

HOUSE AMENDMENTS TO HOUSE BILL 2125

By COMMITTEE ON JUDICIARY

April 17

1 On page 1 of the printed bill, delete line 3 and insert “ORS 25.020, 25.150, 25.245, 25.287, 25.321,
2 25.323, 25.325, 25.327, 25.329, 25.331, 25.333, 25.337 and 25.341; and declaring an emergency.”.

3 On page 7, delete lines 31 through 45 and delete pages 8 through 10 and insert:

4 “**SECTION 5.** ORS 25.321 is amended to read:

5 “25.321. As used in ORS 25.321 to 25.343:

6 “(1) ‘Accessible’ means that, unless otherwise provided in a support order:

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

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

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

12 “(2) ‘Enforcing agency’ means the administrator.

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

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

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

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

25 “(6) **‘Medical support’ means an amount ordered to be paid toward the cost of:**

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

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

30 “[6] (7) ‘Medical support notice’ means a notice as prescribed under 42 U.S.C. 666(a)(19) or a
31 substantially similar notice that is issued and forwarded by the enforcing agency to enforce health
32 care coverage provisions of a support order.

33 “[7] (8) ‘Plan administrator’ means:

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

35 “(b) The person to whom, under a written agreement of the parties, the duty of plan adminis-

1 trator is delegated by the employer, union or other provider that offers a health benefit plan.

2 “[(8)] (9) ‘Primary care provider’ means a physician who provides primary care and is a family
3 or general practitioner, pediatrician, internist, obstetrician, or gynecologist.

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

7 “[(9)] (11) ‘Satisfactory health care coverage’ means coverage provided under a health benefit
8 plan[, other than Medicaid or the Oregon Health Plan, that at a minimum includes emergency care,
9 inpatient and outpatient hospital care, physician services, whether provided within or outside a hospital
10 setting, and laboratory and X-ray services] that, at a minimum, includes medical and hospital
11 coverage, provides for preventive, emergency, acute and chronic care and imposes reasonable
12 deductibles and copayments.

13 “**SECTION 6.** ORS 25.323 is amended to read:

14 “25.323. [(1) In all child support orders entered under ORS chapters 107, 108, 109 and 110 and
15 ORS 416.400 to 416.465, 419B.400 and 419C.590, and in any modifications of those orders, the court
16 or the enforcing agency shall order the obligor to provide satisfactory health care coverage for the
17 child, unless the court or the enforcing agency finds that:]

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

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

22 “[(2) If the court or the enforcing agency finds that the obligor cannot provide health care coverage
23 because health care coverage that is reasonable in cost and accessible to the child is not available at
24 the time the child support order is entered, the court or the enforcing agency shall include in the order
25 a provision requiring the obligor to provide health care coverage when such coverage becomes available
26 to the obligor.]

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

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

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

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

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

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

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

45 “(3) If the court or the enforcing agency finds that the parties cannot provide satisfac-

1 tory health care coverage because satisfactory health care coverage that is reasonable in
2 cost and accessible to the child is not available at the time the child support order is entered,
3 the court or the enforcing agency:

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

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

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

14 “(5) The court or enforcing agency may not order a party to pay medical support under
15 this section if the party is eligible to receive medical assistance under ORS 414.032, or has
16 a dependent child in the household who is eligible to receive medical assistance under ORS
17 414.032.

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

22 “**SECTION 7.** ORS 25.325 is amended to read:

23 “25.325. (1) When a child support order requires [*an obligor*] a **party** to provide health care
24 coverage for a child under a health benefit plan:

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

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

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

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

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

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

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

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

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

7 “**SECTION 8.** ORS 25.327 is amended to read:

8 “25.327. (1) The enforcing agency shall serve the medical support notice on the [obligor’s] **pro-**
9 **viding party’s** employer as a withholder. The notice may be served upon the withholder or the
10 withholder’s registered agent, corporate officer, bookkeeper, accountant, person responsible for
11 payroll or local office manager by:

12 “(a) Personal service;

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

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

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

18 “(3) The enforcing agency shall, as provided in ORS 25.333, notify the [obligor and obligee]
19 **parties** that the medical support notice has been served on the [obligor’s] **providing party’s** em-
20 ployer.

21 “**SECTION 9.** ORS 25.329 is amended to read:

22 “25.329. When the enforcing agency serves a medical support notice on an employer:

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

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

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

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

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

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

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

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

43 “(d) If more than one health benefit plan is available to the [obligor] **providing party** and the
44 [obligor] **providing party** is not enrolled, forward the health benefit plan descriptions and docu-
45 ments to the enforcing agency;

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

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

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

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

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

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

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

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

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

28 “[*(8) If more than one health benefit plan is available to the obligor and the obligor is not enrolled,*
29 *within 20 business days after the date the plan administrator forwarded the health benefit plan de-*
30 *scriptions and documents to the enforcing agency under subsection (5)(d) of this section, the plan ad-*
31 *ministrator shall:*]

32 “[*(a) Enroll the child, and if necessary the obligor, in the health benefit plan selected by the en-*
33 *forcing agency; or*]

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

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

40 “**SECTION 10.** ORS 25.331 is amended to read:

41 “25.331. (1) Upon notification from the plan administrator that the child is enrolled in the health
42 benefit plan, the employer shall withhold from the [obligor’s] **providing party’s** compensation the
43 [obligor’s] **providing party’s** share, if any, of premiums for the health benefit plan. The employer
44 shall forward the amount withheld as required by the health benefit plan.

45 “(2) The withholding required by a qualified medical child support order or a medical support

1 notice is a continuing obligation. The qualified medical child support order or medical support notice
2 and the withholding remain in effect and are binding upon the employer until further notice from
3 the court or the enforcing agency.

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

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

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

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

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

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

23 “**SECTION 11.** ORS 25.333 is amended to read:

24 “25.333. (1) When the enforcing agency issues a medical support notice under ORS 25.325, the
25 enforcing agency shall notify the [obligor and the obligee] **parties** by regular mail to the last known
26 addresses of the [obligor and obligee] **parties**:

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

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

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

32 “(3) The only basis for contesting a medical support notice is a mistake of fact. A ‘mistake of
33 fact’ means any of the following:

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

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

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

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

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

3 “(6) The initiation of proceedings to contest a medical support notice or an appeal of the en-
4 forcing agency’s determination under this section does not stay the withholding of premiums.

5 “**SECTION 12.** ORS 25.337 is amended to read:

6 “25.337. (1) If the plan administrator or the employer fails to comply with the requirements de-
7 scribed in ORS 25.329 or 25.331, the enforcing agency or obligee may bring a civil action against the
8 plan administrator or employer for medical expenses, the [obligor’s] **providing party’s** share of the
9 premiums, attorney fees and costs.

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

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

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

24 “**SECTION 13.** ORS 25.341 is amended to read:

25 “25.341. When an employer is unable to continue withholding from [*an obligor’s*] **a providing**
26 **party’s** compensation because the relationship between the employer and the [*obligor*] **providing**
27 **party** ends, the employer shall send the enforcing agency a written notice within 15 days of the
28 termination of the relationship. The notice must include the [*obligor’s*] **providing party’s** name, the
29 [*obligor’s*] **providing party’s** last known address, the [*obligor’s*] **providing party’s** Social Security
30 number, the date the relationship terminated and, if known, the name and address of a new employer
31 of or other provider of a health benefit plan to the [*obligor*] **providing party**.

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