

	INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL	
	Chapter 15: Medical Support	Effective Date: 6/3/19
	Section 2: Establishing Medical Support Orders	Version: 1.1 Revision Date: 6/3/19

BACKGROUND

Federal regulations require that states establish guidelines for setting and modifying child support awards that address how the parents will provide for the child(ren)’s health care needs through health insurance coverage and/or cash medical support.¹

The Title IV-D agency must ensure that new and modified child support orders contain provisions whereby one (1) or both parents are required to provide medical support for the child(ren) so long as it is available at a reasonable cost.²

Health insurance and cash medical support are considered reasonable in cost if the cost to the parent does not exceed 5% of the parent’s gross income, or at the state’s option, a reasonable alternative income-based numeric standard.³

The goal of the federal Affordable Care Act (ACA) is to make health insurance available to everyone at an affordable cost. The ACA’s individual mandate requires that every adult is required to maintain minimal essential health care coverage for themselves and all other persons they claim as exemptions for federal income tax purposes.⁴

The 2016 revisions to the Indiana Child Support Rules and Guidelines (Guidelines) recognize that the ACA’s affordability test and the Title IV-D reasonable cost test could produce different results in terms of whether or not a parent(s) should be ordered to provide health insurance for their child(ren). Consequently, the Indiana Supreme Court decided that instead of using the 5% test for reasonableness, Indiana would take the state’s option to use a reasonable alternative income-based numeric standard. Thus, “reasonable cost” is defined as being equivalent to the requirement to carry health insurance under the individual mandate of the ACA.⁵

POLICY

A child support order must require either one (1) or both parents to provide medical support for the child(ren) through health insurance coverage if the health insurance coverage is available to the parent at a reasonable cost.⁶

Health insurance may be public (for example, Medicaid, Children’s Health Insurance Program (CHIP), Hoosier Healthwise, or HIP 2.0), or private (for example, through an employer, a

¹ 45 C.F.R. § 302.56(c)(2)
² 45 C.F.R. § 303.31(b)
³ 45 C.F.R. § 303.31(a)(3)
⁴ 26 U.S.C. § 5000A(a); 42 U.S.C. § 18091
⁵ Ind. Child Support Guideline 7
⁶ IC 31-16-6-4(a); Ind. Child Support Guideline 7

retirement plan, Tricare, a Veteran's Health Care Program, or the federal healthcare marketplace).⁷

Guideline 7 establishes a rebuttable presumption that under the ACA health insurance is available at a reasonable cost to everyone.⁸

The presumption may be rebutted by providing:

1. An Exemption Certificate for the current year; or
2. Sufficient evidence to demonstrate that the parent's income is below the federal tax filing threshold.⁹

Uninsured health care expenses, as well as health care expenses in the absence of any insurance coverage, are paid first by the custodial party up to 6% of the annual basic child support obligation.¹⁰ Uninsured health care expenses in excess of 6% of the annual basic child support obligation are proportioned between the parties according to each parent's percentage share of their total income.¹¹

The Title IV-D agency shall not seek to establish new birth expense orders or to enforce existing orders for reimbursement of the expenses of the mother's pregnancy and childbirth.¹² The federal Office of Child Support Enforcement (OCSE) has prohibited the recovery of these expenses because Indiana Code and the Indiana Child Support Rules and Guidelines do not allow for income based reimbursement orders or consider the non-custodial parent's ability to pay.¹³ The Title IV-D Prosecutor should not reserve the right to seek orders for the reimbursement of expenses of the mother's pregnancy and childbirth.

REFERENCES

- [IC 31-16-6-1.5](#): Claiming child for tax purposes; considerations; conditions
- [IC 31-16-6-2](#): Expenses for child's education and health care; Title IV-D fees
- [IC 31-16-6-4](#): Medical Support
- [IC 31-16-8-2](#): Medical Support
- [IC 31-25-4-11](#): State case registry; contents
- [CSB-AT-376](#): Birth Expense Order Establishment and Enforcement
- [CSB-AT-405](#): Changes to Income Withholding Order (IWO) Birth Expense
- [26 U.S.C. § 5000A](#): Maintenance of minimum essential coverage
- [42 U.S.C. § 18091](#): Requirement to maintain minimum essential coverage; findings
- [45 C.F.R. § 302.56](#): Guidelines for setting child support awards
- [45 C.F.R. § 303.30](#): Securing medical support information
- [45 C.F.R. § 303.31](#): Securing and enforcing medical support obligations
- [OCSE-AT-08-08](#): Final Rule: Child Support Enforcement Program Medical Support
- [OCSE-PIQ-07-01](#): Federal Income Tax Refund Offset Program to Recoup Medical or

