

8977

2009-2010 Regular Sessions

I N A S S E M B L Y

June 17, 2009

Introduced by M. of A. WEINSTEIN -- (at request of the Office of Temporary and Disability Assistance) -- read once and referred to the Committee on Judiciary

AN ACT to amend the family court act and the domestic relations law, in relation to establishing definitions for "cash medical support", and when health insurance benefits are "reasonable in cost" and "reasonably accessible"; to amend the civil practice law and rules, in relation to amending the priority for deductions via an income execution; and to repeal certain provisions of the family court act and the domestic relations law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subparagraph 5 of paragraph (c) of subdivision 1 of section
2 413 of the family court act is REPEALED and a new subparagraph 5 is
3 added to read as follows:
4 (5) THE COURT SHALL DETERMINE THE PARTIES' OBLIGATION TO PROVIDE
5 HEALTH INSURANCE BENEFITS PURSUANT TO SECTION FOUR HUNDRED SIXTEEN OF
6 THIS PART AND TO PAY CASH MEDICAL SUPPORT AS PROVIDED UNDER THIS SUBPAR-
7 AGRAPH.
8 (I) "CASH MEDICAL SUPPORT" MEANS AN AMOUNT ORDERED TO BE PAID TOWARD
9 THE COST OF HEALTH INSURANCE PROVIDED BY A PUBLIC ENTITY OR BY A PARENT
10 THROUGH AN EMPLOYER OR ORGANIZATION, INCLUDING SUCH EMPLOYERS OR ORGAN-
11 IZATIONS WHICH ARE SELF INSURED, OR THROUGH OTHER AVAILABLE HEALTH
12 INSURANCE OR HEALTH CARE COVERAGE PLANS, AND/OR FOR OTHER HEALTH CARE
13 EXPENSES NOT COVERED BY INSURANCE.
14 (II) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND
15 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF
16 SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO
17 BE AVAILABLE, THE COST OF PROVIDING HEALTH INSURANCE BENEFITS SHALL BE
18 PRORATED BETWEEN THE PARTIES IN THE SAME PROPORTION AS EACH PARENT'S
19 INCOME IS TO THE COMBINED PARENTAL INCOME. IF THE CUSTODIAL PARENT IS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 ORDERED TO PROVIDE SUCH BENEFITS, THE NON-CUSTODIAL PARENT'S PRO RATA
2 SHARE OF SUCH COSTS SHALL BE ADDED TO THE BASIC SUPPORT OBLIGATION. IF
3 THE NON-CUSTODIAL PARENT IS ORDERED TO PROVIDE SUCH BENEFITS, THE CUSTO-
4 DIAL PARENT'S PRO RATA SHARE OF SUCH COSTS SHALL BE DEDUCTED FROM THE
5 BASIC SUPPORT OBLIGATION.

6 (III) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND
7 SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF
8 SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO
9 BE UNAVAILABLE, IF THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR
10 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO
11 TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, THE COURT SHALL
12 ORDER THE NON-CUSTODIAL PARENT TO PAY CASH MEDICAL SUPPORT AS FOLLOWS:

13 (A) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR MANAGED CARE
14 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM, THE LESSER OF THE AMOUNT
15 THAT WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
16 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
17 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
18 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
19 NON-CUSTODIAL AND CUSTODIAL PARENTS OR THE PREMIUM PAID BY THE MEDICAL
20 ASSISTANCE PROGRAM ON BEHALF OF THE CHILD OR CHILDREN TO THE MANAGED
21 CARE PLAN. THE COURT SHALL SEPARATELY STATE THE NON-CUSTODIAL PARENT'S
22 MONTHLY OBLIGATION. THE NON-CUSTODIAL PARENT'S CASH MEDICAL SUPPORT
23 OBLIGATION UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER
24 GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S
25 INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

26 (B) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR FEE-FOR-SERVICE
27 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM OTHER THAN A CHILD OR
28 CHILDREN DESCRIBED IN ITEM (A) OF THIS CLAUSE, THE COURT SHALL DETERMINE
29 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
30 GATION, WHICH SHALL BE EQUAL TO THE LESSER OF THE MONTHLY AMOUNT THAT
31 WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
32 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
33 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
34 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
35 NON-CUSTODIAL AND CUSTODIAL PARENTS TIMES TWELVE MONTHS OR THE NUMBER OF
36 MONTHS THAT THE CHILD OR CHILDREN ARE AUTHORIZED FOR FEE-FOR-SERVICE
37 COVERAGE DURING ANY YEAR. THE COURT SHALL SEPARATELY STATE IN THE ORDER
38 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
39 GATION AND, UPON PROOF TO THE COURT THAT THE NON-CUSTODIAL PARENT, AFTER
40 NOTICE OF THE AMOUNT DUE, HAS FAILED TO PAY THE PUBLIC ENTITY FOR
41 INCURRED HEALTH CARE EXPENSES, THE COURT SHALL ORDER THE NON-CUSTODIAL
42 PARENT TO PAY SUCH INCURRED HEALTH CARE EXPENSES UP TO THE MAXIMUM ANNU-
43 AL CASH MEDICAL SUPPORT OBLIGATION. SUCH AMOUNTS SHALL BE SUPPORT
44 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
45 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.
46 THE TOTAL ANNUAL AMOUNT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY
47 UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS
48 INCOME OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND
49 THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

50 (C) THE COURT SHALL ORDER CASH MEDICAL SUPPORT TO BE PAID BY THE NON-
51 CUSTODIAL PARENT FOR HEALTH CARE EXPENSES OF THE CHILD OR CHILDREN PAID
52 BY THE MEDICAL ASSISTANCE PROGRAM PRIOR TO THE ISSUANCE OF THE COURT'S
53 ORDER. THE AMOUNT OF SUCH SUPPORT SHALL BE CALCULATED AS PROVIDED UNDER
54 ITEM (A) OR (B) OF THIS CLAUSE, PROVIDED THAT THE AMOUNT THAT THE
55 NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER THIS ITEM SHALL NOT EXCEED
56 FIVE PERCENT OF HIS OR HER GROSS INCOME OR THE DIFFERENCE BETWEEN THE

NON-CUSTODIAL PARENT'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS, FOR THE YEAR WHEN THE EXPENSE WAS INCURRED. SUCH AMOUNTS SHALL BE SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.

(IV) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO PARAGRAPH ONE AND SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH TWO OF SUBDIVISION (E) OF SECTION FOUR HUNDRED SIXTEEN OF THIS PART ARE DETERMINED BY THE COURT TO BE UNAVAILABLE, AND THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR COVERAGE UNDER THE STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, THE COURT SHALL PRORATE EACH PARENT'S SHARE OF THE COST OF THE FAMILY CONTRIBUTION REQUIRED UNDER SUCH CHILD HEALTH INSURANCE PLAN IN THE SAME PROPORTION AS EACH PARENT'S INCOME IS TO THE COMBINED PARENTAL INCOME, AND STATE THE AMOUNT OF THE NON-CUSTODIAL PARENT'S SHARE IN THE ORDER. THE TOTAL AMOUNT OF CASH MEDICAL SUPPORT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

(V) IN ADDITION TO THE AMOUNTS ORDERED UNDER CLAUSE (II), (III), OR (IV) OF THIS SUBPARAGRAPH, THE COURT SHALL PRO RATE EACH PARENT'S SHARE OF REASONABLE HEALTH CARE EXPENSES NOT REIMBURSED OR PAID BY INSURANCE, THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, OR THE STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, IN THE SAME PROPORTION AS EACH PARENT'S INCOME IS TO THE COMBINED PARENTAL INCOME, AND STATE THE NON-CUSTODIAL PARENT'S SHARE AS A PERCENTAGE IN THE ORDER. THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH HEALTH CARE EXPENSES DETERMINED BY THE COURT TO BE DUE AND OWING SHALL BE SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT. IN ADDITION, THE COURT MAY DIRECT THAT THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH HEALTH CARE EXPENSES BE PAID IN ONE SUM OR IN PERIODIC SUMS, INCLUDING DIRECT PAYMENT TO THE HEALTH CARE PROVIDER.

(VI) UPON PROOF BY EITHER PARTY THAT CASH MEDICAL SUPPORT PURSUANT TO CLAUSE (II), (III), (IV) OR (V) OF THIS SUBPARAGRAPH WOULD BE UNJUST OR INAPPROPRIATE PURSUANT TO PARAGRAPH (F) OF SUBDIVISION ONE OF THIS SECTION, THE COURT SHALL:

(A) ORDER THE PARTIES TO PAY CASH MEDICAL SUPPORT AS THE COURT FINDS JUST AND APPROPRIATE, CONSIDERING THE BEST INTERESTS OF THE CHILD; AND

(B) SET FORTH IN THE ORDER THE FACTORS IT CONSIDERED, THE AMOUNT CALCULATED UNDER THIS SUBPARAGRAPH, THE REASON OR REASONS THE COURT DID NOT ORDER SUCH AMOUNT, AND THE BASIS FOR THE AMOUNT AWARDED.

S 2. Subparagraph 5 of paragraph (c) of subdivision 1-b of section 240 of the domestic relations law is REPEALED and a new subparagraph 5 is added to read as follows:

(5) THE COURT SHALL DETERMINE THE PARTIES' OBLIGATION TO PROVIDE HEALTH INSURANCE BENEFITS PURSUANT TO THIS SECTION AND TO PAY CASH MEDICAL SUPPORT AS PROVIDED UNDER THIS SUBPARAGRAPH.

