

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2336

2007 SENATE HUMAN SERVICES

SB 2336

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2336

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 1-29-07

Recorder Job Number: 2150

Committee Clerk Signature

Mary K. Maxson

Minutes:

Senator J. Lee, Chairman, opened the hearing on SB 2336 relating to liability for children's health insurance coverage or health care costs.

James Fleming (Deputy Director & General Counsel, child Support Enforcement Division, DHS) testified in support of SB 2336. (See attached testimony with proposed amendments and a decision matrix.)

Maggie Anderson (Department of Human Services) testified in support of SB 2336. The Medicaid regulations are pretty clear about the use of third party resources to support getting costs of services to a Medicaid recipient who may have other resources. Medicaid is to be the payer of last resort. This bill would expand those opportunities to find other third party resources and just ensure that more children have access to health care coverage. The medical services division supports this bill because it clearly aligns with the federal regulations and it allows them to use the finite resources they have to provide other services to other individuals. They are ok with the amendments.

Senator Warner asked if they are clear about the definition of the stepparent who takes the child into their family. Does that mean full time within the home or is there a more legal meaning to that.

Mr. Fleming answered that when you talk about "received into the family" it's fairly well understood that means they share the same household.

There was no opposing testimony.

Rod St. Aubyn (BC/BS) testified in a neutral manner. On the bottom of page 1 and top of page 2 the provision talking about publishing a list of child only—is no problem. And this is all permissive, but on the second part, "and enter into an agreement with one or more health insurers authorized to do business in the state to offer group health insurance for any child who is subject to the order" he doesn't think there will be companies to offer that. There are policies available for children or individuals but they have to medically qualify. Realistically, those that would qualify would go with an individual product because it would be cheaper than a group product. If someone does create a group product, it will probably be more expensive because you are dumping the more expensive ones that couldn't qualify into it. Since it is permissive, he didn't see a problem with having it in there.

The hearing on SB 2336 was closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2336

Senate Human Services Committee

Check here for Conference Committee

Hearing Date: 1-31-07

Recorder Job Number: 2452

Committee Clerk Signature

Mary K Monson

Minutes:

Senator J. Lee, Chairman, opened SB 2336 for discussion and asked Mr. Fleming for more information.

Mr. Fleming said they are looking down the road when the parties are before the court. The court is going to look at them and ask which of you has access to insurance right now.

(Meter 1:19) He gave an example that mom has custody and dad is the payer. The dad has it through his employer. The court will order the obligor to carry that insurance. Under the guidelines, the dollars paid is a premium to the employer for that employer provided family coverage. That is deducted from the guidelines before you come up with the amount that is due.

The child support guidelines are done by administrative rule and based on income of the non-custodial parent.

Senator J. Lee said the premium is deducted to determine the net income upon which the formula is applied to determine the actual cash child support.

Mr. Fleming said yes.

Senator J. Lee asked about the premium paid.

Mr. Fleming said it is just the out of pocket of the obligor and gave an example (Meter 2:30).

He continued to talk about different scenarios. They need to wait for the final federal rule to tell them what they need to do. They will need to work with that federal rule and change current law. They have the option to come back to the legislature in two years and have the law changed. Some of these things they want to get under way as soon as they can to improve kids health insurance. This bill will give them the tools by administrative rule to pursue the vision they see a couple of years out and get it into place.

Senator J. Lee gave some examples (Meter 6:38) and asked if the judge, under these scenarios, could still evaluate the coverage and make sure whichever policy applies better for the child could be used.

Mr. Fleming said yes, the federal rule tells them there are three things to look at: cost, accessibility, and comprehensiveness of coverage. This bill would give the ability to look at all of those aspects by rule and come up with a decision matrix for the court to apply.

Senator Pomeroy asked how the judges get the matrix.

Mr. Fleming said they would follow the model they have used for the child support guidelines which are also adopted by administrative rule. The proposed amendments to those guidelines are widely advertised to the judiciary. When the guidelines are finalized a packet of the revised guidelines is mailed to every judge and judicial referee in ND. It's available on the website and they are given a link. The guidelines have become fairly well known to the judges as the tool they have to come up with how much child support is paid.

Senator Warner asked if they are sitting at the situation where they would be requiring an obligor to carry insurance of a previous relationship at the cost of insurance to the children of a current relationship.

Mr. Fleming addressed the multi family situation. It has been tough to tackle with the guidelines (Meter 10:25). It is something that needs to be looked at if the bill passes and they

become involved in the rule making—to not forget the children of a second family while helping out the children of the first family.

Senator J. Lee asked if there is anything they need to do in this bill to ensure that consideration is given or will it happen in the rule making.

Mr. Fleming answered that they want a workable rule and that is something they would look at.

The bill doesn't mandate it but, from their view, it's not an objectionable mandate. He felt it would be part of the rule making process.

(Meter 13:00) Mr. Fleming talked about the amendments to change the terminology from "health care costs" to "medical support", and changing "guidelines" to rules. If the amendments are adopted, the contingent effective date would still be sections 1, 2, and 3.

Senator Warner moved to accept the Fleming amendments to SB 2336.

The motion was seconded by Senator Erbele.

Roll call vote 6-0-0. Motion carried.

Senator Erbele moved a Do Pass as amended on SB 2336.

The motion was seconded by Senator Heckaman.

Roll call vote 6-0-0. Motion carried. Carrier is Senator Warner.

