

Enrolled
House Bill 2125

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CHAPTER

AN ACT

Relating to changes in state child support program in response to changes in federal law; amending ORS 25.020, 25.150, 25.245, 25.287, 25.321, 25.323, 25.325, 25.327, 25.329, 25.331, 25.333, 25.337 and 25.341; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 25.020 is amended to read:

25.020. (1) Support payments for or on behalf of any person[,] **that are** ordered, registered or filed under **this chapter** or ORS chapter [25,] 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized by ORS 25.030, shall be made to the Department of Justice[,] as the state disbursement unit:

(a) During periods for which support is assigned under ORS 418.032, 418.042, 419B.406 or 419C.597;

(b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a person who receives or has a right to receive support payments on the person's own behalf or on behalf of another person;

(c) After the assignment of support terminates for as long as amounts assigned remain owing;

(d) For any period during which support enforcement services are provided under ORS 25.080;

(e) When ordered by the court under ORS 419B.400;

(f) When a support order that is entered or modified on or after January 1, 1994, includes a provision requiring the obligor to pay support by income withholding; or

(g) When ordered by the court under any other applicable provision of law.

(2) The Department of Justice shall disburse payments, after lawful deduction of fees and in accordance with applicable statutes and rules, to those persons and entities that are lawfully entitled to receive such payments.

(3)(a) When the administrator is providing support enforcement services under ORS 25.080, the obligee may enter into an agreement with a collection agency, as defined in ORS 697.005, for assistance in collecting child support payments.

(b) The Department of Justice:

(A) Shall disburse support payments, to which the obligee is legally entitled, to the collection agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection to the department;

(B) May reinstate disbursements to the obligee if:

(i) The obligee requests that disbursements be made directly to the obligee;

(ii) The collection agency violates any provision of this subsection; or

(iii) The Department of Consumer and Business Services notifies the Department of Justice that the collection agency is in violation of the rules adopted under ORS 697.086;

(C) Shall credit the obligor's account for the full amount of each support payment received by the department and disbursed to the collection agency; and

(D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall include a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be eligible for support enforcement services from the department or the district attorney without paying the interest or fee that is typically charged by a collection agency.

(c) The obligee shall:

(A) Provide to the department, on a form approved by the department, information about the agreement with the collection agency; and

(B) Promptly notify the department when the agreement is terminated.

(d) The collection agency:

(A) May provide investigative and location services to the obligee and disclose relevant information from those services to the administrator for purposes of providing support enforcement services under ORS 25.080;

(B) May not charge interest or a fee for its services exceeding 29 percent of each support payment received unless the collection agency, if allowed by the terms of the agreement between the collection agency and the obligee, hires an attorney to perform legal services on behalf of the obligee;

(C) May not initiate, without written authorization from the administrator, any enforcement action relating to support payments on which support enforcement services are provided by the administrator under ORS 25.080; and

(D) Shall include in the agreement with the obligee a notice printed in type size equal to at least 12-point type that provides information on the fees, penalties, termination and duration of the agreement.

(e) The administrator may use information disclosed by the collection agency to provide support enforcement services under ORS 25.080.

(4) The Department of Justice may immediately transmit **to the obligee** payments received from any obligor [*who has not previously tendered any payment by a check or instrument that was not paid or was dishonored, to the obligee,*] without waiting for payment or clearance of the check or instrument received **if the obligor has not previously tendered any payment by a check or instrument that was not paid or was dishonored.**

(5) The Department of Justice shall notify each obligor and obligee by mail when support payments shall be made to the department and when the obligation to make payments in this manner shall cease.

(6)(a) The administrator shall provide information about a child support account directly to a party to the support order regardless of whether the party is represented by an attorney. As used in this subsection, "information about a child support account" means the:

(A) Date of issuance of the support order.

(B) Amount of the support order.

(C) Dates and amounts of payments.

(D) Dates and amounts of disbursements.

(E) Payee of any disbursements.

(F) Amount of any arrearage.

(G) Source of any collection.

(b) Nothing in this subsection limits the information the administrator may provide by law to a party who is not represented by an attorney.

(7) Any pleading for the entry or modification of a support order must contain a statement that payment of support under a new or modified order will be by income withholding unless an exception to payment by income withholding is granted under ORS 25.396.

(8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a judgment or order establishing paternity or including a provision concerning support must contain:

(A) The residence, mailing or contact address, Social Security number, telephone number and driver license number of each party;

(B) The name, address and telephone number of all employers of each party;

(C) The names and dates of birth of the joint children of the parties; and

(D) Any other information required by rule adopted by the Chief Justice of the Supreme Court under ORS 1.002.

(b) The judgment or order shall also include notice that the obligor and obligee:

(A) Must inform the court and the administrator in writing of any change in the information required by this subsection within 10 days after the change; and

(B) May request that the administrator review the amount of support ordered after *[two years]* **three years, or such shorter cycle as determined by rule of the Department of Justice**, or at any time upon a substantial change of circumstances.

(c) The administrator may require of the parties any additional information that is necessary for the provision of support enforcement services under ORS 25.080.

(d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party or child would unreasonably be put at risk by the disclosure of information specified in this subsection or by the disclosure of other information concerning a child or party to a paternity or support proceeding or if an existing order so requires, a court or administrator or administrative law judge, when the proceeding is administrative, shall order that the information not be contained in any document provided to another party or otherwise disclosed to a party other than the state.

(B) The Department of Justice shall adopt rules providing for similar confidentiality for information described in subparagraph (A) of this paragraph that is maintained by an entity providing support enforcement services under ORS 25.080.

(e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice, adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and require that the information be submitted through an alternate procedure to ensure that the information is exempt from public disclosure under ORS 192.502.

(9)(a) Except as otherwise provided in paragraph (b) of this subsection, in any subsequent child support enforcement action, the court or administrator, upon a showing of diligent effort made to locate the obligor or obligee, may deem due process requirements to be met by mailing notice to the last-known residential, mailing or employer address or contact address as provided in ORS 25.085.

(b) Service of an order directing an obligor to appear in a contempt proceeding is subject to ORS 33.015 to 33.155.

(10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109, 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the county clerk or the Department of Human Services.

(11) Except as provided for in subsections (12), (13) and (14) of this section, credit may not be given for payments not made to the Department of Justice as required under subsection (1) of this section.

(12) The Department of Justice shall give credit for payments not made to the department:

(a) When payments are not assigned to this or another state and the obligee and obligor agree in writing that specific payments were made and should be credited;

(b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn written statements that specific payments were made, canceled checks or other substantial evidence is presented to corroborate their statements and the obligee has been given prior written notice of any potential criminal or civil liability that may attach to an admission of the receipt of assigned support;

(c) When payments are assigned to another state and that state verifies that payments not paid to the department were received by the other state; or

(d) As provided by rule adopted under ORS 180.345.

(13) An obligor may apply to the Department of Justice for credit for payments made other than to the Department of Justice. If the obligee or other state does not provide the agreement, sworn statement or verification required by subsection (12) of this section, credit may be given pursuant to order of an administrative law judge assigned from the Office of Administrative Hearings after notice and opportunity to object and be heard are given to both obligor and obligee. Notice shall be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be by regular mail at the address provided in the application for credit. A hearing conducted under this subsection is a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo in the circuit court.

(14) Nothing in this section precludes the Department of Justice from giving credit for payments not made to the department when there has been a judicially determined credit or satisfaction or when there has been a satisfaction of support executed by the person to whom support is owed.

(15) The Department of Justice shall adopt rules that:

(a) Direct how support payments that are made through the department are to be applied and distributed; and

(b) Are consistent with federal regulations.

SECTION 2. ORS 25.150 is amended to read:

25.150. The Department of Justice shall assess and collect any fees for **establishment, enforcement, [services and] collection, accounting and disbursement services required by state law or administrative rule or by federal law or regulation, [or state law or administrative rule] including the annual fee required under Title IV-D of the Social Security Act.**

SECTION 3. ORS 25.245 is amended to read:

25.245. (1) Notwithstanding any other provision of Oregon law, a parent who is eligible for and receiving cash payments under Title IV-A of the Social Security Act, the general assistance program as provided in ORS chapter 411 or a general assistance program of another state or tribe, the Oregon Supplemental Income Program or the federal Supplemental Security Income Program shall be rebuttably presumed unable to pay child support and a child support obligation does not accrue unless the presumption is rebutted.