(I) "CASH MEDICAL SUPPORT" MEANS AN AMOUNT ORDERED TO BE PAID TOWARD THE COST OF HEALTH INSURANCE PROVIDED BY A PUBLIC ENTITY OR BY A PARENT THROUGH AN EMPLOYER OR ORGANIZATION, INCLUDING SUCH EMPLOYERS OR ORGANIZATIONS WHICH ARE SELF INSURED, OR THROUGH OTHER AVAILABLE HEALTH INSURANCE OR HEALTH CARE COVERAGE PLANS, AND/OR FOR OTHER HEALTH CARE EXPENSES NOT COVERED BY INSURANCE.

1 (II) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
2 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
3 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE AVAILABLE, THE
4 COST OF PROVIDING HEALTH INSURANCE BENEFITS SHALL BE PRORATED BETWEEN
5 THE PARTIES IN THE SAME PROPORTION AS EACH PARENT'S INCOME IS TO THE
6 COMBINED PARENTAL INCOME. IF THE CUSTODIAL PARENT IS ORDERED TO PROVIDE
7 SUCH BENEFITS, THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH COSTS
8 SHALL BE ADDED TO THE BASIC SUPPORT OBLIGATION. IF THE NON-CUSTODIAL
9 PARENT IS ORDERED TO PROVIDE SUCH BENEFITS, THE CUSTODIAL PARENT'S PRO
10 RATA SHARE OF SUCH COSTS SHALL BE DEDUCTED FROM THE BASIC SUPPORT OBLI-
11 GATION.

12 (III) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
13 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
14 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE UNAVAILABLE, IF
15 THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR COVERAGE UNDER THE
16 MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO TITLE ELEVEN OF ARTI-
17 CLE FIVE OF THE SOCIAL SERVICES LAW, THE COURT SHALL ORDER THE NON-CUS-
18 TODIAL PARENT TO PAY CASH MEDICAL SUPPORT AS FOLLOWS:

19 (A) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR MANAGED CARE
20 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM, THE LESSER OF THE AMOUNT
21 THAT WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
22 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
23 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
24 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
25 NON-CUSTODIAL AND CUSTODIAL PARENTS OR THE PREMIUM PAID BY THE MEDICAL
26 ASSISTANCE PROGRAM ON BEHALF OF THE CHILD OR CHILDREN TO THE MANAGED
27 CARE PLAN. THE COURT SHALL SEPARATELY STATE THE NON-CUSTODIAL PARENT'S
28 MONTHLY OBLIGATION. THE NON-CUSTODIAL PARENT'S CASH MEDICAL SUPPORT
29 OBLIGATION UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER
30 GROSS INCOME, OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S
31 INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

32 (B) IN THE CASE OF A CHILD OR CHILDREN AUTHORIZED FOR FEE-FOR-SERVICE
33 COVERAGE UNDER THE MEDICAL ASSISTANCE PROGRAM OTHER THAN A CHILD OR
34 CHILDREN DESCRIBED IN ITEM (A) OF THIS CLAUSE, THE COURT SHALL DETERMINE
35 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
36 GATION, WHICH SHALL BE EQUAL TO THE LESSER OF THE MONTHLY AMOUNT THAT
37 WOULD BE REQUIRED AS A FAMILY CONTRIBUTION UNDER THE STATE'S CHILD
38 HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF
39 THE PUBLIC HEALTH LAW FOR THE CHILD OR CHILDREN IF THEY WERE IN A
40 TWO-PARENT HOUSEHOLD WITH INCOME EQUAL TO THE COMBINED INCOME OF THE
41 NON-CUSTODIAL AND CUSTODIAL PARENTS TIMES TWELVE MONTHS OR THE NUMBER OF
42 MONTHS THAT THE CHILD OR CHILDREN ARE AUTHORIZED FOR FEE-FOR-SERVICE
43 COVERAGE DURING ANY YEAR. THE COURT SHALL SEPARATELY STATE IN THE ORDER
44 THE NON-CUSTODIAL PARENT'S MAXIMUM ANNUAL CASH MEDICAL SUPPORT OBLI-
45 GATION AND, UPON PROOF TO THE COURT THAT THE NON-CUSTODIAL PARENT, AFTER
46 NOTICE OF THE AMOUNT DUE, HAS FAILED TO PAY THE PUBLIC ENTITY FOR
47 INCURRED HEALTH CARE EXPENSES, THE COURT SHALL ORDER THE NON-CUSTODIAL
48 PARENT TO PAY SUCH INCURRED HEALTH CARE EXPENSES UP TO THE MAXIMUM ANNU-
49 AL CASH MEDICAL SUPPORT OBLIGATION. SUCH AMOUNTS SHALL BE SUPPORT
50 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
51 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.
52 THE TOTAL ANNUAL AMOUNT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY
53 UNDER THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS
54 INCOME OR THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND
55 THE SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

1 (C) THE COURT SHALL ORDER CASH MEDICAL SUPPORT TO BE PAID BY THE NON-
2 CUSTODIAL PARENT FOR HEALTH CARE EXPENSES OF THE CHILD OR CHILDREN PAID
3 BY THE MEDICAL ASSISTANCE PROGRAM PRIOR TO THE ISSUANCE OF THE COURT'S
4 ORDER. THE AMOUNT OF SUCH SUPPORT SHALL BE CALCULATED AS PROVIDED UNDER
5 ITEM (A) OR (B) OF THIS CLAUSE, PROVIDED THAT THE AMOUNT THAT THE
6 NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER THIS ITEM SHALL NOT EXCEED
7 FIVE PERCENT OF HIS OR HER GROSS INCOME OR THE DIFFERENCE BETWEEN THE
8 NON-CUSTODIAL PARENT'S INCOME AND THE SELF-SUPPORT RESERVE, WHICHEVER IS
9 LESS, FOR THE YEAR WHEN THE EXPENSE WAS INCURRED. SUCH AMOUNTS SHALL BE
10 SUPPORT ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES AS
11 PROVIDED BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT.

12 (IV) WHERE HEALTH INSURANCE BENEFITS PURSUANT TO SUBPARAGRAPH ONE AND
13 CLAUSES (I) AND (II) OF SUBPARAGRAPH TWO OF PARAGRAPH (C) OF SUBDIVISION
14 ONE OF THIS SECTION ARE DETERMINED BY THE COURT TO BE UNAVAILABLE, AND
15 THE CHILD OR CHILDREN ARE DETERMINED ELIGIBLE FOR COVERAGE UNDER THE
16 STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT TO TITLE ONE-A OF ARTICLE
17 TWENTY-FIVE OF THE PUBLIC HEALTH LAW, THE COURT SHALL PRORATE EACH
18 PARENT'S SHARE OF THE COST OF THE FAMILY CONTRIBUTION REQUIRED UNDER
19 SUCH CHILD HEALTH INSURANCE PLAN IN THE SAME PROPORTION AS EACH PARENT'S
20 INCOME IS TO THE COMBINED PARENTAL INCOME, AND STATE THE AMOUNT OF THE
21 NON-CUSTODIAL PARENT'S SHARE IN THE ORDER. THE TOTAL AMOUNT OF CASH
22 MEDICAL SUPPORT THAT THE NON-CUSTODIAL PARENT IS ORDERED TO PAY UNDER
23 THIS CLAUSE SHALL NOT EXCEED FIVE PERCENT OF HIS OR HER GROSS INCOME, OR
24 THE DIFFERENCE BETWEEN THE NON-CUSTODIAL PARENT'S INCOME AND THE
25 SELF-SUPPORT RESERVE, WHICHEVER IS LESS.

26 (V) IN ADDITION TO THE AMOUNTS ORDERED UNDER CLAUSE (II), (III), OR
27 (IV), THE COURT SHALL PRO RATE EACH PARENT'S SHARE OF REASONABLE HEALTH
28 CARE EXPENSES NOT REIMBURSED OR PAID BY INSURANCE, THE MEDICAL ASSIST-
29 ANCE PROGRAM ESTABLISHED PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE
30 SOCIAL SERVICES LAW, OR THE STATE'S CHILD HEALTH INSURANCE PLAN PURSUANT
31 TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, IN THE
32 SAME PROPORTION AS EACH PARENT'S INCOME IS TO THE COMBINED PARENTAL
33 INCOME, AND STATE THE NON-CUSTODIAL PARENT'S SHARE AS A PERCENTAGE IN
34 THE ORDER. THE NON-CUSTODIAL PARENT'S PRO RATA SHARE OF SUCH HEALTH CARE
35 EXPENSES DETERMINED BY THE COURT TO BE DUE AND OWING SHALL BE SUPPORT
36 ARREARS/PAST DUE SUPPORT AND SHALL BE SUBJECT TO ANY REMEDIES PROVIDED
37 BY LAW FOR THE ENFORCEMENT OF SUPPORT ARREARS/PAST DUE SUPPORT. IN ADDI-
38 TION, THE COURT MAY DIRECT THAT THE NON-CUSTODIAL PARENT'S PRO RATA
39 SHARE OF SUCH HEALTH CARE EXPENSES BE PAID IN ONE SUM OR IN PERIODIC
40 SUMS, INCLUDING DIRECT PAYMENT TO THE HEALTH CARE PROVIDER.