FISCAL NOTE

Requested by Legislative Council

03/23/2007

Amendment to: Engrossed
 SB 2336

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill authorizes the Dept to adopt administrative rules dividing the responsibility for children's health insurance or other medical support between parents; authorizes amendments to child support guidelines for amounts payable for other medical support, clarifying the definition of child support.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill provides that child support obligations may now include health insurance coverage or liability for other medical support to be paid as part of child support orders, which is anticipated to reduce the number of children in need of Medicaid benefits or SCHIP coverage from the state. For parents with no access to insurance, the obligated parent may be required to make monthly payments of medical support, which would be assigned to the State for months when the child is receiving Medicaid benefits. The fiscal impact is undeterminable because the Department cannot determine how many children will no longer need Medicaid benefits or SCHIP coverage as a result of enforcement of health insurance coverage or other medical support from the obligated parent.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The bill would increase the amount of payments parents would make toward medical support that would be retained by the Department to offset the cost of Medicaid benefits & SCHIP premiums provided for eligible children. The amount of the increased payments cannot be determined.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

A guidelines advisory committee would need to be formed and meet to make recommendations on the rulemaking changes needed to implement the bill. The cost is not expected to exceed \$5,000. In addition, some reprogramming of the computer system may be necessary to implement the changes, which would be paid out of 2007-09 biennium budgeted funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a*

continuing appropriation.

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	03/23/2007

FISCAL NOTE

Requested by Legislative Council

02/05/2007

Amendment to: SB 2336

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

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B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill provides that child support obligations may now include health insurance coverage or liability for other medical support to be paid as part of child support orders, which is anticipated to reduce the number of children in need of Medicaid benefits or SCHIP coverage from the state. For parents with no access to insurance, the obligated parent may be required to make monthly payments of medical support, which would be assigned to the State for months when the child is receiving Medicaid benefits. The fiscal impact is undeterminable because the Department cannot determine how many children will no longer need Medicaid benefits or SCHIP coverage as a result of enforcement of health insurance coverage or other medical support from the obligated parent.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The bill would increase the amount of payments toward other medical support that would be retained by the Department to offset the costs of Medicaid benefits provided to the child for whom the payments are made. However, the amount cannot be determined.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

A guidelines advisory committee would need to be formed and meet to make recommendations on the rulemaking changes needed to implement the bill. The cost is not expected to exceed \$5,000. In addition, some reprogramming of the computer system may be necessary to implement the changes, which would be paid out of budgeted funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	02/05/2007

FISCAL NOTE

Requested by Legislative Council

01/22/2007

Bill/Resolution No.: SB 2336

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill authorizes the Department to adopt administrative rules dividing the responsibility for children's health insurance or health care costs between parents; authorizes amendments to child support guidelines for amounts payable toward health care costs, clarifying the definition of child support.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill provides that child support obligations may now include health insurance coverage or liability for health care costs to be paid as part of child support orders, which is anticipated to reduce the number of children in need of Medicaid benefits or SCHIP coverage from the state. For parents with no access to insurance, the obligated parent may be required to make monthly payments of medical support, which would be assigned to the State for months when the child is receiving Medicaid benefits. The fiscal impact is undeterminable because the Department cannot determine how many children will no longer need Medicaid benefits or SCHIP coverage as a result of enforcement of health insurance coverage or health care costs from the obligated parent.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The bill would increase the amount of payments toward health care costs that would be retained by the Department to offset the costs of Medicaid benefits provided to the child for whom the payments are made. However, the amount cannot be determined.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

A guidelines advisory committee would need to be formed and meet to make recommendations on the rulemaking changes needed to implement the bill. The cost is not expected to exceed \$5,000. In addition, some reprogramming of the computer system may be necessary to implement the changes, which would be paid out of budgeted funds.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a*

continuing appropriation.

Name:	Brenda M. Weisz	Agency:	DHS
Phone Number:	328-2397	Date Prepared:	01/26/2007

REPORT OF STANDING COMMITTEE

SB 2336: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2336 was placed on the Sixth order on the calendar.

Page 1, line 1, after "new" insert "subdivision to subsection 1 of section 14-09-09.7 and a new"

Page 1, line 2, replace "health care" with "other medical support"

Page 1, line 3, remove "costs", replace "sections" with "section", after the first comma insert "subsection 3 of section 14-09-08.11, section", and remove "and 14-09-09"

Page 1, line 5, replace "health care costs" with "other medical support"

Page 1, line 11, replace "health care costs" with "other medical support"

Page 1, line 12, replace "Liability" with "Responsibility"

Page 1, line 13, replace "health care costs" with "other medical support" and replace "guidelines" with "rules adopted"

Page 1, line 14, remove "established" and remove "under section 14-09-09.7"

Page 1, line 15, replace "parent" with "party"

Page 2, after line 2, insert:

"SECTION 2. AMENDMENT. Subsection 3 of section 14-09-08.11 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~Withholding~~ Unless otherwise provided by the public authority in compliance with rules promulgated by the secretary of the United States department of health and human services, withholding required by an order issued under section 14-09-09.15 must be satisfied before any payment is made to the insurer. If the amount remaining is insufficient to pay the obligor's share of premiums for health insurance coverage, the obligor may authorize additional withholding to pay the obligor's share. If the obligor does not authorize additional withholding, and the health insurance coverage will lapse as a result, the employer must promptly inform the public authority of the insufficiency.

