Court may enforce any such order by attachment, garnishment, or imprisonment for disobedience, and all support orders shall be enforceable by withholding as provided in § 46-207 and § 46-251.07. In determining pendente lite alimony for a spouse or domestic partner, the Court shall consider the factors set forth in § 16-913(d) and may make an award of pendente lite alimony retroactive to the date of the filing of the pleading that requests alimony.”.

(c) Section 16-916 is amended as follows:

Amend
§ 16-916

(1) Subsection (c) is amended to read as follows:

“(c) When a father or mother fails to maintain his or her minor child, the Court may decree that the father or mother pay reasonable sums periodically for the support and

maintenance of the child, including health insurance coverage and cash medical support, and may decree that the father or mother pay Court costs, including counsel fees, to enable plaintiff to conduct the cases.”.

(2) Subsection (c-1) is amended to read as follows:

“(c-1) A support order entered under this section shall contain terms providing for the payment of medical expenses for each child included in the support order, whether or not health insurance coverage is available to pay for those expenses. The court may order either or both parents to provide health insurance coverage, cash medical support, or both, consistent with § 16-916.01.”.

(3) Subsection (c-2) is amended to read as follows:

“(c-2) In all cases where accessible health insurance coverage is available to either or both parents at reasonable cost, the court shall order either or both parents to provide the health insurance coverage, consistent with § 16-916.01.”.

(4) Subsection (c-3) is amended to read as follows:

“(c-3) In selecting among health insurance coverage options, the court shall consider, at a minimum, the cost, comprehensiveness, and accessibility of all health insurance coverage options available to either parent.”.

(5) New subsections (c-3A), (c-3B), and (c-3C) are added to read as follows:

“(c-3A) In cases where accessible health insurance coverage is not available to either parent at reasonable cost, or where the medical expenses of a child are not fully covered by health insurance, the court shall order either or both parents to pay cash medical support consistent with § 16-916.01.

“(c-3B) For the purposes of this section, health insurance coverage shall be considered reasonable in cost if the cost to the obligated parent of providing coverage for the children subject to the support order pursuant to § 16-916.01(i)(3) does not exceed 5 % of the parent’s gross income.

“(c-3C) For the purposes of this section, health insurance coverage shall be considered accessible if, based on the work history of the parent providing the coverage, it will be available for at least one year, and if the child lives within the geographic area covered by the plan or within 30 minutes or 30 miles of primary care services.”.

(d) Section 16-916.01 is amended as follows:

(1) Subsection (i)(5) is amended by striking the phrase “it is employer-related or other group health insurance coverage, regardless of the service delivery mechanism” and inserting the phrase “the cost to the obligated parent of providing coverage for the children subject to the support order pursuant to § 16-916.01(i)(3) does not exceed 5 % of the parent’s gross income” in its place.

(2) Subsection (j)(1) is amended by striking the phrase “include copayments and deductibles,” and inserting the phrase “include copayments, deductibles, and contributions associated with public and private health insurance coverage,” in its place.

(3) Subsection (r)(2) is amended to read as follows:

Amend
§ 16-916-01

“(2) Every 3 years, in cases being enforced under title IV, part D of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S. C. § 651 *et seq.*), the IV-D agency shall notify both parents of the right to a review, and, if appropriate, a modification of the support order under the guideline. The IV-D agency shall conduct the review in all cases where there is an assignment of support rights pursuant to § 4-205.19, and at the request of either parent in all other cases. If the IV-D agency conducts a review, the IV-D agency shall inform both parents if a modification is warranted under the guideline, and shall petition for a modification of the support order when there is an assignment of support rights or if requested by a parent.”.

Sec. 3. The Medical Support Establishment and Enforcement Amendment Act of 2004, effective March 30, 2004 (D.C. Law 15-130; D.C. Official Code § 46-251.01 *et seq.*), is amended as follows:

(a) Section 101(2) (D.C. Official Code § 46-251.01(2)) is amended by striking the period and inserting the phrase “that is available to either parent, under which medical services could be provided to a dependent child.” in its place.

Amend
§ 46-251.01

(b) Section 106(b) (D.C. Official Code § 46-251.06(b)) is amended to read as follows:

Amend
§ 46-251.06

“(b) In selecting an option in consultation with the child’s custodian pursuant to subsection (a) of this section, the IV-D agency shall consider, at a minimum, the cost, comprehensiveness, and accessibility of the health insurance coverage. For the purposes of this section, health insurance coverage shall be considered accessible if, based on the work history of the parent providing the coverage, it will be available for at least one year, and if the child lives within the geographic area covered by the plan or within 30 minutes or 30 miles of primary care services.”.

(c) Section 108 (D.C. Official Code § 46-251.08) is amended to read as follows:

Amend
§ 46-251.08

“Sec. 108. Priority of withholding for employee contributions to health insurance coverage.

“(a) If there are insufficient funds available within the limits of section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b)), to meet the employee’s contribution necessary for the coverage of each child included in a support order and to comply with a notice or order to withhold received pursuant to section 13 of the District of Columbia Child Support Enforcement Amendment Act of 1985, effective February 24, 1987 (D.C. Law 6-166; D.C. Official Code § 46-212), the employer shall allocate the funds available according to the following priority, unless the court directs otherwise:

- “(1) Current child and spousal support;
- “(2) Health insurance premiums or current cash medical support;
- “(3) Arrearages for current support and current cash medical support; and
- “(4) Other child support obligations.

“(b) If an employer is required to withhold earnings or employee contributions for health insurance coverage pursuant to more than one support order, the employer shall prorate

among the support orders subject to withholding the amount of the employee's earnings that are available for withholding within the limits of section 303(b) of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 U.S.C. § 1673(b)), and determine whether the available earnings are sufficient to satisfy current cash support due under all applicable support orders. The employer shall not withhold contributions for health insurance coverage required under any support order until all the employee's current cash support obligations are satisfied. The employer shall fully satisfy each priority level stated in subsection (a) of this section for all of the employee's support orders before applying payments to an obligation with a lesser priority.

“(c) An employer shall apply the law of the employee's principal place of employment in determining the limitations and priorities applicable to the withholding of employee contributions for health insurance coverage.”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia