

Enrolled
House Bill 2272

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

CHAPTER

AN ACT

Relating to medical support; creating new provisions; and amending ORS 25.010, 25.089, 25.091, 25.275, 25.321, 25.323, 25.325, 25.333, 107.106 and 416.448.

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

SECTION 1. 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, including health care coverage provided by a public entity, and any self-insured employee benefit plan that provides coverage for medical expenses.]

[(5)(a) "Health care coverage" means providing 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.]

[(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.]

[(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.]

[(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.]

[(11) "Satisfactory health care coverage" means coverage provided under a health benefit plan that, at a minimum, includes medical and hospital coverage, provides for preventive, emergency, acute and chronic care and imposes reasonable deductibles and copayments.]

(1) "Cash medical support" means an amount that a parent is ordered to pay to defray the cost of health care coverage provided for a child by the other parent, or to defray uninsured medical expenses of the child.

(2) "Child support order" means a judgment or administrative order that creates child support rights and that is entered or issued under ORS 416.400 to 416.465, 419B.400 or 419C.590 or this chapter or ORS chapter 107, 108, 109 or 110.

(3) "Employee health benefit plan" means a health benefit plan that is available to a providing party by reason of the providing party's employment.

(4) "Enforcing agency" means the administrator.

(5) "Health benefit plan" means any policy or contract of insurance, indemnity, subscription or membership issued by an insurer, including health care coverage provided by a public body, and any self-insured employee benefit plan that provides coverage for medical expenses.

(6) "Health care coverage" means providing and paying for the medical needs of a child through a policy or contract of insurance, indemnity, subscription or membership issued by an insurer, including medical assistance provided by a public body, and any self-insured employee benefit plan that provides coverage for medical expenses.

(7) "Medical support" means cash medical support and health care coverage.

(8) "Medical support clause" means a provision in a child support order that requires one or both of the parents to provide medical support for the child.

(9) "Medical support notice" means a notice in the form prescribed under ORS 25.325 (5).

(10) "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.

(11) "Private health care coverage" means all health care coverage other than medical assistance provided by a public body.

(12) "Providing party" means a party to a child support order who has been ordered by the court or the enforcing agency to provide medical support.

(13) "Public body" has the meaning given that term in ORS 174.109.

SECTION 2. ORS 25.323 is amended to read:

25.323. [(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.]

(1) Every child support order must include a medical support clause.

(2) Whenever a child support order that does not include a medical support clause is modified the modification must include a medical support clause.

(3) A medical support clause may require that medical support be provided in more than one form, and may make the requirement that medical support be provided in a particular form contingent on the availability of another form of medical support.

(4) A medical support clause must require that one or both parents provide private health care coverage for a child that is appropriate and available at the time the order is entered. If private health care coverage for a child is not appropriate and available at the time the order is entered, the order must:

(a) Require that one or both parents provide private health care coverage for the child at any time thereafter when such coverage becomes available; and

(b) Either require the payment of cash medical support, or include findings on why cash medical support has not been required.

(5) For the purposes of subsection (4) of this section, private health care coverage is appropriate and available for a child if the coverage:

(a) Is accessible, as described in subsection (6) of this section;

(b) Is reasonable in cost and does not require the payment of unreasonable deductibles or copayments; and

(c) Provides coverage, at a minimum, for medical expenses, hospital expenses, preventive care, emergency care, acute care and chronic care.

(6) Private health care coverage is accessible for the purposes of subsection (5)(a) of this section if:

(a) The coverage will be available for at least one year, based on the work history of the parent providing the coverage; and

(b) The coverage either does not have service area limitations or the child lives within 30 miles or 30 minutes of a primary care provider who is eligible for payment under the coverage.

(7) A medical support clause may not order a providing party to pay cash medical support or provide health care coverage if the providing party's income is equal to or less than the Oregon minimum wage for full-time employment.

(8) Cash medical support and the cost of other medical support ordered under a medical support clause constitute a child support obligation and must be included in the child support calculation made under ORS 25.275.