(2) Each month, the Department of Human Services shall identify those persons receiving cash payments under the programs listed in subsection (1) of this section that are administered by the State of Oregon and provide that information to the administrator. If benefits are received from programs listed in subsection (1) of this section that are administered by other states, tribes or federal agencies, the obligor shall provide the administrator with written documentation of the benefits. The Department of Human Services shall adopt rules to implement this subsection.

(3) The administrator shall refer to the information provided in subsection (2) of this section prior to establishing any child support obligation. Within 30 days following identification of persons under subsection (2) of this section, the entity responsible for support enforcement services under ORS 25.080 shall provide notice of the presumption to the obligee and obligor and shall inform all parties to the support order that, unless a party objects as provided in subsection (4) of this section, child support shall cease accruing beginning with the support payment due on or after the date the obligor first begins receiving the cash payments and continuing through the support payment due in the last month in which the obligor received the cash payments. The entity responsible for support enforcement services shall serve the notice on the obligee in the manner provided for the service of summons in a civil action or by certified mail, return receipt requested, and shall serve the notice on the obligor by first class mail to the obligor's last-known address. The notice shall specify the month in which cash payments are first made and shall contain a statement that the administrator represents the state and that low cost legal counsel may be available.

(4) A party may object to the presumption by sending an objection to the entity responsible for support enforcement services under ORS 25.080 within 20 days after the date of service of the notice. The objection must describe the resources of the obligor or other evidence that might rebut the presumption of inability to pay child support. The entity receiving the objection shall cause the case

to be set for a hearing before a court or an administrative law judge. The court or administrative law judge may consider only whether the presumption has been rebutted.

(5) If no objection is made, or if the court or administrative law judge finds that the presumption has not been rebutted, the Department of Justice shall discontinue billing the obligor for the period of time described in subsection (3) of this section and no arrearage shall accrue for the period during which the obligor is not billed. In addition, the entity providing support enforcement services shall file with the circuit court in which the support order or judgment has been entered a copy of the notice described in subsection (3) of this section or, if an objection is made and the presumption is not rebutted, a copy of the administrative law judge's order.

(6)(a) Within 30 days after the date the obligor ceases receiving cash payments under a program listed in subsection (1) of this section, the Department of Justice shall provide notice to all parties to the support order:

(A) Specifying the last month in which a cash payment was made;

(B) Stating that the payment of those benefits has terminated and that by operation of law billing and accrual of support resumes; and

(C) Informing the parties of their rights to request a review and modification of the support order based on a substantial change in circumstance or pursuant to ORS 25.287 or any other provision of law.

(b) The notice shall include a statement that the administrator represents the state and that low cost legal counsel may be available.

(c) The entity providing enforcement services shall file a copy of the notice required by paragraph (a) of this subsection with the circuit court in which the support order or judgment has been entered.

(7) Receipt by a child support obligor of cash payments under any of the programs listed in subsection (1) of this section shall be sufficient cause for a court or administrative law judge to allow a credit and satisfaction against child support arrearage for months that the obligor received the cash payments.

(8) The notice and finding of financial responsibility required by ORS 416.415 shall include notice of the presumption, nonaccrual and arrearage credit rights provided for in this section.

(9) The presumption, nonaccrual and arrearage credit rights created by this section shall apply whether or not child support enforcement services are being provided under Title IV-D of the Social Security Act.

(10) Application of the presumption, nonaccrual and arrearage credit rights created by this section does not constitute a modification but does not limit the right of any party to seek a modification of a support order based upon a change of circumstances or pursuant to ORS 25.287 or any other provision of law. In determining whether a change in circumstances has occurred or whether *[two years have elapsed]* **three years have elapsed, or such shorter cycle as determined by rule of the Department of Justice**, since entry of a support order, the court or administrative law judge may not consider any action taken under this section as entry of a support order. The presumption stated in subsection (1) of this section applies in any modification proceeding.

SECTION 4. ORS 25.287 is amended to read:

25.287. (1)(a) The entity providing support enforcement services under ORS 25.080 may initiate proceedings to modify a support obligation to ensure that the support obligation is in accordance with the formula established under ORS 25.270 to 25.287.

(b) Proceedings under this subsection may occur only after *[two years have elapsed]* **three years have elapsed, or such shorter cycle as determined by rule of the Department of Justice**, from the later of the following:

(A) The date the original support obligation took effect;

(B) The date any previous modification of the support obligation took effect; or

(C) The date of any previous review and determination under this subsection that resulted in no modification of the support obligation.

(c) For purposes of paragraph (b) of this subsection, a support obligation or modification takes effect on the first date on which the obligor is to pay the established or modified support amount.

(d) The only issues at proceedings under this subsection are whether [*two years have elapsed, as described in paragraph (b) of this subsection,*] **three years have elapsed, or such shorter cycle as determined by rule of the department**, and whether the support obligation is in substantial compliance with the formula established under ORS 25.270 to 25.287.

(e) Upon review, if the administrator determines that a support obligation does not qualify for modification under this section, a party may object to the determination within 30 days after the date of the determination. A hearing on the objection shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings. Appeal of the order of the administrative law judge may be taken to the circuit court of the county in which the support obligation has been entered or registered for a hearing de novo. The appeal to the court shall be by petition for review filed within 60 days after entry of the order of the administrative law judge.

(f) If the court, the administrator or the administrative law judge finds that more than [*two years have elapsed, as described in paragraph (b) of this subsection,*] **three years have elapsed, or such shorter cycle as determined by rule of the department**, the court, the administrator or the administrative law judge shall modify the support order to bring the support obligation into substantial compliance with the formula established under ORS 25.270 to 25.287, regardless of whether there has been a substantial change in circumstances since the support obligation was last established, modified or reviewed. Proceedings by the administrator or administrative law judge under this subsection shall be conducted according to the provisions of ORS 416.425 and 416.427.

(g) The provisions of this subsection apply to any support obligation established by a support order under **this chapter or** ORS chapter [24,] 107, 108, 109, 110 or 416 or ORS 419B.400 or 419C.590.

(2) The entity providing support enforcement services shall state in the document initiating the proceeding, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the child, including a proceeding brought under ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

(b) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving the child, other than the support obligation the entity seeks to modify.

(3) The entity providing support enforcement services shall include with the document initiating the proceeding a certificate regarding any pending support proceeding and any existing support order other than the support obligation the entity seeks to modify. The entity providing support enforcement services shall use a certificate that is in a form prescribed by the administrator and shall include information required by the administrator and subsection (2) of this section.

(4) The administrator, court or administrative law judge may use the provisions of subsection (1) of this section when a support order was entered in another state and registered in Oregon, the provisions of ORS chapter 110 apply and more than [*two years have elapsed as provided in subsection (1)(b) of this section*] **three years have elapsed, or such shorter cycle as determined by rule of the department**.

(5) Notwithstanding the provisions of this section, proceedings may be initiated at any time to modify a support obligation based upon a substantial change of circumstances under any other provision of law.

(6) The obligee is a party to any action to modify a support obligation under this section.

SECTION 5. ORS 25.321 is amended to read:

25.321. As used in ORS 25.321 to 25.343:

(1) "Accessible" means that, unless otherwise provided in a support order:

(a) A health benefit plan does not have service area limitations or the health benefit plan provides an option not subject to service area limitations;

(b) A health benefit plan has service area limitations and the child lives within 30 miles or 30 minutes of a primary care provider under the plan; or

(c) A health benefit plan is accessible as defined in rules of the Department of Justice.

(2) “Enforcing agency” means the administrator.

(3) “Enroll” means to be eligible for and covered by a health benefit plan.

(4) “Health benefit plan” means any policy or contract of insurance, indemnity, subscription or membership issued by an insurer [or], **including health care coverage provided by a public entity, and** any self-insured employee benefit plan [for the purpose of covering] **that provides coverage for medical expenses.** [Medical expenses may include but are not limited to hospital, surgical, major medical, dental, optical, prescription drugs, office visits or any other comparable health care expenses or any combination of these expenses.]

(5)(a) “Health care coverage” means providing [a health benefit plan under ORS 25.323 to meet the medical needs of a child and paying the cost of any premium required by the health benefit plan] **and paying for the medical needs of a child through a health benefit plan.**

(b) “Health care coverage” does not include and is a separate obligation from any monetary amount of child support or spousal support ordered to be paid.

(6) “Medical support” means an amount ordered to be paid toward the cost of:

(a) **Health care coverage, including premiums, provided by a public entity or by another parent through employment or otherwise; and**

(b) **Copayments, deductibles and other medical expenses not covered by a health benefit plan.**

[6] (7) “Medical support notice” means a notice as prescribed under 42 U.S.C. 666(a)(19) or a substantially similar notice that is issued and forwarded by the enforcing agency to enforce health care coverage provisions of a support order.

[7] (8) “Plan administrator” means:

(a) The employer, union or other provider that offers a health benefit plan; or

(b) The person to whom, under a written agreement of the parties, the duty of plan administrator is delegated by the employer, union or other provider that offers a health benefit plan.

[8] (9) “Primary care provider” means a physician who provides primary care and is a family or general practitioner, pediatrician, internist, obstetrician, or gynecologist.

(10) **“Providing party” means a party to a child support order who has been ordered by the court or the enforcing agency to provide health care coverage for a child or to provide such coverage when it becomes available to the party.**

[9] (11) “Satisfactory health care coverage” means coverage provided under a health benefit plan[, other than Medicaid or the Oregon Health Plan, that at a minimum includes emergency care, inpatient and outpatient hospital care, physician services, whether provided within or outside a hospital setting, and laboratory and X-ray services] **that, at a minimum, includes medical and hospital coverage, provides for preventive, emergency, acute and chronic care and imposes reasonable deductibles and copayments.**

SECTION 6. ORS 25.323 is amended to read:

25.323. [(1) In all child support orders entered under ORS chapters 107, 108, 109 and 110 and ORS 416.400 to 416.465, 419B.400 and 419C.590, and in any modifications of those orders, the court or the enforcing agency shall order the obligor to provide satisfactory health care coverage for the child, unless the court or the enforcing agency finds that:]

[(a) The obligee or the assignee of child support rights has elected to provide health care coverage for the child; or]

[(b) The obligor cannot provide satisfactory health care coverage that is reasonable in cost and accessible to the child.]

[(2) If the court or the enforcing agency finds that the obligor cannot provide health care coverage because health care coverage that is reasonable in cost and accessible to the child is not available at the time the child support order is entered, the court or the enforcing agency shall include in the order

a provision requiring the obligor to provide health care coverage when such coverage becomes available to the obligor.]

[*(3) Health care coverage is reasonable in cost if:*]

[*(a) The coverage is available to the obligor through employment related or other group health insurance;*]

[*(b) The obligor's share, if any, of premiums for the coverage does not, under the circumstances of the case, make the application of the formula established under ORS 25.275 unjust or inappropriate; and*]

[*(c) The coverage satisfies other criteria that the Department of Justice may adopt by rule.*]

[*(4) The Department of Justice shall adopt rules under ORS 25.275 for determining how the costs of providing health care coverage affect the support obligation.*]

(1) Except as provided in this section, whenever a child support order is entered or modified under this chapter, ORS chapter 107, 108, 109, 110 or ORS 416.400 to 416.465, 419B.400 or 419C.590, the court or the enforcing agency shall order one or both parties to provide satisfactory health care coverage that is reasonable in cost and accessible to the child. An order for health care coverage under this subsection may include health care coverage provided by a public entity.

(2) In addition to ordering health care coverage under subsection (1) of this section, the court or enforcing agency may order one or both parties to pay medical support for the child. Medical support ordered under this subsection must be reasonable in cost.

(3) If the court or the enforcing agency finds that the parties cannot provide satisfactory health care coverage because satisfactory health care coverage that is reasonable in cost and accessible to the child is not available at the time the child support order is entered, the court or the enforcing agency:

(a) Shall order one or both parties to provide satisfactory health care coverage that is reasonable in cost and accessible to the child when the coverage becomes available; and

(b) May order that, until the court or enforcing agency determines that satisfactory health care coverage that is reasonable in cost and accessible to the child is available and modifies the order, one or both parties pay medical support that is reasonable in cost. The court or enforcing agency shall make written findings on whether to order the payment of medical support under this paragraph.

