

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 15: Medical Support</b>	<b>Effective Date: 11/12/2021</b>
	<b>Section 1: Establishing Medical Support Orders</b>	<b>Version: 2 Revision Date: 11/10/2021</b>

**BACKGROUND**

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

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

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

The 2020 revisions to the Indiana Child Support Rules and Guidelines (Guidelines) removed the Affordable Care Act (ACA) affordability test and replaced it with the 5% test for reasonableness. There is still a rebuttable presumption that parents have health insurance available at a reasonable cost. However, the presumption may be rebutted by demonstrating that the lowest out of pocket cost of insuring the child(ren) is more than 5% of the parents’ combined gross incomes. Additionally, the lowest out of pocket cost health insurance available may be public insurance.<sup>4</sup>

**DEFINITIONS**

1. **“Cash medical support”** is an amount ordered for medical costs not covered by insurance. The uninsured medical expense apportionment calculation on the Child Support Obligation Worksheet, “the 6% rule,” satisfies this federal requirement for a cash medical support order, when incorporated into the court order.<sup>5</sup>
2. **“Individual mandate”** is the common phrase for a provision of the Affordable Care Act (ACA) that requires an individual who is responsible for paying taxes in any given month to maintain health insurance coverage for themselves and any dependent for such month.<sup>6</sup>

**POLICY**

<sup>1</sup> 45 C.F.R. § 302.56(c)(2)

<sup>2</sup> 45 C.F.R. § 303.31(b)

<sup>3</sup> 45 C.F.R. § 303.31(a)(3)

<sup>4</sup> Ind. Child Support Guideline 7

<sup>5</sup> Ind. Child Support Guideline 7

<sup>6</sup> 26 U.S.C. § 5000A; 42 U.S.C. § 18091

A child support order must require either one (1) or both parents to provide medical support for the child(ren) through health insurance coverage if the health insurance coverage is available to the parent at a reasonable cost.<sup>7</sup>

Health insurance may be public (for example, Medicaid, Children's Health Insurance Program (CHIP), Hoosier Healthwise, or HIP 2.0), or private (for example, through an employer, a retirement plan, Tricare, a Veteran's Health Care Program, or the federal healthcare marketplace).<sup>8</sup>

Guideline 7 establishes a rebuttable presumption that parents have health insurance available at a reasonable cost.<sup>9</sup> The presumption may be rebutted by demonstrating that the lowest out of pocket cost of insuring the child(ren) is more than 5% of the parents' combined gross incomes. The lowest out of pocket cost health insurance available may be public insurance.<sup>10</sup>

Uninsured health care expenses, as well as health care expenses in the absence of any insurance coverage, are paid first by the custodial party (CP) up to 6% of the annual basic child support obligation.<sup>11</sup> Uninsured health care expenses in excess of 6% of the annual basic child support obligation are proportioned between the parties according to each parent's percentage share of their total income.<sup>12</sup>

The Title IV-D agency shall not seek to establish new birth expense orders or to enforce existing orders for reimbursement of the expenses of the mother's pregnancy and childbirth.<sup>13</sup> The federal Office of Child Support Services (OCSS) has prohibited the recovery of these expenses because Indiana Code and the Indiana Child Support Rules and Guidelines do not allow for income based reimbursement orders or consider the non-custodial parent's (NCP's) ability to pay.<sup>14</sup> The Title IV-D Prosecutor's Office should not reserve the right to seek orders for the reimbursement of expenses of the mother's pregnancy and childbirth.

## REFERENCES

- [IC 31-16-6-1.5](#): Claiming child for tax purposes; considerations; conditions
- [IC 31-16-6-2](#): Expenses for child's education and health care; Title IV-D fees
- [IC 31-16-6-4](#): Medical Support
- [IC 31-16-8-2](#): Medical Support
- [IC 31-25-4-11](#): State case registry; contents
- [Indiana Child Support Rules and Guidelines](#)
- [CSB-AT-376](#): Birth Expense Order Establishment and Enforcement
- [CSB-AT-405](#): Changes to Income Withholding Order (IWO) Birth Expense
- [26 U.S.C. § 5000A](#): Maintenance of minimum essential coverage
- [42 U.S.C. § 18091](#): Requirement to maintain minimum essential coverage; findings
- [45 C.F.R. § 302.56](#): Guidelines for setting child support orders