Page 2, replace lines 15 through 31 with:

"SECTION 4. A new subdivision to subsection 1 of section 14-09-09.7 of the North Dakota Century Code is created and enacted as follows:

Include consideration of an obligated party's responsibility for health insurance coverage or other medical support under section 14-09-08.10."

Page 3, line 4, replace "health care costs" with "other medical support"

Page 3, line 10, replace "health care costs" with "other medical support"

Page 3, line 16, replace "guidelines" with "rules"

REPORT OF STANDING COMMITTEE (410)
February 2, 2007 9:35 a.m.

Module No: SR-23-1901
Carrier: Warner
Insert LC: 78336.0101 Title: .0200

Renumber accordingly

2007 HOUSE HUMAN SERVICES

SB 2336

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2336

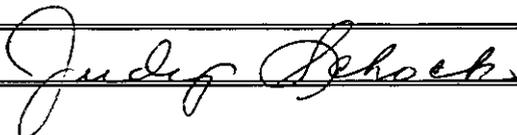
House Human Services Committee

Check here for Conference Committee

Hearing Date: February 28, 2007

Recorder Job Number: 4089

Committee Clerk Signature



Minutes:

Vice Chair Pietsch: We will open the hearing on SB 2336.

James Fleming, Deputy Director and General Counsel of the child Support Enforcement

Division of the Department of Human Services: See attached testimony and attached medical support scenarios we face today.

Representative Weisz: The cost of insurance is no bearing on qualifications for S CHIPS.

The thing is if you have insurance you don't qualify. I am not sure the language in there has to do with reasonable cost, and that has no effect on qualifying for S CHIPS. It doesn't prohibit them from going on S CHIPS if they qualify income wise.

Mr. Fleming: You are right, but what we have now is, if that coverage is out there it is a possibility. We have to get it. The S CHIPS ineligibility comes from a child being enrolled in insurance. If you are on S CHIPS and then your private insurance you are kicked off SCHIPS.

Representative Weisz: No, once you are on you are fine you could stay on forever as long as you have the income level.

Mr. Fleming: The medical assistance administers the S CHIP program.

Curtis Volesky, with Medicaid Services Division: If you have healthy steps coverage and than later get health insurance coverage it will make them loose healthy steps.

Representative Weisz: the current law talks about you could require of the obligor got insurance for 100.00 month, and the oblige could get it for 40.00 a month. You could say the obligor has to provide the insurance to the oblige even though it is less. Am I correct?

Mr. Fleming: In page 1 line 13-15 talks about responsibility. That might be with either parent. What I anticipate we would write administrative rule that would address those facts..

Chairman Price: What if the obligor has an HSA for the family, there is a divorce and they continue the HSA. They may or may not be able to keep it depending on whether (could not understand)

Mr. Fleming: My first question is there an alternate health insurance option at the time. If there isn't than at least that is some sort of coverage, and the court would be able to say because the HSA there is a fairly high deductible along with HAS's. So this is why I am going to assess liability for that deductible.

Representative Weise: Does the agency deal with each one case by case?

Mr. Fleming: No, we are looking at administrative rules that have the frame work of general application.

Chairman Price: We are already getting complaints about the obligor is responsible for medical what ever it may be but not paying the co pay or deductible. Whose income do you go by for the medical coverage?

Mr. Fleming: Some of the problems we have now, I have mentioned where the court order leave things off. They could be given 10.00 a month to cover those kinds of needs. We would go by the custodial parent's income.

Representative Porter: In section 5 we talked about income. Are we setting ourselves up for situations based on the establishment of a state wide child's policy through an RFT process that you have had we could see obligations exceeding the 50% mark of net income. We are

adding a new obligation with the same amount of income, and that is going to effect someone some how some way. Shouldn't we be looking at the income levels and adjusting them accordingly in saying it can't exceed this amount. The child support and medical amounts can't exceed a set amount.

Mr. Fleming: It is possible that the coverage would exceed the 50%. When an employer takes them over the 50% capped they are to tell child support about it. So they can decide what the oblige should pay. When there is an income change it would need to be reviewed. It is a new obligation and it would be a new financial obligation to the obligor. We could look at the guidelines.

Eric Elkins, Assistant Director for Medical Divisions with DHS: We are in support of 2336. Medicaid should be the last resort. This bill would expand opportunities to identify and provide 3rd party resources. This bill clearly aliens the federal regulations.

Representative Porter: In section 1 of the bill, does BC/BS currently have that type of policy available today?

Rod St. Aubyn, with BC/BS of ND: We do offer student only plans. It is one you would have to medically qualify. You have individual market and you have group market. The individual you must medically qualify. If you are healthy you are fine so you can be denied. A group market is a guaranteed issue. It doesn't matter who ever is a part of that group is guaranteed coverage. We don't offer a product as a group for a child only, and I don't know if we would. I just wanted to clarify that with you. The costs would be very high to us. I would guess it would not be a cheap product.

Chairman Price: Is there anyone else to testify for SB 2336? Anyone in opposition? If not we will close the hearing on SB 2336.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2336

House Human Services Sub-Committee

Check here for Conference Committee

Hearing Date: March 20, 2007

Recorder Job Number: 5334

Committee Clerk Signature



Minutes:

Chairman Weisz, Representative Porter and Representative Schneider attended the subcommittee meeting regarding SB 2336.

Chairman Weisz asked Mr. Jim Flemming to come forward with his proposed amendments.

