§ 416. Elements of support; provisions for accident, life and health insurance benefits. (a) The court may include in the requirements for an order for support the providing of necessary shelter, food, clothing, care, medical attention, expenses of confinement, the expense of education, payment of funeral expenses, and other proper and reasonable expenses.

(b) The court may also order a party to purchase, maintain, or assign a policy of accident insurance or insurance on the life of either party and designate in the case of life insurance, the person or persons on whose behalf the petition is brought or in the case of accident insurance, the insured party as irrevocable beneficiaries during a period of time fixed by the court. The obligation to provide such insurance shall cease upon the termination of such party's duty to provide support.

(c) Every support order shall provide that if any legally responsible relative currently, or at any time in the future, has health insurance benefits available that may be extended or obtained to cover any person on whose behalf the petition is brought, such responsible relative is required to exercise the option of additional coverage in favor of such person whom he or she is legally responsible to support and to execute and deliver to such person any forms, notices, documents, or instruments to assure timely payment of any health insurance claims for such person.

(d) As used in this section, the following terms shall have the following meanings: (1) "Health insurance benefits" means any medical, dental, optical and prescription drugs and health care services or other health care benefits that may be provided for a dependent 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.

(2) "Available health insurance benefits" means any health insurance benefits that are reasonable in cost and that are reasonably accessible to the person on whose behalf the petition is brought. Health insurance benefits that are not reasonable in cost or whose services are not reasonably accessible to such person shall be considered unavailable.

(3) When the person on whose behalf the petition is brought is a child in accordance with subdivision (e) of this section, health insurance benefits shall be considered "reasonable in cost" if the cost of health

insurance benefits does not exceed five percent of the combined parental gross income. The cost of health insurance benefits shall refer to the cost of the premium and deductible attributable to adding the child or children to existing coverage or the difference between such costs for self-only and family coverage. Provided, however, the presumption that the health insurance benefits are reasonable in cost may be rebutted upon a finding that the cost is unjust or inappropriate which finding shall be based on the circumstances of the case, the cost and comprehensiveness of the health insurance benefits for which the child or children may otherwise be eligible, and the best interests of the child or children. In no instance shall health insurance benefits be considered "reasonable in cost" if a parent's share of the cost of extending such coverage would reduce the income of that parent below the self-support reserve. Health insurance benefits are "reasonably accessible" if the child lives within the geographic area covered by the plan or lives within thirty minutes or thirty miles of travel time from the child's residence to the services covered by the health insurance benefits or through benefits provided under a reciprocal agreement; provided, however, this presumption may be rebutted for good cause shown including, but not limited to, the special health needs of the child. The court shall set forth such finding and the reasons therefor in the order of support.

(e) When the person on whose behalf the petition is brought is a child, the court shall consider the availability of health insurance benefits to all parties and shall take the following action to insure that health insurance benefits are provided for the benefit of the child:

(1) Where the child is presently covered by health insurance benefits, the court shall direct in the order of support that such coverage be maintained, unless either parent requests the court to make a direction for health insurance benefits coverage pursuant to paragraph two of this subdivision.

(2) Where the child is not presently covered by health insurance benefits, the court shall make its determination as follows:

(i) If only one parent has available health insurance benefits, the court shall direct in the order of support that such parent provide health insurance benefits.

(ii) If both parents have available health insurance benefits the court shall direct in the order of support that either parent or both parents provide such health insurance. The court shall make such determination based on the circumstances of the case, including, but not limited to, the cost and comprehensiveness of the respective health insurance benefits and the best interests of the child.

(iii) If neither parent has available health insurance benefits, the court shall direct in the order of support that the custodial parent apply for the state's child health insurance plan pursuant to title one-A of article twenty-five of the public health law and the medical assistance program established pursuant to title eleven of article five of the social services law. A direction issued under this subdivision shall not limit or alter either parent's obligation to obtain health insurance benefits at such time as they become available as required pursuant to subdivision (c) of this section. Nothing in this subdivision shall alter or limit the authority of the medical assistance program to determine when it is considered cost effective to require a custodial parent to enroll a child in an available group health insurance plan pursuant to paragraphs (b) and (c) of subdivision one of section three hundred sixty-seven-a of the social services law.

(f) The cost of providing health insurance benefits or benefits under the state's child health insurance plan or the medical assistance program, pursuant to subdivision (e) of this section, shall be deemed cash medical support, and the court shall determine the obligation of either or both parents to contribute to the cost thereof pursuant to subparagraph five of paragraph (c) of subdivision one of section four hundred thirteen of this part.

(g) The court shall provide in the order of support that the legally responsible relative immediately notify the other party, or the other party and the support collection unit when the order is issued on behalf of a child in receipt of public assistance and care or in receipt of services pursuant to section one hundred eleven-g of the social services law, of any change in health insurance benefits, including any termination of benefits, change in the health insurance benefit carrier, premium, or extent and availability of existing or new benefits.

(h) Where the court determines that health insurance benefits are available, the court shall provide in the order of support that the

legally responsible relative immediately enroll the eligible dependents named in the order who are otherwise eligible for such benefits without regard to any seasonal enrollment restrictions. The support order shall further direct the legally responsible relative to maintain such benefits as long as they remain available to such relative. Such order shall further direct the legally responsible relative to assign all insurance reimbursement payments for health care expenses incurred for his or her eligible dependents to the provider of such services or the party actually having incurred and satisfied such expenses, as appropriate.

(i) When the court issues an order of child support or combined child and spousal support on behalf of persons in receipt of public assistance and care or in receipt of services pursuant to section one hundred eleven-g of the social services law, such order shall further direct that the provision of health care benefits shall be immediately enforced pursuant to section fifty-two hundred forty-one of the civil practice law and rules.

(j) When the court issues an order of child support or combined child and spousal support on behalf of persons other than those in receipt of public assistance and care or in receipt of services pursuant to section one hundred eleven-g of the social services law, the court shall also issue a separate order which shall include the necessary direction to ensure the order's characterization as a qualified medical child support order as defined by section six hundred nine of the employee retirement income security act of 1974 (29 USC 1169). Such order shall: (i) clearly state that it creates or recognizes the existence of the right of the named dependent to be enrolled and to receive benefits for which the legally responsible relative is eligible under the available group health plans, and shall clearly specify the name, social security number and mailing address of the legally responsible relative, and of each dependent to be covered by the order; (ii) provide a clear description of the type of coverage to be provided by the group health plan to each such dependent or the manner in which the type of coverage is to be determined; and (iii) specify the period of time to which the order applies. The court shall not require the group health plan to provide any type or form of benefit or option not otherwise provided under the group health plan except to the extent necessary to meet the

requirements of a law relating to medical child support described in section one thousand three hundred and ninety-six g-1 of title forty-two of the United States code.

(k) Upon a finding that a legally responsible relative wilfully failed to obtain health insurance benefits in violation of a court order, such relative will be presumptively liable for all health care expenses incurred on behalf of such dependents from the first date such dependents were eligible to be enrolled to receive health insurance benefits after the issuance of the order of support directing the acquisition of such coverage.