SECTION 3. ORS 25.325 is amended to read:

25.325. [(1) When a child support order requires 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 providing party's employer or plan administrator to enroll the providing party's child in a health benefit plan and directing the providing party's employer to withhold any required premium from the 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 providing party's employer within two business days of receiving information under ORS 25.790 that the employer has hired or rehired the providing party.]

(1) When a child support order with a medical support clause is entered, 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). The qualified medical child support order shall direct the providing party's employer, or the plan administrator for the providing party's employee health care coverage, to enroll the providing party's child in the employee health benefit plan and direct the providing party's employer to withhold any required premium from the providing party's compensation.

(2) When a child support order with a medical support clause is entered and support enforcement services are being provided under ORS 25.080, the enforcing agency shall, when appropriate, issue a medical support notice to the providing party's employer within two business days after receiving information under ORS 25.790 that the employer has hired or rehired the providing party.

[(2)] (3) If [an order to provide health care coverage] a child support order with a medical support clause is in effect or is being sought:

(a) The providing party's employer or the plan administrator for the providing party's employee health care coverage shall release to the enforcing agency, upon request, the name and address of the [insurer] health benefit plan that provides the coverage and [any] the plan administrator; and

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

[(3)] (4) If a qualified medical child support order or a medical support notice has been served on the providing party's employer, the order or notice is binding on the employer and the plan administrator for the providing party's employee health benefit plan 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.

(5) The Department of Justice, by rule, shall prescribe the form of a medical support notice for the purposes of ORS 25.321 to 25.343. In prescribing the form, the department shall consider all relevant federal law relating to medical support notices.

SECTION 4. ORS 25.010 is amended to read:

25.010. As used in ORS chapters 25, 107, 109 and 416 and any other statutes providing for support payments or support enforcement procedures, unless the context requires otherwise:

(1) "Administrator" means either the Administrator of the Division of Child Support of the Department of Justice or a district attorney, or the administrator's or a district attorney's authorized representative.

(2) "Child" has the meaning given that term in ORS 110.303.

(3) "Child support rights" means the right to establish or enforce an obligation imposed or imposed by law to provide support, including but not limited to medical support **as defined in ORS 25.321** and an unsatisfied obligation to provide support.

(4) "Department" means the Department of Justice.

(5) "Disposable income" means that part of the income of an individual remaining after the deduction from the income of any amounts required to be withheld by law except laws enforcing spousal or child support and any amounts withheld to pay medical or dental insurance premiums.

(6) "Employer" means any entity or individual who engages an individual to perform work or services for which compensation is given in periodic payments or otherwise.

(7) "Income" is any monetary obligation in excess of \$4.99 after the fee described in ORS 25.414 (6) has been deducted that is in the possession of a third party owed to an obligor and includes but is not limited to:

(a) Compensation paid or payable for personal services whether denominated as wages, salary, commission, bonus or otherwise;

(b) Periodic payments pursuant to a pension or retirement program;

(c) Cash dividends arising from stocks, bonds or mutual funds;

(d) Interest payments;

(e) Periodic payments from a trust account;

(f) Any program or contract to provide substitute wages during times of unemployment or disability;

(g) Any payment pursuant to ORS chapter 657; or

(h) Amounts payable to independent contractors.

(8) "Obligee" has the meaning given that term in ORS 110.303.

(9) "Obligor" has the meaning given that term in ORS 110.303.

(10) "Order to withhold" means an order or other legal process that requires a withholder to withhold support from the income of an obligor.

(11) "Public assistance" has the meaning given that term in ORS 416.400.

(12) "Withholder" means any person who disburses income and includes but is not limited to an employer, conservator, trustee or insurer of the obligor.

SECTION 5. ORS 25.089 is amended to read:

25.089. (1) As used in this section, "child support judgment" means the terms of a judgment or order of a court, or an order that has been filed under ORS 416.440, that provide for past or current [*monetary*] **child support** [*or for a health benefit plan under ORS 25.321 to 25.343 for the benefit of a child*], **including medical support as defined in ORS 25.321**. "Child support judgment" does not include any term of a judgment or order that deals with matters other than [*monetary support or a health benefit plan under ORS 25.321 to 25.343 for the benefit of a child*] **child support**.

(2)(a) A child support judgment originating under ORS 416.440 has all the force, effect and attributes of a circuit court judgment. The judgment lien created by a child support judgment originating under ORS 416.440 applies to all arrearages owed under the underlying order from the date the administrator or administrative law judge entered, filed or registered the underlying order under ORS 416.400 to 416.465 or ORS chapter 110.

(b) Until the underlying order is filed under ORS 416.440, the order may not be enforced against and has no lien effect on real property.

(c) No action to enforce a child support judgment originating under ORS 416.440 may be taken while the child support judgment is stayed under ORS 416.427, except as permitted in the order granting the stay.

(3) In any judicial or administrative proceeding in which child support may be awarded under this chapter or ORS chapter 107, 108, 109, 110 or 416 or ORS 125.025, 419B.400 or 419C.590, if a child support judgment already exists with regard to the same obligor and child:

(a) A court may only enforce the existing child support judgment, modify the existing child support judgment as specifically authorized by law or set aside the existing child support judgment under subsection (6) of this section or under the provisions of ORCP 71. If the court sets aside the existing child support judgment, the court may issue a new child support judgment.

(b) The administrator or administrative law judge may only enforce the existing child support judgment, modify the existing child support judgment as specifically authorized by law or, with regard to an existing child support judgment originating under ORS 416.400, move to set aside the

existing child support judgment under subsection (6) of this section or for the reasons set out in ORCP 71.

(4) If the administrator or administrative law judge finds that there exist two or more child support judgments involving the same obligor and child and the same period of time, the administrator or administrative law judge shall apply the provisions of ORS 416.448.

(5)(a) If the court finds that there exist two or more child support judgments involving the same obligor and child and the same period of time, and each judgment was issued in this state, the court shall apply the provisions of ORS 25.091 to determine the controlling terms of the child support judgments and to issue a governing child support judgment as defined in ORS 25.091.

(b) If the court finds that there exist two or more child support judgments involving the same obligor and child and the same period of time, and one or more of the judgments was issued by a tribunal of another state, the court shall apply the provisions of ORS chapter 110 to determine which judgment is the controlling child support order.

(6) Subject to the provisions of subsection (3) of this section, a court may modify or set aside a child support judgment issued in this state when:

(a) The child support judgment was issued without prior notice to the issuing court, administrator or administrative law judge that:

(A) There was pending in this state or any other jurisdiction any type of support proceeding involving the child; or

(B) There existed in this state or any other jurisdiction another child support judgment involving the child; or

(b) The child support judgment was issued after another child support judgment, and the later judgment did not enforce, modify or set aside the earlier judgment in accordance with this section.

(7) When modifying a child support judgment, the court, administrator or administrative law judge shall specify in the modification judgment the effects of the modification on the child support judgment being modified.

SECTION 6. ORS 25.091 is amended to read:

25.091. (1) As used in this section:

(a) "Child support judgment" has the meaning given that term in ORS 25.089.

(b) "Governing child support judgment" means a child support judgment issued in this state that addresses *[both monetary]* **child support** *[and a health benefit plan under ORS 25.321 to 25.343]*, **including medical support as defined in ORS 25.321**, and is entitled to exclusive prospective enforcement or modification with respect to any earlier child support judgment issued in this state.

(2) Notwithstanding any other provision of this section or ORS 25.089, when two or more child support judgments exist involving the same obligor and child and one or more of the judgments was issued by a tribunal of another state, the court shall apply the provisions of ORS chapter 110 before enforcing or modifying a judgment under this section or ORS 25.089.

(3) When two or more child support judgments exist involving the same obligor and child and the same period, any party to one or more of the child support judgments or the administrator, under ORS 416.448, may file a petition with the court for a governing child support judgment under this section. When a matter involving a child is before the court and the court finds that two or more child support judgments exist involving the same obligor and child and the same period, the court on its own motion, and after notice to all affected parties, may determine the controlling terms of the child support judgments and issue a governing child support judgment under this section.