Mr. Flemming said the purpose of the amendments was to maintain compliance with federal requirements. You will see twice where we make reference to permitted by federal law. We also talked about the duty to provide medical support being income based and also include the limitation if we are talking about a low income obligated parent. The first amendment talks about the medical hierarchy that we developed similar to what the national group recommended to the extent permitted by federal law. The rules adopted under this section are our rules and medical support must be based on the income of the obligated parent and include a limitation on the obligation of a low income parent to provide medical support unless health insurance coverage is available to the parent at a nominal cost.

Chairman Weisz asked if it allows dropping 5% to go to a sliding scale.

Mr. Flemming said that was correct. The feds recommended that the states consider this low income reduction so this would require that when we establish the medical hierarchy there is a phase down for low income obligations. He explained the second half of the amendment

regarding the CHIPS section. The rules they adopt under this medical support hierarchy may not impair a child's ability to apply for and receive public health care. Wherever possible we would leave the CHIPS coverage in place. The next amendment is to remove the provision about a state wide group plan. The next provision is to remove the sentence talking about the impact of CHIPS coverage under the reasonable cost. Page 3, line 2 is where we work in the reimbursement concept for CHIPS.

Representative Schneider asked if a child was on CHIPS now he goes through a support situation, would he still be eligible for CHIPS under the second paragraph?

Mr. Flemming said that was the goal. There may be factual times when the feds require us to continue private coverage none the less. To the extend that we can avoid it and look to cash medical contributions from that parent instead of taking them off CHIPS with private insurance we will have to do that.

Representative Porter moved to accept the amendments.

Representative Schneider seconded the motion.

Chairman Weisz called a voice vote and the motion carried with 3 yes and 0 no. The motion carried.

The subcommittee meeting was adjourned.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2336

House Human Services Committee

Check here for Conference Committee

Hearing Date: March 21, 2007

Recorder Job Number: 5416

Committee Clerk Signature

Judy Schock

Minutes:

Rep. Weisz: We did spend a lot of time on this. It wasn't as black and white as we thought it would be. Whether you were for against, it didn't get to black and white. We the first amendment on page 1 line 15, has to do with if you don't save insurance, the proposed federal regulations require that you get medical support of 5%. It also allows you to take into account the income. What page 1 line 15 does is says that the Department can reduce that 5%. That would be due for medical support based on the income. If you are making \$12,000 they can set it at 0. If you are making it \$50,000 they can set it at 5%. That is what that first section does is makes it clear. It allows you in turn that there is no bill written they are going to pay 5%. If he wasn't already providing insurance he was just going to have to pay 5%. That is the benefit of this bill.

Rep. Price: So if the child is currently, they are not required to purchase the plan?

Rep. Weisz: Yes. Some of the other amendments address that. That would be the same thing if you are on shift. You would still be required to pay the 5% off of that. Again they could drop that to 0 because of the income.

Rep. Price: So they might not even have to pay that, is that what you are saying?

Rep. Weisz: Yes. That is the same with Medicaid. We have to pay that back. The next change

is on line 23. It says that children are not eligible for public health because of the chip section. What this is saying that they can publish a list of qualities to tell if the children are not eligible for that. Then when you asked the questions about chips, the last part, the intent was to apply that to public authority, did not entitle the child's ability to apply for the public health chapter. This says that they can't get them out of Chips. We can't allow it under federal law. The federal law is clear. They wouldn't have to take them off chips. It is currently now that if you have insurance available either at \$200 or \$300 a month,

Rep. Price: No matter the deductible?

Rep Weisz: No matter the deductible. If the kids would qualify for chips they would have to go to that. They would have to pay the \$300 a month. That is the way it is. It allows the plan to do so. That hopefully addresses the Chips issue. Then if you look at page 2 line 22 that section basically has the part leading into the health insurance business. That is gone. I did check with this. You can get on a plan now for \$158 a month. That is more ethical than the other.

Rep. Price: So it is giving them more options to go with the Department and family?

Rep. Weisz: Right. On page 2 line 22 we are taking out the section that the public authority must consider the reasonable costs of health insurance. That is gone. None of that language is there. We still had concerns on line 20-22. That change on page 3 says that if we remove language of the reimbursement of health coverage, it goes to other medical support. We can't keep them on chips but there has to be an additional child support which is that 5% guideline. We are also eliminating lines 3 and 4. They aren't going to be there. There was concern that you would be paying half the deductible, the premium, and so forth. That language comes out. You may be providing insurance and having some of the deductions. That came out again. This will definitely be an improvement over what we are doing currently. I do support this amendment. I move the amendment.

Rep. Hatlestad: I second that.

Rep. Schneider: The thing I like about the amendment is that children are a Chips example for child support. The amendment accomplishes that.

Rep. Porter: I'm still not the most comfortable in section 3 with the department looking at, setting, and having authority of deductibles, co payments, cost of coverage, and all of that when there is a multitude of funds available from the policies. The way it is worded now is that tomorrow they can say that the student plan for \$70 a month is not enough. They could also say that it is not insurance and tell people that they have to pay more. I just don't like that kind of stuff. I'm not thrilled about us getting into the middle of the medical support. In the discussion we did take out the language about 'in addition to'. We don't see it as a multiplier like I did. I just don't like the bill but it is better. It leaves a lot of open holes that are going to create a lot of pain and misery for us over the next two years. There will be phone calls from people who are all of a sudden going to have this brand new obligation when talking about paying insurance. All of that is going to be up for grabs. It was the department's intention that it was part of the language that they feel. It is in the federal register but it is not law yet. They think it will look something like this before we are back in session. I mean whether it happens or not. We didn't even discuss it in the subcommittee but one thing that would really make me feel more comfortable with this is putting an expiration date on the whole thing so it has to be looked at in two years. I still think that it has got us in a situation where there is definitely something coming from the feds in regards to this. No one can really tell us exactly what that is or what it will look like. It has been the position of our legislature to do that. There is a minimum of federal requirements in the first place. There is no way to know.