⁷ Ind. Child Support Guideline 7

⁸ Ind. Child Support Guideline 7

⁹ Ind. Child Support Guideline 7

¹⁰ Ind. Child Support Guideline 7 and Commentary

¹¹ Ind. Child Support Guideline 7 and Commentary

¹² CSB-AT-376; CSB-AT-405; OCSE-AT-08-08; OCSE-PIQ-07-01

¹³ CSB-AT-376; OCSE-AT-08-08; OCSE-PIQ-07-01

- Birthing Expenses Owed to State
- [Indiana Child Support Rules and Guidelines](#)

PROCEDURE

When the Title IV-D Prosecutor becomes aware of a Title IV-D case where the existing support order does not provide for medical support or a support order needs to be established, the Title IV-D Prosecutor shall petition the court for an order for medical support.¹⁴

A medical support order shall include a provision for health insurance coverage, as well as a provision for how parents will split the cost of any uninsured health care expenses (the 6% rule).¹⁵

If the child is enrolled in Medicaid or another public health insurance policy, the court, at its discretion, may order the child to remain enrolled in public health insurance and not order either party to obtain private health insurance.¹⁶

The Title IV-D Prosecutor is strongly encouraged to gather health insurance information from the parties prior to the establishment of a medical support order. This information includes any health insurance coverage available to either party, the cost of adding the child(ren) of this case to an existing insurance policy, and whether or not the child is eligible for or enrolled in public health insurance.

The Title IV-D Prosecutor is strongly encouraged to seek medical support orders that reflect the specific circumstances of each case, rather than to use “boilerplate” language in every order.

If the Title IV-D Prosecutor learns that the parent providing health insurance will obtain it from the federal healthcare marketplace (healthcare.gov), the Title IV-D Prosecutor is strongly encouraged to ensure that the parent ordered to provide health insurance is awarded the dependent tax exemption(s) for the child(ren) of the case. If the non-custodial parent is the party providing insurance, the order awarding the tax exemption shall be conditioned upon the non-custodial parent having paid at least 95% of the current support obligation for the tax year by January 31st of the following year.¹⁷

The Clerk of Courts (or, by mutual agreement, the Title IV-D Prosecutor) shall enter into the statewide child support system any new or modified orders that provide for health insurance coverage, including the insurance policy name, policy number, and names of persons covered.¹⁸ The Title IV-D Prosecutor is responsible for checking the statewide child support system to ensure that this information is entered.

FORMS AND TOOLS

[Medical Support: Navigating the ISETS Medical Support Screens and National Medical Support Notice \(NMSN\) Complete Guide](#)

¹⁴ 45 C.F.R. § 303.31(b); IC 31-16-6-4; IC 31-16-8-2

¹⁵ IC 31-16-6-2(a)(2); IC 31-16-6-4; Ind. Child Support Guideline 7

¹⁶ Ind. Child Support Guideline 7

¹⁷ IC 31-16-6-1.5; Ind. Child Support Guideline 9

¹⁸ IC 31-25-4-11(c)

FREQUENTLY ASKED QUESTIONS

1. Q. If the only reason to modify a child support order is to include a medical support order, where one does not already exist, is that sufficient grounds to file a petition to modify?
 - A. Yes. Federal and state requirements mandate the inclusion of a medical support order within a child support order.¹⁹

RELATED INFORMATION

Information Gathering and Reporting

The following information, if available, is provided through the IV-A/IV-D and IV-E/IV-D interfaces:²⁰

- a. Name of non-custodial parent;
- b. Social Security number of non-custodial parent;
- c. Social Security number of custodial party;
- d. Home address of non-custodial parent;
- e. Name and address of non-custodial parent's employer;
- f. Names and Social Security numbers of children;
- g. Whether non-custodial parent has health insurance coverage; and
- h. Health insurance policy name, number and persons covered.

REVISION HISTORY

Version	Date	Description of Revision
Version 1	10/26/17	Final Approved Version
Version 1.1	6/3/19	Revised to reflect updated ACA and medical support laws.

¹⁹ 45 C.F.R. 303.31(b); IC 31-16-6-4

²⁰ 45 C.F.R. § 303.30(a)