(4)(a) **Except as provided in paragraph (b) of this subsection**, when two or more child support judgments exist involving the same obligor and child and the same period, and each judgment was issued in this state, there is a presumption that the terms of the last-issued child support judgment are the controlling terms and terminate contrary terms of each earlier-issued child support judgment, *except that*:].

[(a) When the last-issued child support judgment is silent about monetary support for the benefit of the child, the monetary support terms of an earlier-issued child support judgment continue; and]

[(b) When the last-issued child support judgment is silent about a health benefit plan under ORS 25.321 to 25.343 for the benefit of a child, the health benefit plan terms of an earlier-issued child support judgment continue.]

(b) If the earlier-issued child support judgment requires provision of a specific type of child support and the last-issued child support judgment is silent with respect to that type of child support, the requirement of the earlier-issued child support judgment continues in effect.

(5) A party may rebut the presumption in subsection (4) of this section by showing that:

(a) The last-issued child support judgment should be set aside under the provisions of ORCP 71;

(b) The last-issued child support judgment was issued without prior notice to the issuing court, administrator or administrative law judge that:

(A) There was pending in this state or any other jurisdiction any type of support proceeding involving the child; or

(B) There existed in this state or any other jurisdiction another child support judgment involving the child; or

(c) The last-issued child support judgment was issued after an earlier child support judgment and did not enforce, modify or set aside the earlier child support judgment in accordance with ORS 25.089.

(6) When a court finds that two or more child support judgments exist involving the same obligor and child and the same period, and each child support judgment was issued in this state, the court shall set the matter for hearing to determine the controlling terms of the child support judgments. When the child support judgments were issued in different counties of this state, the court may cause the records from the original proceedings to be transmitted to the court in accordance with ORS 25.100.

(7) Following a review of each child support judgment and any other evidence admitted by the court:

(a) The court shall apply the presumption in subsection (4) of this section, unless the presumption is rebutted, and shall determine the controlling terms of the child support judgments; and

(b) Notwithstanding ORS 25.089 (3), the court shall issue a governing child support judgment addressing *[both monetary]* **child support** *[and a health benefit plan under ORS 25.321 to 25.343]*, **including medical support as defined in ORS 25.321**, for the benefit of the child.

(8) The governing child support judgment must include:

(a) A reference to each child support judgment considered and a copy of the judgment;

(b) A determination of which terms regarding *[monetary support and a health benefit plan under ORS 25.321 to 25.343]* **child support, including medical support as defined in ORS 25.321**, are controlling and which child support judgment or judgments contain those terms;

(c) An affirmation, termination or modification of the terms regarding *[monetary support and a health benefit plan under ORS 25.321 to 25.343]* **child support, including medical support as defined in ORS 25.321**, in each of the child support judgments;

(d) Except as provided in subsection (9) of this section, a reconciliation of any *[monetary]* **child support arrears or credits** under all of the child support judgments; and

(e) The effective date of each controlling term and the termination date of each noncontrolling term in each of the child support judgments. In determining these dates, the court may apply the following:

(A) A controlling term is effective on the date specified in the child support judgment containing that term or, if no date is specified, on the date the child support judgment was entered as described in ORS 18.075.

(B) A noncontrolling term is terminated on the date the governing child support judgment is entered as described in ORS 18.075.

(9) The court may order the parties, in a separate proceeding under ORS 25.167 or 416.429, to reconcile any *[monetary]* **child support arrears or credits** under all of the child support judgments.

(10) When the governing child support judgment is entered as described in ORS 18.075, the noncontrolling terms of each earlier child support judgment [*regarding monetary support or a health benefit plan under ORS 25.321 to 25.343*] are terminated. However, subject to subsection (11) of this section, the entry of the governing child support judgment does not affect any **child** support payment arrearage or any liability related to [*health benefit plan coverage*] **medical support, as defined in ORS 25.321**, that has accrued under a child support judgment before the governing child support judgment is entered.