Rep. Weisz: I think Rep. Porter is right. The department is maintaining the current rules. The argument is whether we agree with them or not is that currently it says reasonable cost with no

definition of what that is. If it does cost \$200 a month, and we can get insurance for \$100, we have to get it that way. That is the way they are defining it now. I share the same concerns that the department does. If it is a \$100 a month with a high deductible, is that better or worse than the \$200 a month with no deductible. Are they the ones that are going to decide that? They argue that already that is current because of the definition of reasonable cost. We left that language in there because of that. If we take it out you are back to reasonable cost.

Rep. Price: Currently it is if it is available.

Rep. Weisz: If it is available at reasonable cost, now there are more options that it does put the department more in the middle. Now there are options. Before there wasn't insurance available at no cost. You would have to buy it somewhere else. He had it available but he had to buy it. I don't like section 3 either. I don't like the way it is written.

Rep. Price: Are there any more questions? We have a motion to move the amendment. All in favor say 'aye' all opposed say 'no'. The amendment carries. Are there any further amendments?

Rep. Weisz: I move a do pass as amended.

Rep. Schneider: I second that.

Rep. Price: Is there any discussion? If not we will take a roll call vote on a do pass as amended motion for SB 2336. The do pass as amended motion passes with a vote of 11-1-0. Is there a volunteer to carry this bill?

Rep. Schneider: I will.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2336

Page 1, line 15, after the underscored period insert "To the extent permitted by federal law and rules promulgated by the secretary of the United States department of health and human services, the rules adopted under this section must be based on the income of the obligated parent and include a limitation on the obligation of a low-income parent to provide medical support unless health insurance coverage is available to the parent at no or nominal cost."

Page 1, line 23, replace "and enter into an" with "for children who are not eligible for public health coverage under chapter 50-29. To the extent permitted by federal law and rules promulgated by the secretary of the United States department of health and human services, the rules adopted by the public authority under this section may not impair a child's ability to apply for and receive public health coverage under chapter 50-29."

Page 2, remove lines 1 and 2

Page 2, line 22, remove "The public"

Page 2, remove lines 23 through 25

Page 3, line 2, replace "or" with ", reimbursement for public health coverage provided under chapter 50-29, and"

Page 3, remove lines 3 and 4

Renumber accordingly

Date: 3/20
 Roll Call Vote #: 1 *Sub Com*

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES SB-2336 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken None Amendment

Motion Made By Rep. Porter Seconded By Rep. Schneider

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman			Kari L Conrad		
Vonnie Pietsch – Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglen					
Robin Weisz					

Total (Yes) 3 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/21
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES SB 2336 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken None Amendment

Motion Made By Rep. Weisz Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairman			Kari L Conrad		
Vonnie Pietsch - Vice Chairman			Lee Kaldor		
Chuck Damschen			Louise Potter		
Patrick R. Hatlestad			Jasper Schneider		
Curt Hofstad					
Todd Porter					
Gerry Uglen					
Robin Weisz					

Total (Yes) 12 "Click here to type Yes Vote" No 0 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/21
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House HUMAN SERVICES SB 2336 Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken As passed as Amended

Motion Made By Rep. Weisz Seconded By Rep. Schneider

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price – Chairman	<input checked="" type="checkbox"/>		Kari L Conrad	<input checked="" type="checkbox"/>	
Vonnie Pietsch – Vice Chairman	<input checked="" type="checkbox"/>		Lee Kaldor	<input checked="" type="checkbox"/>	
Chuck Damschen	<input checked="" type="checkbox"/>		Louise Potter	<input checked="" type="checkbox"/>	
Patrick R. Hatlestad	<input checked="" type="checkbox"/>		Jasper Schneider	<input checked="" type="checkbox"/>	
Curt Hofstad	<input checked="" type="checkbox"/>				
Todd Porter		<input checked="" type="checkbox"/>			
Gerry Uglem	<input checked="" type="checkbox"/>				
Robin Weisz	<input checked="" type="checkbox"/>				

Total (Yes) 11 "Click here to type Yes Vote" No 1 "Click here to type No Vote"

Absent 0

Floor Assignment Rep. Schneider

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2336, as engrossed: Human Services Committee (Rep. Price, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2336 was placed on the Sixth order on the calendar.

Page 1, line 15, after the underscored period insert "To the extent permitted by federal law and rules promulgated by the secretary of the United States department of health and human services, the rules adopted under this section must be based on the income of the obligated parent and include a limitation on the obligation of a low-income parent to provide medical support unless health insurance coverage is available to the parent at no or nominal cost."

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Page 3, line 2, replace "or" with ", reimbursement for public health coverage provided under chapter 50-29, and"

Page 3, remove lines 3 and 4

Renumber accordingly

2007 TESTIMONY

SB 2336

Testimony
Senate Bill 2336 – Department Of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman
January 29, 2007

Chairman Lee, members of the Senate Human Services Committee, I am James Fleming, Deputy Director and General Counsel of the Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of Senate Bill 2336.

