

**§2308. Medical support notice**

**1. Issuance of notice.** The department, on its own behalf, on behalf of a custodial parent who applies for the department's support enforcement services or on behalf of another state's Title IV-D agency, political subdivision or agent, may issue to a parent's employer or other payor of income a medical support notice to enforce a parent's obligation to obtain or maintain health insurance coverage or other health care services for each dependent child of the parent. The medical support notice must be in the format of the federal National Medical Support Notice as required by the Child Support Performance and Incentives Act of 1998, Public Law 105-200, 42 United States Code, Section 666(a)(19)(A) and the federal Employee Retirement Income Security Act of 1974, 29 United States Code, Section 1169(a)(5)(C). The employer or other payor of income shall complete Part A of the National Medical Support Notice and the plan administrator shall complete Part B.  
[PL 2009, c. 290, §28 (AMD).]

**2. Employer notice.** A medical support notice must be accompanied by an employer notice that contains the substance of subsections 3 to 16.  
[PL 2001, c. 554, §14 (AMD).]

**3. Duty to enroll.** An employer or other payor of income served with a medical support notice shall enroll each dependent child of the employee named in the withholding order as a covered person in a group health insurance plan or other similar plan providing health care services or coverage offered by the employer, without regard to any enrollment season restrictions, if the child is eligible for such coverage under the employer's enrollment provisions, and deduct any required premiums from the employee's earnings to pay for the insurance.  
[PL 2001, c. 554, §14 (AMD).]

**4. Choice of plan.** If more than one plan is offered by the employer, the employer or the plan administrator shall enroll each qualified child prospectively in the insurance plan in which the employee is enrolled or, if the employee is not enrolled, in the least costly plan otherwise available, as long as the plan's services are available where the child resides. If the services of the employee's plan or the least costly plan are not available where the child resides, the employer or the plan administrator shall enroll each qualified child prospectively in the least costly plan that is available where the child resides. If the plan requires that the participant be enrolled in order for the child to be enrolled, and the participant is not currently enrolled, the employer or the plan administrator must enroll both the participant and the child. The enrollments must be made without regard to enrollment season restrictions.  
[PL 2001, c. 554, §14 (AMD).]

**5. Answer.** An employer shall respond to a medical support notice in writing within 20 days of service. The employer shall advise the department of the plan in which each child is enrolled or if a child is ineligible for any plan through the employer. The department shall include preprinted answer forms for the employer's and plan administrator's use and shall include the forms and a prepaid, self-addressed envelope with each medical support notice. The plan administrator must complete and return the Part B response within 40 business days of service.  
[PL 2001, c. 554, §14 (AMD).]

**6. Mistake of fact; affirmative defenses.** A parent may claim a mistake of fact or assert affirmative defenses to contest the issuance of a medical support notice. The department shall establish by rule an administrative process for reviewing claims of mistake and investigating affirmative defenses.  
[PL 2009, c. 290, §29 (AMD).]

**7. Duration of notice.** A medical support notice remains in force until the employee terminates employment, the employer or other payor of earnings is released from the order in writing by the department or release is ordered by a court.  
[PL 2001, c. 554, §14 (AMD).]

**8. Change of plan.** After it is initially determined in response to a medical support notice that a child is eligible for coverage, the employer or plan administrator must make subsequent enrollment changes to include the child if the group health insurance plan is changed and provide notices of any changes in coverage to the department.

[PL 2001, c. 554, §14 (AMD).]

**9. Fee.** The commissioner may establish by rule a fee that an employer may charge an employee for each withholding and for a change of plan.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

**10. Failure to honor.** Failure of an employer or other payor of earnings or the plan administrator to comply with the requirements of a medical support notice is a civil violation for which the department may recover up to \$1,000 in a civil action.

[PL 2001, c. 554, §14 (AMD).]

**11. Priority of notice.** A medical support notice has priority over any previously filed attachment, execution, garnishment or assignment of earnings that is not for the purpose of enforcing or paying a child support obligation.

[PL 2001, c. 554, §14 (AMD).]

**12. Employer protected.** The department shall defend and hold harmless any employer or other payor of earnings or plan administrator who honors a medical support notice.

[PL 2001, c. 554, §14 (AMD).]

**13. Immunity.** The employer or plan administrator may not be held liable for medical expenses incurred on behalf of a dependent child because of the employer's or plan administrator's failure to enroll the dependent child in a health insurance or health care plan after being directed to do so by the department.

[PL 2001, c. 554, §14 (AMD).]

**14. Employee protected.** An employer who discharges, refuses to employ or takes disciplinary action against a parent, or who otherwise discriminates against a parent because of the existence of the medical support notice or the obligation the medical support notice imposes upon the employer, is subject to a civil penalty of not more than \$5,000 payable to the State, to be recovered in a civil action. The employer is also subject to an action by the parent for compensatory and punitive damages, plus attorney's fees and court costs.

[PL 2009, c. 290, §30 (AMD).]

**15. Service.** A medical support notice must be served on the parent's employer or other payor of earnings. Service must be made in the manner provided for service of summons by the Maine Rules of Civil Procedure, Rule 4. For purposes of this subsection, this service must be deemed to be an action pursuant to Chapter XIII of the Maine Rules of Civil Procedure. Personal service within the State of a copy of the notice may be made by an authorized representative of the commissioner. The department shall send a copy of the medical support notice to the parent at the parent's most recent address of record.

[PL 2009, c. 290, §31 (AMD).]

**16. Withholding order and support notice combined.** The department may combine a medical support notice with a child support income withholding order issued under section 2306.

[PL 2001, c. 554, §14 (AMD).]

**17. Rules.** The department shall adopt rules to implement and enforce the requirements of this section.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

## SECTION HISTORY

PL 1995, c. 694, Pt. B, §2 (NEW). PL 1995, c. 694, Pt. E, §2 (AFF). PL 1997, c. 537, §§42, 43 (AMD). PL 1997, c. 537, §62 (AFF). PL 2001, c. 554, §14 (AMD). PL 2009, c. 290, §§28-31 (AMD).

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