(11) For purposes of reconciling any [*monetary*] **child** support arrears or credits under all of the child support judgments, amounts collected and credited for a particular period under one child support judgment must be credited against the amounts accruing or accrued for the same period under any other child support judgment.

(12) Not sooner than 30 days and not later than 60 days after entry of the governing child support judgment, a party named by the court, or the petitioner if the court names no other party, shall file a certified copy of the governing child support judgment with each court or the administrator that issued an earlier child support judgment. A party who fails to file a certified copy of the governing child support judgment as required by this subsection is subject to monetary sanctions, including but not limited to attorney fees, costs and disbursements. A failure to file does not affect the validity or enforceability of the governing child support judgment.

(13) This section applies to any judicial proceeding in which child support may be awarded or modified under this chapter or ORS chapter 107, 108, 109 or 416 or ORS 125.025, 419B.400, 419B.923, 419C.590 or 419C.610.

SECTION 7. ORS 25.275 is amended to read:

25.275. (1) The Division of Child Support of the Department of Justice shall establish by rule a formula for determining child support awards in any judicial or administrative proceeding. In establishing the formula, the division shall take into consideration the following criteria:

- (a) All earnings, income and resources of each parent, including real and personal property;
- (b) The earnings history and potential of each parent;
- (c) The reasonable necessities of each parent;
- (d) The ability of each parent to borrow;
- (e) The educational, physical and emotional needs of the child for whom the support is sought;
- (f) The amount of assistance that would be paid to the child under the full standard of need of the state's IV-A plan;
- (g) Preexisting support orders and current dependents; and
- (h) Other reasonable criteria that the division may find to be appropriate.

(2) The formula described in subsection (1) of this section must also comply with the following standards:

(a) The child is entitled to benefit from the income of both parents to the same extent that the child would have benefited had the family unit remained intact or if there had been an intact family unit consisting of both parents and the child.

(b) Both parents should share in the costs of supporting the child in the same proportion as each parent's income bears to the combined income of both parents.

(3) The formula described in subsection (1) of this section must be designed to ensure, as a minimum, that the child for whom support is sought benefits from the income and resources of the absent parent on an equitable basis in comparison with any other minor children of the absent parent.

(4) The child support obligation to be paid by the obligor and determined under the formula described in subsection (1) of this section:

(a) May be reduced or increased in consideration of [*the costs of a health benefit plan incurred by the obligor or obligee*] **medical support**, as provided in ORS 25.321 to 25.343.

(b) May be reduced dollar for dollar in consideration of any Social Security or apportioned Veterans' benefits paid to the child, or to a representative payee administering the funds for the child's use and benefit, as a result of the obligor's disability or retirement.

(c) Shall be reduced dollar for dollar in consideration of any Survivors' and Dependents' Educational Assistance under 38 U.S.C. chapter 35 paid to the child, or to a representative payee administering the funds for the child's use and benefit, as a result of the obligor's disability or retirement.

SECTION 8. ORS 107.106 is amended to read:

107.106. (1) An order or judgment providing for the custody, parenting time, visitation or support of a child under ORS chapter 25, 107, 108, 109 or 110 or ORS 419B.400 or 419C.590 shall include:

(a) Provisions addressing the issues of:

(A) Payment of uninsured medical expenses of the child;

(B) Maintenance of insurance or other security for support; and

(C) [*Maintenance of a health benefit plan*] **Medical support** for the child under ORS 25.321 to 25.343.

(b) A statement in substantially the following form:

The terms of child support and parenting time (visitation) are designed for the child's benefit and not the parents' benefit. You must pay support even if you are not receiving visitation. You must comply with visitation orders even if you are not receiving child support.

Violation of child support orders and visitation orders is punishable by fine, imprisonment or other penalties.

Publicly funded help is available to establish, enforce and modify child support orders. Paternity establishment services are also available. Contact your local district attorney or the Department of Justice at (503) 373-7300 for information.

Publicly funded help may be available to establish, enforce and modify visitation orders. Forms are available to enforce visitation orders. Contact the domestic relations court clerk or civil court clerk for information.

(2) The court or administrative law judge shall ensure the creation and filing of an order or judgment that complies with this section.