Senate Bill 2336 gives the child support enforcement program some additional tools to improve enforcement of medical support for children, including health insurance coverage. It will also allow us to implement an expected federal rule that may require action prior to the 2009 Legislative Session. We appreciate the willingness of legislators to sponsor this bill, including Senators Dever and Warner from this committee.

The child support enforcement program started as a way to shift the cost of public assistance programs to parents who had an ability to support their children. In addition to recovering the cost of assistance that has already been provided, further costs can be avoided by establishing and enforcing child support obligations prior to the child receiving public assistance.

As the child support enforcement program evolves and moves into the future, the importance of meeting a child's health care needs is a growing priority, and will become one of the areas in which the performance of our program is measured by the federal government. Late last September, the federal government issued a long-awaited proposed rule

that is expected to create new requirements and expectations for the child support enforcement program in the area of medical support.

The existing law regarding the duty of parents to meet their child's health care needs is found in North Dakota Century Code § 14-09-08.10, which would be amended in Section One of the bill. Under this law, every child support order must include a provision for health insurance for the child. The North Dakota Supreme Court has described N.D.C.C. § 14-09-08.10 as creating "a three-step process for determining who should be responsible for health insurance coverage." Berg v. Berg, 2000 ND 36, 606 N.W.2d 895.

1. The custodial parent must provide health insurance if it is available at no or nominal cost.
2. The obligor must provide health insurance whenever it is available at "reasonable cost" or becomes available at "reasonable cost."
3. Other provisions for the child's insurance or health care costs may be ordered in the discretion of the court.

"Reasonable cost" is currently defined in state law to mean insurance available to the obligor on a group basis or through an employer or union. N.D.C.C. § 14-09-08.15. In anticipation of the proposed rule, in 2005, the Legislature gave our program the authority to adopt an alternate definition of "reasonable cost" for health insurance by administrative rule. We are requesting similar flexibility to adopt other health insurance and medical support rules in the upcoming biennium.

It is possible that the method for determining responsibility for medical support will need to change and become more dependent on the facts in

each case. In addition to the need for a realistic definition of "reasonable cost," the proposed regulation also observes that insurance available to the obligor at reasonable cost may not be accessible to the child. At this time, we expect that more coverage may be required from the custodial parent, with some or all of the cost of the premium being passed on to the obligor. We are offering a technical amendment to indicate that these rules may be adopted either as part of the existing child support guidelines, or as a separate administrative rule.

We are aware that access to private insurance makes a child ineligible for the children's health insurance program. Thus, our goal is to create a medical support methodology under Section One, and a definition of "reasonable cost" under Section Two, that lead to quality health insurance coverage that is accessible to the child and affordable.

We see a need to provide additional tools to the courts to locate available coverage for children. Several child-only policies are currently available in North Dakota. Some states are experimenting with having one statewide group policy sponsored by a private insurer in which a court can order that a child be enrolled by a parent. However, a court is not always aware of these policies. The bill would amend current law to clarify that the child support enforcement program is authorized to compile a list of child-only policies and enter into a contract with one or more insurers to create a group policy for children who are subject to an order under section 14-09-08.10.

The cost of the premium would not be subsidized by the State; rather, by having a widely-available insurance policy with a specific premium, the court can order the child to be covered by the insurance and decide how

the cost of the premium (as well as deductibles and co-payments) should be allocated to each parent.

If insurance coverage is not available for a child, or if health insurance premiums or other health care costs are borne by the custodial parent, it may be appropriate for the court to require payments from the obligor as dollar-specific medical support. If the child is receiving Medical Assistance, this amount is assigned to the State to offset the cost of that assistance.

One approach discussed by the most recent Child Support Guidelines Advisory Committee is to add a dollar-specific medical support obligation to the child support guidelines. In Minnesota, for example, it is common for child support orders to require a specific payment toward medical support. Section Four would give us this option. If dollar-specific medical support is added to the child support guidelines, the obligation would be based on the income of the obligor.

Section Five clarifies existing law that a payment for health insurance coverage or other medical support is a form of support for the child and enforceable as child support.

Section Six provides that certain sections of the bill would not take effect until the end of the rulemaking process, allowing us the time to obtain input and comment from interested parties and complete the rulemaking process before current law is changed. This also gives us time to see what the final federal rule will require.

We are proposing some amendments to the bill.

- Throughout the bill, we propose to replace the phrase “health care costs” with “other medical support.”
- The current priority of withholding for income payors to withhold income for child support and health insurance premiums may need to be changed under the final regulation, so we propose an additional section giving us the authority to alter the existing priority by administrative rule.
- In some cases, health insurance coverage that is available to a stepparent covers a child and therefore, the parent does not obtain his or her own coverage for the child. For a stepparent married to the custodial parent who accepts the child into his or her family, there is an existing duty to support the child. For a stepparent married to the obligor who does not accept the child into his or her family, there is no existing duty under state law. Expanding the duty of support of stepparents has some broad ramifications. Since the proposed rule does not require such enforcement, we are recommending that Section Three be deleted from the bill. Should federal requirements change, we can bring an amendment to the Legislature next session to propose this new duty of support.
- A new section is proposed to provide that the child support guidelines will include consideration of an obligated parent’s responsibility for medical support under section 14-09-08.10.