(4) The cost of any amount ordered to provide satisfactory health care coverage and medical support under this section must be included in the child support calculation made under ORS 25.275.

(5) The court or enforcing agency may not order a party to pay medical support under this section if the party is eligible to receive medical assistance under ORS 414.032, or has a dependent child in the household who is eligible to receive medical assistance under ORS 414.032.

(6) The Department of Justice shall adopt rules for determining the reasonableness of the cost of satisfactory health care coverage and of medical support for the purposes of this section, and for determining how the costs of providing health care coverage and medical support affect the total support obligation for a child under ORS 25.275.

SECTION 7. ORS 25.325 is amended to read:

25.325. (1) When a child support order requires [*an obligor*] **a party** to provide health care coverage for a child under a health benefit plan:

(a) The court or the enforcing agency may issue a qualified medical child support order as provided in section 609 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169) directing the [*obligor's*] **providing party's** employer or plan administrator to enroll the [*obligor's*] **providing party's** child in a health benefit plan and directing the [*obligor's*] **providing party's** employer to withhold any required premium from the [*obligor's*] **providing party's** compensation.

(b) If support enforcement services are being provided under ORS 25.080, the enforcing agency shall, when appropriate:

(A) Issue a medical support notice in accordance with rules adopted by the Department of Justice.

(B) Issue a medical support notice to the [obligor's] **providing party's** employer within two business days of receiving information under ORS 25.790 that the employer has hired or rehired the [obligor] **providing party**.

[(C) Provide the obligee with information regarding the health care coverage obtained for the child and with any notice that coverage may terminate because withholding has stopped under ORS 25.331 or 25.341.]

(2) If an order to provide health care coverage is in effect or is being sought:

(a) The [obligor's] **providing party's** employer or plan administrator shall release to [the obligee or] the enforcing agency, upon request, the name and address of the insurer and any plan administrator; and

(b) The plan administrator shall release to the obligee or the enforcing agency, upon request, information about dependent health care coverage under the health benefit plan.

(3) If a qualified medical child support order or a medical support notice has been served on the [obligor's] **providing party's** employer, the order or notice is binding on the employer and the plan administrator to the extent that the child is eligible to be enrolled in the health benefit plan under the applicable terms and conditions of the plan and the standard enrollment guidelines as described in ORS 743.847. Enrollment of the child shall be allowed at any time, notwithstanding any enrollment season restrictions.

SECTION 8. ORS 25.327 is amended to read:

25.327. (1) The enforcing agency shall serve the medical support notice on the [obligor's] **providing party's** employer as a withholder. The notice may be served upon the withholder or the withholder's registered agent, corporate officer, bookkeeper, accountant, person responsible for payroll or local office manager by:

(a) Personal service;

(b) Any type of mail that is calculated to give actual notice and is addressed to one of the persons listed in this subsection; or

(c) Electronic means if the employer has the ability to receive the medical support notice in that manner.

(2) Service of a medical support notice constitutes receipt of a medical child support order.

(3) The enforcing agency shall, as provided in ORS 25.333, notify the [obligor and obligee] **parties** that the medical support notice has been served on the [obligor's] **providing party's** employer.

SECTION 9. ORS 25.329 is amended to read:

25.329. When the enforcing agency serves a medical support notice on an employer:

(1) The employer shall comply with the provisions in the medical support notice;

(2) The plan administrator and the employer shall treat the medical support notice as an application by the enforcing agency for health care coverage for the named child under the health benefit plan to the extent an application is required by the plan;

(3) If the [obligor] **providing party** named in the medical support notice is not an employee of the employer, or if a health benefit plan is not offered or available to the [obligor] **providing party**, the employer shall notify the enforcing agency within 20 business days after the date of the medical support notice;

(4) If a health benefit plan is offered or available to the [obligor] **providing party**, the employer shall send the plan administrator's portion of the notice to each appropriate plan administrator within 20 business days after the date of the medical support notice;

(5) Within 40 business days after the date of the medical support notice, the plan administrator shall do all of the following as directed by the notice:

(a) Complete the appropriate portion of the notice and return the portion to the enforcing agency;

(b) If the child is or will be enrolled, notify the [obligor and obligee] **parties** and furnish the obligee with the information necessary to effectuate coverage and submit claims for benefits;

(c) If the child has been or will be enrolled, provide the enforcing agency with the type of health benefit plan under which the child has been or will be enrolled, including whether dental, optical, office visits and prescription drugs are covered services;

(d) If more than one health benefit plan is available to the [obligor] **providing party** and the [obligor] **providing party** is not enrolled, forward the health benefit plan descriptions and documents to the enforcing agency;

(e) If the [obligor] **providing party** is subject to a waiting period that expires more than 90 days after the date of receipt of the medical support notice by the plan administrator or if the [obligor] **providing party** has not completed a waiting period that is measured in a manner other than the passage of time, notify the employer, the enforcing agency[, *the obligor and the obligee*] **and the parties**; and

(f) Upon completion of the enrollment, notify the employer of the enrollment;

(6) If the plan administrator notifies the employer that the [obligor] **providing party** is subject to a waiting period that expires more than 90 days after the date of receipt of the medical support notice by the plan administrator or that the [obligor] **providing party** is subject to a waiting period that is measured in a manner other than the passage of time, the employer shall, when the [obligor] **providing party** becomes eligible to enroll in the plan, notify the plan administrator that the medical support notice requires that the child named in the notice be enrolled in the plan; **and**

(7) The plan administrator shall enroll the child and, if necessary to the enrollment of the child, enroll the [obligor] **providing party** in the plan [*selected in accordance with this subsection*] **as provided by rules adopted by the Department of Justice**. [*All of the following apply to the selection of the plan:*]

[*(a) If the obligor is enrolled in a health benefit plan that offers dependent coverage, that plan shall be selected;*]

[*(b) If the obligor is not enrolled in a health benefit plan or is not enrolled in a plan that offers dependent coverage, and if only one plan with dependent coverage is offered, that plan shall be selected; and*]

[*(c) If the obligor is not enrolled in a health benefit plan or is not enrolled in a plan that offers dependent coverage and if more than one plan with dependent coverage is offered, the enforcing agency shall:*]

[*(A) Send the health benefit plan descriptions and documents to the obligee; and*]

[*(B) Select a plan in consultation with the obligee and in accordance with rules adopted by the Department of Justice;*]

[*(8) If more than one health benefit plan is available to the obligor and the obligor is not enrolled, within 20 business days after the date the plan administrator forwarded the health benefit plan descriptions and documents to the enforcing agency under subsection (5)(d) of this section, the plan administrator shall:*]

[*(a) Enroll the child, and if necessary the obligor, in the health benefit plan selected by the enforcing agency; or*]

[*(b) Enroll the child, and if necessary the obligor, in any default option if the plan administrator has not received a selection from the enforcing agency; and*]

[*(9) Upon notification from the plan administrator that the child is enrolled, the employer shall either withhold and forward the premiums as provided in ORS 25.331 or notify the enforcing agency that the enrollment cannot be completed because of limits established for withholding as provided in ORS 25.331.*]

SECTION 10. ORS 25.331 is amended to read:

25.331. (1) Upon notification from the plan administrator that the child is enrolled in the health benefit plan, the employer shall withhold from the [obligor's] **providing party's** compensation the [obligor's] **providing party's** share, if any, of premiums for the health benefit plan. The employer shall forward the amount withheld as required by the health benefit plan.

(2) The withholding required by a qualified medical child support order or a medical support notice is a continuing obligation. The qualified medical child support order or medical support no-

tice and the withholding remain in effect and are binding upon the employer until further notice from the court or the enforcing agency.

(3)(a) An amount withheld by an employer in compliance with a withholding order issued for monetary support and a qualified medical child support order or medical support notice may not exceed 50 percent of the [obligor's] **providing party's** net disposable income.