(3) This section does not apply to an action undertaken by the Division of Child Support of the Department of Justice or a district attorney under ORS 25.080.

SECTION 9. ORS 416.448 is amended to read:

416.448. (1) As used in this section:

(a) "Child support judgment" has the meaning given that term in ORS 25.089.

(b) "Governing child support judgment" has the meaning given that term in ORS 25.091.

(2) Notwithstanding any other provision of this section or ORS 25.089, when two or more child support judgments exist involving the same obligor and child, and when one or more of the judgments was issued by a tribunal of another state, the administrator shall apply the provisions of ORS chapter 110 before enforcing or modifying a child support judgment under this section or ORS 25.089.

(3) When the administrator finds that two or more child support judgments exist involving the same obligor and child and the same period, and each child support judgment was issued in this state:

(a) The administrator may petition the court for the county where a child who is subject to the judgments resides for a governing child support judgment under ORS 25.091; or

(b) The administrator may apply the presumption described in ORS 25.091, determine the controlling terms of the child support judgments and issue a proposed governing child support order and notice to the parties in the manner prescribed by rules adopted by the Department of Justice under ORS 416.455. The proposed governing child support order must include all of the information described in ORS 25.091 (8). The administrator shall serve the proposed governing child support order and notice in the manner provided in ORS 416.425. The notice must include a statement that the

proposed governing child support order shall become final unless a written objection is made to the administrator within 60 days after service of the proposed governing child support order and notice.

(4) If the administrator receives a timely written objection to a proposed governing child support order issued under subsection (3)(b) of this section, the administrator shall certify the matter to the court for the county where a child who is subject to the judgments resides for a governing child support judgment under ORS 25.091.

(5) If the administrator does not receive a timely written objection to a proposed governing child support order issued under subsection (3)(b) of this section, the governing child support order is final. The administrator shall certify the governing child support order to a court for review and approval under ORS 416.425 (10). The governing child support order is not effective until reviewed and approved by the court. If the court approves the governing child support order, the governing child support order becomes the governing child support judgment upon filing as provided in ORS 416.440.

(6) When a governing child support judgment is entered as described in ORS 416.440, the non-controlling terms of each earlier child support judgment [*regarding monetary support or a health benefit plan under ORS 25.321 to 25.343*] are terminated. However, subject to subsection (7) of this section, the entry of a governing child support judgment does not affect any support payment arrearage or any liability related to [*health benefit plan coverage*] **medical support, as defined in ORS 25.321**, that has accrued under a child support judgment before the governing child support judgment is entered.

(7) For purposes of reconciling any [*monetary*] **child** support arrears or credits under all of the child support judgments, amounts collected and credited for a particular period under one child support judgment must be credited against the amounts accruing or accrued for the same period under any other child support judgment.

(8) Not sooner than 30 days and not later than 60 days after entry of the governing child support judgment, the administrator shall file a certified copy of the governing child support judgment with each court that issued an earlier child support judgment. A failure to file does not affect the validity or enforceability of the governing child support judgment.

(9) When an administrative law judge finds that two or more child support judgments exist involving the same obligor and child and the same period, and each child support judgment was issued in this state, the administrative law judge shall remand the matter to the administrator to follow the provisions of subsection (3) of this section.

SECTION 10. 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 parties by regular mail to the last known addresses of the parties:

- (a) That the notice has been sent to the providing party's employer; and
- (b) Of the providing party's rights and duties under the notice.

(2) 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 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 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 providing party is not the party from whom health care coverage is required; **or**

(d) The providing party's income is equal to or less than Oregon minimum wage for full-time employment.

(4) The 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 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 11. Section 12 of this 2009 Act is added to and made a part of ORS 25.321 to 25.343.

SECTION 12. The Department of Justice may adopt all rules necessary for implementation of ORS 25.321 to 25.343.

Passed by House February 23, 2009

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate May 21, 2009

.....
President of Senate

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

.....
Governor

Filed in Office of Secretary of State:

.....M,....., 2009

.....
Secretary of State