41 (VI) UPON PROOF BY EITHER PARTY THAT CASH MEDICAL SUPPORT PURSUANT TO
42 CLAUSE (II), (III), (IV), OR (V) OF THIS SUBPARAGRAPH WOULD BE UNJUST OR
43 INAPPROPRIATE PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION, THE COURT
44 SHALL:

45 (A) ORDER THE PARTIES TO PAY CASH MEDICAL SUPPORT AS THE COURT FINDS
46 JUST AND APPROPRIATE, CONSIDERING THE BEST INTERESTS OF THE CHILD; AND

47 (B) SET FORTH IN THE ORDER THE FACTORS IT CONSIDERED, THE AMOUNT
48 CALCULATED UNDER THIS SUBPARAGRAPH, THE REASON OR REASONS THE COURT DID
49 NOT ORDER SUCH AMOUNT, AND THE BASIS FOR THE AMOUNT AWARDED.

50 S 3. Subdivision (d) of section 416 of the family court act is amended
51 by adding a new paragraph 3 to read as follows:

52 (3) WHEN THE PERSON ON WHOSE BEHALF THE PETITION IS BROUGHT IS A CHILD
53 IN ACCORDANCE WITH SUBDIVISION (E) OF THIS SECTION, HEALTH INSURANCE
54 BENEFITS SHALL BE CONSIDERED "REASONABLE IN COST" IF THE COST OF HEALTH
55 INSURANCE BENEFITS DOES NOT EXCEED FIVE PERCENT OF THE COMBINED PARENTAL
56 GROSS INCOME. THE COST OF HEALTH INSURANCE BENEFITS SHALL REFER TO THE

1 COST OF THE PREMIUM AND DEDUCTIBLE ATTRIBUTABLE TO ADDING THE CHILD OR
2 CHILDREN TO EXISTING COVERAGE OR THE DIFFERENCE BETWEEN SUCH COSTS FOR
3 SELF-ONLY AND FAMILY COVERAGE. PROVIDED, HOWEVER, THE PRESUMPTION THAT
4 THE HEALTH INSURANCE BENEFITS ARE REASONABLE IN COST MAY BE REBUTTED
5 UPON A FINDING THAT THE COST IS UNJUST OR INAPPROPRIATE WHICH FINDING
6 SHALL BE BASED ON THE CIRCUMSTANCES OF THE CASE, THE COST AND COMPREHEN-
7 SIVENESS OF THE HEALTH INSURANCE BENEFITS FOR WHICH THE CHILD OR CHIL-
8 DREN MAY OTHERWISE BE ELIGIBLE, AND THE BEST INTERESTS OF THE CHILD OR
9 CHILDREN. IN NO INSTANCE SHALL HEALTH INSURANCE BENEFITS BE CONSIDERED
10 "REASONABLE IN COST" IF A PARENT'S SHARE OF THE COST OF EXTENDING SUCH
11 COVERAGE WOULD REDUCE THE INCOME OF THAT PARENT BELOW THE SELF-SUPPORT
12 RESERVE. HEALTH INSURANCE BENEFITS ARE "REASONABLY ACCESSIBLE" IF THE
13 CHILD LIVES WITHIN THE GEOGRAPHIC AREA COVERED BY THE PLAN OR LIVES
14 WITHIN THIRTY MINUTES OR THIRTY MILES OF TRAVEL TIME FROM THE CHILD'S
15 RESIDENCE TO THE SERVICES COVERED BY THE HEALTH INSURANCE BENEFITS OR
16 THROUGH BENEFITS PROVIDED UNDER A RECIPROCAL AGREEMENT; PROVIDED, HOWEV-
17 ER, THIS PRESUMPTION MAY BE REBUTTED FOR GOOD CAUSE SHOWN INCLUDING, BUT
18 NOT LIMITED TO, THE SPECIAL HEALTH NEEDS OF THE CHILD. THE COURT SHALL
19 SET FORTH SUCH FINDING AND THE REASONS THEREFOR IN THE ORDER OF SUPPORT.

