



SENATE BILL 66, RELATING TO HEALTH CARE COVERAGE FOR CHILDREN IN TITLE IV-D CASES

We appreciate Attorney General Abbott's leadership on the problem of uninsured children in Title IV-D child support cases, and we appreciate Senator Nelson authoring this legislation to attempt to provide health insurance coverage for this group through private insurers. We particularly appreciate Senator Nelson's efforts to ensure that SB 66 would work in a compatible way with SB 841, Senator Averitt's CHIP bill. We are testifying "on" the bill because, while we are not opposed to the bill itself, we do have two concerns about implementation. This bill may help or hurt low-income families, depending on how the numbers finally turn out. As the OAG works to implement this legislation, you will need to closely monitor whether the premium cost is reasonable and whether the coverage is worth having.

The national consensus is that low-income families should not be asked to pay more than 5 percent of their income for health insurance, the national best practice in child support is also 5 percent, but this bill depends upon taking 9 percent. Let me illustrate with the following scenario:

MOM

Primary Residence for 2 Children
Income: \$36,720 a year, just above 200% of Poverty Level so not eligible for CHIP

DAD

Standard Possession Order
Income: Full-time, minimum-wage job earning \$13,624 per year, 126% of the Poverty Level

A Typical Current-Law Child Support Order

Table with 2 columns: Item, Amount. Dad's Monthly Gross \$1,135; Dad's Net Monthly Income \$1,012; Cash Medical Support Order (at 5%) \$ 50; Net Resources \$ 962

Table with 2 columns: Item, Amount. Mom Gets: Child Support (25% for 2) \$ 240; Cash Medical Support \$ 50; Total \$ 290

SB 66 Child Support Order

Table with 2 columns: Item, Amount. Dad's Monthly Gross \$1,135; Dad's Net Monthly Income \$1,012; OAG Insurance Premium (at 9%) \$ 91; Net Resources \$ 921

Table with 2 columns: Item, Amount. Mom Gets: Child Support (25% for 2) \$ 230; OAG Health Insurance ?; Total ?

The bill has an "objective" for coverage, but no requirements. In fact, the bill exempts this particular health insurance product from all coverage requirements in the Insurance Code. Unlike CHIP, it will probably not include vision or dental. By way of comparison, a CHIP premium is about \$130 per child. As the OAG moves forward we will follow the implementation and share with you what we learn about the bill's impact on low-income families.

Respectfully submitted,

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Resolution on the Definition of “Reasonable Cost” For the Purpose of Establishing a Parental Obligation to Obtain Health Care Coverage

Introduction:

The National Child Support Enforcement Association (NCSEA) believes that every child in America deserves appropriate health care.

NCSEA also recognizes that the IV-D child support program has had a historical responsibility to establish and enforce medical support obligations since 1984, reinforced by Congressional legislation in 1987, 1988, 1993, 1996 and 1998. The Child Support Performance and Incentives Act of 1998 (CSPIA) underscores the importance of this responsibility by requiring the development and adoption of a performance indicator to measure IV-D medical support performance. CSPIA also required IV-D agencies to use the National Medical Support Notice by October 1, 2001 and provided for the establishment of a National Medical Child Support Working Group to identify impediments to, and make recommendations for, effective IV-D medical support establishment and enforcement.

One of the recommendations of the National Medical Support Working Group was to replace the current federal regulation that deems all employment-related or group-based coverage to be reasonable in cost and, therefore, presumed to be available to the non-custodial parent, with a standard based on the cost of coverage relative to the income of the parent who provides the coverage. The report included a recommendation that if the cost of providing private coverage does not exceed five percent of the gross income of the parent who provides the coverage, then the cost should be deemed reasonable.

In a November 7, 2002 letter, NCSEA, the Eastern Regional Interstate Child Support Enforcement Association and the National Council of Child Support Directors called upon the Office of Child Support Enforcement to take the necessary steps to

promulgate regulatory amendments that recognize the 1985 definition of “reasonable cost” no longer corresponds to the changing nature of the national health care landscape.

THEREFORE, the National Child Support Enforcement Association resolves that the Office of Child Support Enforcement should immediately amend federal regulations to replace the current definition of “reasonable cost” with one that requires states to adopt:

1. an income-based standard definition of “reasonable cost”; or,
2. the 5% (of gross income) definition of reasonable cost, as recommended by the National Medical Support Working Group.

Background:

Federal law requires state child support agencies to pursue provision of medical support in all child support orders whenever such support is available to the non-custodial parent at “reasonable cost.” Federal regulations issued in 1985 define “reasonable cost” for the purpose of establishing a parental obligation to obtain health care coverage in the following manner: “health insurance is considered reasonable in cost if it is employment-based or other group health insurance, regardless of service delivery mechanism.” 45 CFR 303.31(a)(1).

While it might have been appropriate in 1985 to define “reasonable cost” as employment-related or available through other group insurance, employer-based health coverage has changed and is considerably more expensive today. The GAO estimates that in 1980 51% of employers who offered family coverage fully subsidized the cost, but in 1993 only 21% of employers did so.

The Medical Child Support Working Group recognized that this definition no longer corresponds to the changing nature of the national health care landscape. Thus, after extensive analysis and deliberation, the Working Group recommended that the current federal regulation that deems “reasonable” in cost all employment-related or group-based coverage should be replaced with a standard based on the cost coverage relative to the income of the parent who provides the coverage. (See the National Medical Child Support Working Group Report, Recommendation 9 and related discussion on pp. 3-11 to 3-16.)

Since that time extensive dialogue has taken place within the child support community surrounding the definition of “reasonable cost.” As evidenced by the November 7, 2002 letter from NCSEA, the Eastern Regional Interstate Child Support Association (ERICSA) and the National Council of Child Support Director, along with advocacy groups such as the National Women’s Law Center and the Center for Law and Social Policy, there is widespread consensus to establish a definition of “reasonable cost” that permits states to develop an income-based standard as a definition of “reasonable

cost” or adopt the 5% definition recommended by the National Medical Support Working Group.

Widespread consensus also exists to urge the Office of Child Support Enforcement to move as quickly as possible to establish the regulatory amendment needed to change the the “reasonable cost” definition. There is no reason to wait for any other action to be taken on the other recommendations of the National Medical Support Working Group since this amendment can have an immediate impact on the health coverage for children and the burden on parents.

A revised definition of “reasonable cost” would allow state child support agencies to concentrate their efforts on creating enforceable orders and should not result in any revenue loss for state and federal governments, which have no share in medical support premiums. A revised definition can benefit both families and states by ensuring that cash and medical support are provided to children by their parents and by preventing the creation of unenforceable medical support orders.