

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0253

HOUSE BILL NO. 1012

Introduced by: The Committee on Judiciary at the request of the Department of Social Services

1 FOR AN ACT ENTITLED, An Act to implement the requirements of the national medical
2 support notice regarding the collecting of child support.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 25-7A-58 be amended to read as follows:

5 25-7A-58. If an order for support requires a parent of a dependent child to provide health
6 insurance coverage for that child, any insurer subject to chapter 58-33 and who is engaged in the
7 business of health insurance as well as any employer or union who provides family health
8 insurance coverage to its employees or members, upon receiving written notice of such order and
9 an application from either the noncustodial parent, custodial parent, or the department, or upon
10 receiving a national medical support notice from any Title IV-D agency, is required to allow
11 enrollment of such dependent child ~~by application of either the noncustodial parent, custodial~~
12 ~~parent, or by the department~~ without regard to any applicable enrollment season restrictions and
13 without being subject to underwriting restrictions; or exclusionary riders; ~~or waiting periods.~~ The
14 insurer or plan administrator shall also complete the applicable sections of the national medical
15 support notice within forty business days of the date of the notice and forward the notice to any



1 person or entity specified in the notice. No insurer, employer, or union providing family health
2 insurance benefit plans as set out in this section may eliminate or cancel the ordered medical
3 support coverage for the dependent child unless it ~~can provide~~ is provided evidence to the
4 ~~department~~ that:

- 5 (1) The original court or administrative order is no longer in effect;
- 6 (2) The dependent child is or will be enrolled in comparable health insurance coverage
7 through another insurer or employer and which coverage will take effect not later than
8 the effective date of the elimination or cancellation of the previous health insurance
9 coverage; ~~or~~
- 10 (3) As an employer or union, and not a health insurer subject to the provisions of this
11 section, who previously provided family health insurance benefit coverage to its
12 employees or members, the employer or union has eliminated family health insurance
13 coverage to all of its employees or members; or
- 14 (4) Any available continuation coverage is not elected, or the period of such coverage has
15 expired.

16 Optional or supplementary coverages are not required to be included in the medical support
17 health insurance coverage unless specifically required by the order for support. Any person or
18 insurer who fails to comply with this section is, in addition to any other penalties permitted by
19 law, subject to the enforcement and penalty provisions of Title 58.

20 Any employer who intentionally fails to comply with any duties imposed by this section
21 commits a petty offense.

22 Section 2. That § 25-7A-59 be amended to read as follows:

23 25-7A-59. In any case where there is in effect an order for support requiring ~~of the~~ an obligor
24 to provide medical support for a dependent child, the employer of the obligor, upon receiving

1 ~~written a national medical support notice from the Department of Social Services of such order~~
2 ~~for support, any Title IV-D agency is required to complete the applicable sections and forward~~
3 ~~the notice to the persons or entities specified in the notice within twenty business days of the date~~
4 ~~of the notice. Upon receiving notice of successful enrollment, the employer shall withhold from~~
5 the employee's compensation the employee's share of premiums, if any, for health coverage
6 required for the medical support of the dependent child. Any employer withholding
7 compensation from an employee for the purposes set forth in this section is required to pay, upon
8 the premium due date, the employee's share of the premium to the insurer providing the health
9 coverage for the dependent child. The total amount withheld for support and health insurance
10 premiums may not exceed the amount specified in § 25-7A-32, giving priority to the payment
11 of current and past-due support.

12 Any employer who intentionally fails to comply with any duties imposed by this section
13 commits a petty offense.

14 Section 3. That chapter 25-7A be amended by adding thereto a NEW SECTION to read as
15 follows:

16 The department shall notify the obligor of its issuance of a national medical support notice
17 and further advise the obligor of the procedures to contest the enrollment and withholding of
18 premiums. An obligor may contest the enrollment and withholding of premiums by filing a
19 written request for administrative review with the department within ten days after service of the
20 notice. The grounds for contesting shall be based upon a mistake of fact and limited to the proper
21 identity of the obligor, or a dispute concerning the responsibility of the obligor to provide health
22 insurance coverage for the dependent child pursuant to an order for support. The employer shall
23 continue to withhold premiums until it receives notice that the contest is resolved and the obligor
24 is not responsible for the child's health insurance coverage. The employer shall also provide the

1 department written notification of termination of employment within five days of the obligor's
2 termination date.

3 Any employer who intentionally fails to comply with any duties imposed by this section
4 commits a petty offense.