<sup>7</sup> IC 31-16-6-4(a); Ind. Child Support Guideline 7

<sup>8</sup> Ind. Child Support Guideline 7

<sup>9</sup> Ind. Child Support Guideline 7

<sup>10</sup> Ind. Child Support Guideline 7

<sup>11</sup> Ind. Child Support Guideline 7 and Commentary

<sup>12</sup> Ind. Child Support Guideline 7 and Commentary

<sup>13</sup> CSB-AT-376; CSB-AT-405; OCSS-AT-08-08; OCSS-PIQ-07-01

<sup>14</sup> CSB-AT-376; OCSS-AT-08-08; OCSS-PIQ-07-01

- [45 C.F.R. § 303.30](#): Securing medical support information
- [45 C.F.R. § 303.31](#): Securing and enforcing medical support obligations
- [OCSS-AT-08-08](#): Final Rule: Child Support Enforcement Program Medical Support
- [OCSS-PIQ-07-01](#): Federal Income Tax Refund Offset Program to Recoup Medical or Birthing Expenses Owed to State

## PROCEDURE

When the Title IV-D Prosecutor’s Office becomes aware of a Title IV-D case where the existing support order does not provide for medical support or a support order needs to be established, the Title IV-D Prosecutor’s Office shall petition the Court for an order for medical support.<sup>15</sup>

A medical support order shall include a provision for health insurance coverage, as well as a provision for how parents will split the cost of any uninsured health care expenses (the 6% rule).<sup>16</sup>

If the child is enrolled in Medicaid or another public health insurance policy, the Court, at its discretion, may order the child to remain enrolled in public health insurance and not order either party to obtain private health insurance.<sup>17</sup>

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

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

If the Title IV-D Prosecutor’s Office learns that the parent providing health insurance will obtain it from the federal healthcare marketplace (healthcare.gov), the Title IV-D Prosecutor’s Office may suggest to the Court that the parent ordered to provide health insurance is awarded the dependent tax exemption(s) for the child(ren) of the case. If the NCP is the party providing insurance, the order awarding the tax exemption shall be conditioned upon the NCP having paid at least 95% of the current support obligation for the tax year by January 31<sup>st</sup> of the following year.<sup>18</sup>

The Clerk of Courts (or, by mutual agreement, the Title IV-D Prosecutor’s Office) shall enter into the statewide child support system any new or modified orders that provide for health insurance coverage, including the insurance policy name, policy number, and names of persons covered.<sup>19</sup> The Title IV-D Prosecutor’s Office is responsible for checking the statewide child support system to ensure that this information is entered.

<sup>15</sup> IC 31-16-6-4; IC 31-16-8-2; 45 C.F.R. § 303.31(b)

<sup>16</sup> IC 31-16-6-2(a)(2); IC 31-16-6-4; Ind. Child Support Guideline 7

<sup>17</sup> Ind. Child Support Guideline 7

<sup>18</sup> IC 31-16-6-1.5; Ind. Child Support Guideline 9

<sup>19</sup> IC 31-25-4-11(c)

## FORMS AND TOOLS

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

## FREQUENTLY ASKED QUESTIONS

1. Q. If the only reason to modify a child support order is to include a medical support order, where one does not already exist, is that sufficient grounds to file a petition to modify?
  - A. Yes. Federal and State requirements mandate the inclusion of a medical support order within a child support order.<sup>20</sup>

## RELATED INFORMATION

1. The following information, if available, is provided through the IV-A/IV-D and IV-E/IV-D interfaces:<sup>21</sup>
  - (1) Name of NCP;
  - (2) Social Security number of NCP;
  - (3) Social Security number of CP;
  - (4) Home address of NCP;
  - (5) Name and address of NCP's employer;
  - (6) Names and Social Security numbers of children;
  - (7) Whether NCP has health insurance coverage; and
  - (8) Health insurance policy name, number and persons covered.

## REVISION HISTORY

Version	Date	Description of Revision
Version 1	10/26/2017	Final approved version
Version 1.1	06/03/2019	Revised to reflect updated ACA and medical support laws
Version 2	11/12/2021	Revised to reflect updates to Indiana's Child Support Guidelines and ACA laws
	08/22/2023	Changed Office of Child Support Enforcement (OCSE) to Office of Child Support Services (OCSS)

<sup>20</sup> IC 31-16-6-4; 45 C.F.R. 303.31(b)

<sup>21</sup> 45 C.F.R. § 303.30(a)