(b) Notwithstanding paragraph (a) of this subsection, upon the motion of a party and after a hearing, the court may order the withholding of more than 50 percent of the [obligor's] **providing party's** net disposable income. However, the amount withheld may not exceed the amount allowed under section 303(b) of the federal Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(4) If [an obligor's] **a providing party's** compensation drops to a level at which withholding under this section exceeds the amount allowed under subsection (3) of this section, the employer shall stop the withholding and send the court or the enforcing agency, as the case may be, a written notice within 15 days of stopping the withholding. The notice shall include the [obligor's] **providing party's** name, address and Social Security number and the date the employer stopped withholding under this section.

(5) An employer is not subject to civil liability to an individual or agency for conduct or actions in compliance with a medical support notice if the employer:

(a) Is served with a medical support notice under ORS 25.327 that is regular on its face; and

(b) Complies with the provisions of the medical support notice if the notice appears to be in conformance with section 609 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169).

SECTION 11. ORS 25.333 is amended to read:

25.333. (1) When the enforcing agency issues a medical support notice under ORS 25.325, the enforcing agency shall notify the [obligor and the obligee] **parties** by regular mail to the last known addresses of the [obligor and obligee] **parties**:

(a) That the notice has been sent to the [obligor's] **the providing party's** employer; and

(b) Of the [obligor's] **providing party's** rights and duties under the notice.

(2) [An obligor] **A providing party** may contest a medical support notice within 14 days after the date the premium is first withheld pursuant to the notice or, if the health benefit plan is provided at no cost to the [obligor] **providing party**, the date the first premium is paid by the employer.

(3) The only basis for contesting a medical support notice is a mistake of fact. A "mistake of fact" means any of the following:

(a) No order to provide health care coverage under a health benefit plan has been issued in regard to the [obligor's] **providing party's** child;

(b) The amount to be withheld for premiums is greater than is permissible under ORS 25.331; or

(c) The alleged [obligor] **providing party** is not the [obligor] **party** from whom health care coverage is required.

(4) The [obligor] **providing party** may contest the medical support notice by requesting an administrative review. After receiving a request for review and within 45 days after the date the premium is first withheld pursuant to the medical support notice, the enforcing agency shall determine, based on an evaluation of the facts, whether the withholding for premiums may continue. The enforcing agency shall inform the [obligor and obligee] **parties** of the determination in writing and include information regarding the right to appeal the determination.

(5) Any appeal of the enforcing agency's determination under subsection (4) of this section is to the circuit court for a hearing under ORS 183.484.

(6) The initiation of proceedings to contest a medical support notice or an appeal of the enforcing agency's determination under this section does not stay the withholding of premiums.

SECTION 12. ORS 25.337 is amended to read:

25.337. (1) If the plan administrator or the employer fails to comply with the requirements described in ORS 25.329 or 25.331, the enforcing agency or obligee may bring a civil action against the

plan administrator or employer for medical expenses, the [obligor's] **providing party's** share of the premiums, attorney fees and costs.

(2) An employer commits an unlawful employment practice if the employer discharges [an obligor] a **providing party**, refuses to hire [an obligor] a **providing party** or in any other manner discriminates, retaliates or takes disciplinary action against [an obligor] a **providing party** because of the entry of a medical support notice or qualified medical child support order or because of the obligations imposed upon the plan administrator by the order. An employee may bring a civil action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

(3) [An obligor] A **providing party** who fails to maintain health care coverage for a child as ordered is liable, from the date of the order, for any medical expenses resulting from the failure to maintain coverage.

(4) The remedies described in this section are not exclusive. Nothing in this section precludes action by the court to enforce a judicial or administrative order requiring health care coverage or [costs] **payment of medical support** by imposition of remedial or punitive sanctions for contempt or otherwise.

SECTION 13. ORS 25.341 is amended to read:

25.341. When an employer is unable to continue withholding from [an obligor's] a **providing party's** compensation because the relationship between the employer and the [obligor] **providing party** ends, the employer shall send the enforcing agency a written notice within 15 days of the termination of the relationship. The notice must include the [obligor's] **providing party's** name, the [obligor's] **providing party's** last known address, the [obligor's] **providing party's** Social Security number, the date the relationship terminated and, if known, the name and address of a new employer or other provider of a health benefit plan to the [obligor] **providing party**.

SECTION 14. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect October 1, 2007.

Passed by House June 18, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate June 23, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

.....
Secretary of State