20 S 4. Paragraph (b) of subdivision 1 of section 240 of the domestic
21 relations law is amended by adding a new subparagraph 3 to read as
22 follows:

23 (3) WHEN THE PERSON ON WHOSE BEHALF THE PETITION IS BROUGHT IS A CHILD
24 IN ACCORDANCE WITH PARAGRAPH (C) OF THIS SUBDIVISION, HEALTH INSURANCE
25 BENEFITS SHALL BE CONSIDERED "REASONABLE IN COST" IF THE COST OF HEALTH
26 INSURANCE BENEFITS DOES NOT EXCEED FIVE PERCENT OF THE COMBINED PARENTAL
27 GROSS INCOME. THE COST OF HEALTH INSURANCE BENEFITS SHALL REFER TO THE
28 COST OF THE PREMIUM AND DEDUCTIBLE ATTRIBUTABLE TO ADDING THE CHILD OR
29 CHILDREN TO EXISTING COVERAGE OR THE DIFFERENCE BETWEEN SUCH COSTS FOR
30 SELF-ONLY AND FAMILY COVERAGE. PROVIDED, HOWEVER, THE PRESUMPTION THAT
31 THE HEALTH INSURANCE BENEFITS ARE REASONABLE IN COST MAY BE REBUTTED
32 UPON A FINDING THAT THE COST IS UNJUST OR INAPPROPRIATE WHICH FINDING
33 SHALL BE BASED ON THE CIRCUMSTANCES OF THE CASE, THE COST AND COMPREHEN-
34 SIVENESS OF THE HEALTH INSURANCE BENEFITS FOR WHICH THE CHILD OR CHIL-
35 DREN MAY OTHERWISE BE ELIGIBLE, AND THE BEST INTERESTS OF THE CHILD OR
36 CHILDREN. IN NO INSTANCE SHALL HEALTH INSURANCE BENEFITS BE CONSIDERED
37 "REASONABLE IN COST" IF A PARENT'S SHARE OF THE COST OF EXTENDING SUCH
38 COVERAGE WOULD REDUCE THE INCOME OF THAT PARENT BELOW THE SELF-SUPPORT
39 RESERVE. HEALTH INSURANCE BENEFITS ARE "REASONABLY ACCESSIBLE" IF THE
40 CHILD LIVES WITHIN THE GEOGRAPHIC AREA COVERED BY THE PLAN OR LIVES
41 WITHIN THIRTY MINUTES OR THIRTY MILES OF TRAVEL TIME FROM THE CHILD'S
42 RESIDENCE TO THE SERVICES COVERED BY THE HEALTH INSURANCE BENEFITS OR
43 THROUGH BENEFITS PROVIDED UNDER A RECIPROCAL AGREEMENT; PROVIDED, HOWEV-
44 ER, THIS PRESUMPTION MAY BE REBUTTED FOR GOOD CAUSE SHOWN INCLUDING, BUT
45 NOT LIMITED TO, THE SPECIAL HEALTH NEEDS OF THE CHILD. THE COURT SHALL
46 SET FORTH SUCH FINDING AND THE REASONS THEREFOR IN THE ORDER OF SUPPORT.

47 S 5. Subparagraph (iii) of paragraph 2 of subdivision (e) of section
48 416 of the family court act, as added by chapter 624 of the laws of
49 2002, is amended to read as follows:

50 (iii) If neither parent has available health insurance benefits, the
51 court shall direct in the order of support that the custodial parent
52 apply for the state's child health insurance plan pursuant to title
53 one-A of article twenty-five of the public health law and the medical
54 assistance program established pursuant to title eleven of article five
55 of the social services law. [If eligible for such coverage, the court
56 shall prorate the cost of any premium or family contribution in accord-

1 ance with subdivision (f) of this section.] A direction issued under
2 this subdivision shall not limit or alter either parent's obligation to
3 obtain health insurance benefits at such time as they become available
4 as required pursuant to subdivision (c) of this section. NOTHING IN
5 THIS SUBDIVISION SHALL ALTER OR LIMIT THE AUTHORITY OF THE MEDICAL
6 ASSISTANCE PROGRAM TO DETERMINE WHEN IT IS CONSIDERED COST EFFECTIVE TO
7 REQUIRE A CUSTODIAL PARENT TO ENROLL A CHILD IN AN AVAILABLE GROUP
8 HEALTH INSURANCE PLAN PURSUANT TO PARAGRAPHS (B) AND (C) OF SUBDIVISION
9 ONE OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

10 S 6. Clause (iii) of subparagraph 2 of paragraph (c) of subdivision 1
11 of section 240 of the domestic relations law, as amended by chapter 624
12 of the laws of 2002, is amended to read as follows:

13 (iii) If neither parent has available health insurance benefits, the
14 court shall direct in the order of support that the custodial parent
15 apply for the state's child health insurance plan pursuant to title
16 one-A of article twenty-five of the public health law and the medical
17 assistance program established pursuant to title eleven of article five
18 of the social services law. [If eligible for such coverage, the court
19 shall prorate the cost of any premium or family contribution in accord-
20 ance with paragraph (d) of this subdivision.] A direction issued under
21 this subdivision shall not limit or alter either parent's obligation to
22 obtain health insurance benefits at such time as they become available,
23 as required pursuant to paragraph (a) of this subdivision. NOTHING IN
24 THIS SUBDIVISION SHALL ALTER OR LIMIT THE AUTHORITY OF THE MEDICAL
25 ASSISTANCE PROGRAM TO DETERMINE WHEN IT IS CONSIDERED COST EFFECTIVE TO
26 REQUIRE A CUSTODIAL PARENT TO ENROLL A CHILD IN AN AVAILABLE GROUP
27 HEALTH INSURANCE PLAN PURSUANT TO PARAGRAPHS (B) AND (C) OF SUBDIVISION
28 ONE OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THE SOCIAL SERVICES LAW.