Madame Chairman, we realize that the proposed bill establishes a new framework for requiring medical support without specifying all the details. Unfortunately, we do not know what will be required by the final federal rule. If the bill is passed, our commitment is to have an open process, as required for all administrative rules, that involves all interested parties

and leads to final rules to 1) comply with federal requirements, 2) increase health insurance coverage for children, and 3) fairly establish responsibility for health care costs between the parents.

This concludes my testimony and I would be happy to answer any questions the committee may have.

DECISION MATRIX FOR TRIBUNAL USE (To Determine Appropriate Coverage for a Child Not Currently Enrolled in Any Coverage)		
Step	Situation	Action
1	Is private coverage available?	
	custodial parent: YES noncustodial parent: YES	Go to Step 2
	custodial parent: NO noncustodial parent: YES	Go to Step 2
	custodial parent: YES noncustodial parent: NO	Go to Step 2
	custodial parent: NO noncustodial parent: NO	Custodial parent enrolls in Medicaid/SCHIP, or other available coverage
2	Does the child have access to coverage?	
	custodial parent: YES noncustodial parent: YES	Go to Step 3
	custodial parent: NO noncustodial parent: YES	Go to Step 3
	custodial parent: YES noncustodial parent: NO	Go to Step 3
	custodial parent: NO noncustodial parent: NO	Custodial parent enrolls in Medicaid/SCHIP, or other available coverage
3	Is cost reasonable?	
	custodial parent: YES noncustodial parent: YES	Go to Step 4
	custodial parent: NO noncustodial parent: YES	Noncustodial parent
	custodial parent: YES noncustodial parent: NO	Custodial parent enrolls
	custodial parent: NO noncustodial parent: NO	Custodial parent enrolls in Medicaid/SCHIP, or other available coverage
4	Does one parent have better coverage?	
	YES: custodial parent's coverage is better	Custodial parent enrolls
	YES: noncustodial parent's coverage is better	Noncustodial parent enrolls
	NO: coverage is of equal quality	Custodial parent enrolls, unless a special determination is requested

PROPOSED AMENDMENTS TO SENATE BILL NO. 2336

Page 1, line 1, after "enact" insert "subdivision g of subsection 1 of section 14-09-09.7 and"

Page 1, line 2, remove "health care"

Page 1, line 3, replace "costs" with "other medical support", replace "sections" with "section", after the first comma insert "subsection 3 of section 14-09-08.11, section", and remove ", and 14-09-09"

Page 1, line 5, replace "health care costs" with "other medical support"

Page 1, line 11, replace "health care costs" with "other medical support"

Page 1, line 12, replace "Liability" with "Responsibility"

Page 1, line 13, replace "health care costs" with "other medical support" and remove "guidelines"

Page 1, line 14, replace "established" with "rules adopted" and remove "under section 14-09-09.7"

Page 1, line 15, replace "parent" with "party"

Page 2, after line 2, insert

SECTION 2. AMENDMENT. Subsection 3 of section 14-09-08.11 is amended and reenacted as follows:

3. Withholding Unless otherwise provided by the public authority in compliance with rules promulgated by the secretary of the United States department of health and human services, withholding required by an order issued under section 14-09-09.15 must be satisfied before any payment is made to the insurer. If the amount remaining is insufficient to pay the obligor's share of premiums for health insurance coverage, the obligor may authorize additional withholding to pay the obligor's share. If the obligor does not authorize additional withholding, and the health insurance coverage will lapse as a result, the employer must promptly inform the public authority of the insufficiency.

Page 2, replace lines 15 through 31 with

SECTION 4. Subdivision g of subsection 1 of section 14-09-09.7 of the North Dakota Century Code is created and enacted as follows:

- (g) Include consideration of an obligated party's responsibility for health insurance coverage or other medical support under section 14-09-08.10.

Page 3, line 4, replace "health care costs" with "other medical support"

Page 3, line 10, replace "health care costs" with "other medical support"

Page 3, line 16, replace "guidelines" with "rules"

Renumber accordingly

Testimony
Senate Bill 2336 – Department Of Human Services
House Human Services Committee
Representative Clara Sue Price, Chairman
February 28, 2007

Chairman Price, members of the House Human Services Committee, I am James Fleming, Deputy Director and General Counsel of the Child Support Enforcement Division of the Department of Human Services. I am here to ask for your favorable consideration of Engrossed Senate Bill 2336.

Senate Bill 2336 gives the child support enforcement program some additional tools to improve enforcement of medical support for children, including health insurance coverage. It will also allow us to implement an expected federal rule that may require action prior to the 2009 Legislative Session. We appreciate the willingness of legislators to sponsor this bill.

The child support enforcement program started as a way to shift the cost of public assistance programs to parents who had an ability to support their children. In addition to recovering the cost of assistance that has already been provided, further costs can be avoided by establishing and enforcing child support obligations prior to the child receiving public assistance.

As the child support enforcement program evolves and moves into the future, the importance of meeting a child's health care needs is a growing priority, and will become one of the areas in which the performance of our program is measured by the federal government. Late last September, the federal government issued a long-awaited proposed rule that is expected to create new requirements and expectations for the child support enforcement program in the area of medical support.