29 S 7. Subdivision (f) of section 416 of the family court act is
30 REPEALED and a new subdivision (f) is added to read as follows:

31 (F) THE COST OF PROVIDING HEALTH INSURANCE BENEFITS OR BENEFITS UNDER
32 THE STATE'S CHILD HEALTH INSURANCE PLAN OR THE MEDICAL ASSISTANCE
33 PROGRAM, PURSUANT TO SUBDIVISION (E) OF THIS SECTION, SHALL BE DEEMED
34 CASH MEDICAL SUPPORT, AND THE COURT SHALL DETERMINE THE OBLIGATION OF
35 EITHER OR BOTH PARENTS TO CONTRIBUTE TO THE COST THEREOF PURSUANT TO
36 SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION FOUR
37 HUNDRED THIRTEEN OF THIS PART.

38 S 8. Paragraph (d) of subdivision 1 of section 240 of the domestic
39 relations law is REPEALED and a new paragraph (d) is added to read as
40 follows:

41 (D) THE COST OF PROVIDING HEALTH INSURANCE BENEFITS OR BENEFITS UNDER
42 THE STATE'S CHILD HEALTH INSURANCE PLAN OR THE MEDICAL ASSISTANCE
43 PROGRAM, PURSUANT TO PARAGRAPH (C) OF THIS SUBDIVISION, SHALL BE DEEMED
44 CASH MEDICAL SUPPORT, AND THE COURT SHALL DETERMINE THE OBLIGATION OF
45 EITHER OR BOTH PARENTS TO CONTRIBUTE TO THE COST THEREOF PURSUANT TO
46 SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVISION ONE-B OF THIS SECTION.

47 S 9. Section 514 of the family court act, as amended by chapter 81 of
48 the laws of 1995, is amended to read as follows:

49 S 514. Liability of father to mother. The father is liable [to pay]
50 FOR the reasonable expenses of the mother's confinement and recovery and
51 such reasonable expenses in connection with her pregnancy as DETERMINED
52 BY the court [in its discretion may deem proper]; provided, however,
53 where the mother's confinement, recovery and expenses in connection with
54 her pregnancy were paid under the medical assistance program on the
55 mother's behalf, the father may be liable to the social services
56 district furnishing such medical assistance and to the state department

1 of [social services] HEALTH for [the full amount of] medical assistance
2 so expended[, as the court in its discretion may deem proper]. SUCH
3 EXPENSES, INCLUDING SUCH EXPENSES PAID BY THE MEDICAL ASSISTANCE PROGRAM
4 ON THE MOTHER'S BEHALF, SHALL BE DEEMED CASH MEDICAL SUPPORT AND THE
5 COURT SHALL DETERMINE THE OBLIGATION OF THE PARTIES TO CONTRIBUTE TO THE
6 COST THEREOF PURSUANT TO SUBPARAGRAPH FIVE OF PARAGRAPH (C) OF SUBDIVI-
7 SION ONE OF SECTION FOUR HUNDRED THIRTEEN OF THIS ACT.

8 S 10. Subdivision 1 of section 545 of the family court act, as amended
9 by chapter 214 of the laws of 1998, is amended to read as follows:

10 1. In a proceeding in which the court has made an order of filiation,
11 the court shall direct the parent or parents possessed of sufficient
12 means or able to earn such means to pay weekly or at other fixed periods
13 a fair and reasonable sum according to their respective means as the
14 court may determine and apportion for such child's support and educa-
15 tion, until the child is twenty-one. The order shall be effective as of
16 the earlier of the date of the application for an order of filiation,
17 or, if the children for whom support is sought are in receipt of public
18 assistance, the date for which their eligibility for public assistance
19 was effective. Any retroactive amount of child support shall be support
20 arrears/past-due support and shall be paid in one sum or periodic sums
21 as the court shall direct, taking into account any amount of temporary
22 support which has been paid. In addition, such retroactive child support
23 shall be enforceable in any manner provided by law including, but not
24 limited to, an execution for support enforcement pursuant to subdivision
25 (b) of section fifty-two hundred forty-one of the civil practice law and
26 rules. The court shall direct such parent to make his or her residence
27 known at all times should he or she move from the address last known to
28 the court by reporting such change to the support collection unit desig-
29 nated by the appropriate social services district. The order shall
30 contain the social security numbers of the named parents. The order may
31 also direct each parent to pay an amount as the court may determine and
32 apportion for the support of the child prior to the making of the order
33 of filiation, and may direct each parent to pay an amount as the court
34 may determine and apportion for [(i)] the funeral expenses if the child
35 has died[; (ii) the]. THE necessary expenses incurred by or for the
36 mother in connection with her confinement and recovery[;] and [(iii)]
37 such expenses in connection with the pregnancy of the mother [as the
38 court may deem proper] SHALL BE DEEMED CASH MEDICAL SUPPORT, AND THE
39 COURT SHALL DETERMINE THE OBLIGATION OF EITHER OR BOTH PARENTS TO
40 CONTRIBUTE TO THE COST THEREOF PURSUANT TO SUBPARAGRAPH FIVE OF PARA-
41 GRAPH (C) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED THIRTEEN OF THIS
42 ACT. In addition, the court shall make provisions for health insurance
43 benefits in accordance with the requirements of section four hundred
44 sixteen of this act.

45 S 11. Subparagraph (i) of paragraph 2 of subdivision (b) of section
46 5241 of the civil practice law and rules, as amended by chapter 533 of
47 the laws of 1999, is amended to read as follows:

48 (i) Where the court orders the debtor to provide health insurance
49 benefits for specified dependents, an execution for medical support
50 enforcement may, except as provided for herein, be issued by the support
51 collection unit, or by the sheriff, the clerk of court or the attorney
52 for the creditor as an officer of the court; provided, however, that
53 when the court issues an order of child support or combined child and
54 spousal support on behalf of persons other than those in receipt of
55 public assistance or in receipt of services pursuant to section one
56 hundred eleven-g of the social services law, such medical execution

1 shall be in the form of a separate qualified medical child support order
2 as provided by subdivision [(f)] (J) of section four hundred sixteen of
3 the family court act and paragraph [(f)] (H) of subdivision one of
4 section two hundred forty of the domestic relations law. Such execution
5 for medical support enforcement may require the debtor's employer,
6 organization or group health plan administrator to purchase on behalf of
7 the debtor and the debtor's dependents such available health insurance
8 benefits. Such execution shall direct the employer, organization or
9 group health plan administrator to provide to the dependents for whom
10 such benefits are required to be provided or such dependents' custodial
11 parent or legal guardian or social services district on behalf of
12 persons applying for or in receipt of public assistance any identifica-
13 tion cards and benefit claim forms and to withhold from the debtor's
14 income the employee's share of the cost of such health insurance bene-
15 fits, and to provide written confirmation of such enrollment indicating
16 the date such benefits were or become available or that such benefits
17 are not available and the reasons therefor to the issuer of the
18 execution. An execution for medical support enforcement shall not
19 require a debtor's employer, organization or group health plan adminis-
20 trator to purchase or otherwise acquire health insurance or health
21 insurance benefits that would not otherwise be available to the debtor
22 by reason of his or her employment or membership. Nothing herein shall
23 be deemed to obligate or otherwise hold any employer, organization or
24 group health plan administrator responsible for an option exercised by
25 the debtor in selecting medical insurance coverage by an employee or
26 member.

27 S 12. Subdivision (h) of section 5241 of the civil practice law and
28 rules, as amended by chapter 398 of the laws of 1997, is amended to read
29 as follows:

30 (h) Priority. A levy pursuant to this section or an income deduction
31 order pursuant to section 5242 of this chapter shall take priority over
32 any other assignment, levy or process. If an employer or income payor is
33 served with more than one execution pursuant to this section, or with an
34 execution pursuant to this section and also an order pursuant to section
35 5242 of this chapter, and if the combined total amount of the deductions
36 to be withheld exceeds the limits set forth in subdivision (g) of this
37 section, the employer or income payor shall withhold the maximum amount
38 permitted thereby and pay to each creditor that proportion thereof which
39 such creditor's claim bears to the combined total. Any additional
40 deduction authorized by subdivision (g) of this section to be applied to
41 the reduction of arrears shall be applied to such arrears in proportion
42 to the amount of arrears due to each creditor. Deductions to satisfy
43 CURRENT support obligations[, including any additional deductions
44 authorized by subdivision (g) of this section,] shall have priority over
45 deductions for the debtor's share of health insurance premiums WHICH
46 SHALL HAVE PRIORITY OVER ANY ADDITIONAL DEDUCTION AUTHORIZED BY SUBDIVI-
47 SION (G) OF THIS SECTION.

48 S 13. This act shall take effect on the ninetieth day after it shall
49 have become a law and shall apply to any proceeding to establish or
50 modify a child support obligation, including a medical support obli-
51 gation, commenced on or after such date.