The existing law regarding the duty of parents to meet their child's health care needs is found in North Dakota Century Code § 14-09-08.10, which would be amended in Section One of the bill. Under this law, every child support order must include a provision for health insurance for the child. The North Dakota Supreme Court has described N.D.C.C. § 14-09-08.10 as creating "a three-step process for determining who should be responsible for health insurance coverage." Berg v. Berg, 2000 ND 36, 606 N.W.2d 895.

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2. The obligor must provide health insurance whenever it is available at "reasonable cost" or becomes available at "reasonable cost."
3. Other provisions for the child's insurance or health care costs may be ordered in the discretion of the court.

"Reasonable cost" is currently defined in state law to mean insurance available to the obligor on a group basis or through an employer or union. N.D.C.C. § 14-09-08.15. In anticipation of the proposed rule, in 2005, the Legislature gave our program the authority to adopt an alternate definition of "reasonable cost" for health insurance by administrative rule. We are requesting similar flexibility to adopt other health insurance and medical support rules in the upcoming biennium.

It is possible that the method for determining responsibility for medical support will need to change and become more dependent on the facts in each case. In addition to the need for a realistic definition of "reasonable cost," the proposed regulation also observes that insurance available to

the obligor at reasonable cost may not be accessible to the child. At this time, we expect that more coverage may be required from the custodial parent, with some or all of the cost of the premium being passed on to the obligor. Under the bill, these rules may be adopted either as part of the existing child support guidelines, or as a separate administrative rule.

We are aware that access to private insurance makes a child ineligible for the children's health insurance program. Thus, our goal is to create a medical support methodology under Section One, and a definition of "reasonable cost" under Section Three, that lead to quality health insurance coverage that is accessible to the child and affordable.

We see a need to provide additional tools to the courts to locate available coverage for children. Several child-only policies are currently available in North Dakota. Some states are experimenting with having one statewide group policy sponsored by a private insurer in which a court can order that a child be enrolled by a parent. However, a court is not always aware of these policies. The bill would amend current law to clarify that the child support enforcement program is authorized to compile a list of child-only policies and enter into a contract with one or more insurers to create a group policy for children who are subject to an order under N.D.C.C. § 14-09-08.10.

The cost of the premium would not be subsidized by the State; rather, by having a widely-available insurance policy with a specific premium, the court can order the child to be covered by the insurance and decide how the cost of the premium (as well as deductibles and co-payments) should be allocated to each parent.

N.D.C.C. § 14-09-08.11(3) directs income payers to withhold funds under an income withholding order, which includes the current monthly child support obligation and the required amount due on arrears, before they withhold the premium for health insurance coverage. Current federal regulations do not mandate a specific withholding priority. However, a pending proposed federal regulation would require withholding for health insurance premiums before any amount due on arrears is withheld.

Section Two of the bill gives us the authority to alter the existing withholding priority in state law by administrative rule if necessary to comply with the final federal regulation.

If insurance coverage is not available for a child, or if health insurance premiums or other health care costs are borne by the custodial parent, it may be appropriate for the court to require payments from the obligor as dollar-specific medical support. If the child is receiving Medical Assistance, this amount is assigned to the State to offset the cost of that assistance.

One approach discussed by the most recent Child Support Guidelines Advisory Committee is to add a dollar-specific medical support obligation to the child support guidelines. In Minnesota, for example, it is common for a child support order to require a specific payment toward medical support. Section Five would give us this option. If dollar-specific medical support is added to the child support guidelines, the obligation would be based on the income of the obligor. Whether or not a dollar-specific obligation is imposed, Section Four provides that the child support guidelines will include consideration of an obligated parent's responsibility for medical support under Section One of the bill.

Section Six clarifies existing law that a payment for health insurance coverage or other medical support is a form of support for the child and enforceable as child support.

Section Seven provides that certain sections of the bill would not take effect until the end of the rulemaking process, allowing us the time to obtain input and comment from interested parties and complete the rulemaking process before current law is changed. This also gives us time to see what the final federal rule will require.

Madam Chairman, we realize that the proposed bill establishes a new framework for requiring medical support without specifying all the details. Unfortunately, we do not know what will be required by the final federal rule. If the bill is passed, our commitment is to have an open process, as required for all administrative rules, that involves all interested parties and leads to final rules to 1) comply with federal requirements, 2) increase health insurance coverage for children, and 3) fairly establish responsibility for health care costs between the parents.

This concludes my testimony and I would be happy to answer any questions the committee may have.

Medical Support Scenarios

Scenario One:

Dad has custody of the children and Mom owes current child support and arrears. Dad's employer pays health insurance premiums for an adult-only policy; it can be changed to a family policy, but the additional premium is \$400 per month. Mom has a full-time job at \$10 an hour, but her employer does not offer health benefits. A child-only policy is commercially available for \$100 per month.

Scenario Two:

Dad has custody of the children and Mom owes current child support and arrears. Dad's employer does not offer health benefits. Mom has a full-time job at \$10 an hour. Mom's employer offers health insurance coverage to its employees, but the employee must pay the premium. The premium for coverage for Mom alone is \$200 per month; the additional premium for a family policy is \$400, or a total of \$600 per month. Based on the Dad's income, the child may be eligible for Medical Assistance benefits or children's health insurance (Healthy Steps) coverage.

Scenario Three:

Dad has custody of the children and Mom owes current child support and arrears. Dad is self-employed and does not have employer-provided health insurance coverage. Mom has a full-time job at \$20 an hour, but her employer does not offer health benefits. Based on Dad's income, the child is receiving Medical Assistance benefits.