

House Bill 657 – Default Determination & The National Medical Support Notice

A GUIDE TO ADDRESSING FREQUENTLY ASKED QUESTIONS

HOW DOES HB 657 IMPACT THE CHILD SUPPORT DEFAULT PROCEDURES AND DETERMINATION?

SPECIAL POINTS OF INTEREST:

- The purpose of the child support program is to provide children with the opportunity for a better life. By working with both parents to establish and enforce support orders, the child support program helps children receive the financial and medical support that has been ordered for them and that they deserve. The program helps families work toward becoming and remaining self-sufficient.
- The Ohio Child Support Program touches more children than any other program in Ohio, except Education.
- The Ohio CSEA Directors' Association is a professional organization dedicated to strengthening Ohio's child support program.

To be in "default", an obligor, or person owing a duty of support, must have an arrearage greater than or equal to one month's court ordered support obligation.



HB 657 clarified the definition of default by stating, under ORC 3123.01 (D), the Period of Default means the period beginning on the date default under a support order is identified and ending on the date the total arrearage amount owed under the order is paid.

The Bill amended existing Code sections relating to Support

Default procedures. A work group is now in place to recommend improvements to forms, processes, and computer programming in accordance with the legislation.

With the Bill, the previous Child Support Enforcement Agency "Advance Notice of Default" form was renamed "Default Notice." The content of the Default Notice was specified, and the Bill provided that if an obligor is identified as having obtained employment, a withholding notice must require the arrearage amount resulting from the default to be withheld in addition to current support amounts. The employer, immediately upon receipt of the Notice, is required to commence withholding of the current support and an amount equal to

20% of the current amount payment on the arrearage.

The amended sections also provided that if a Court or CSEA makes a final and enforceable determination that an obligor is in default under a support order, each payment that was due and unpaid *plus any arrearage amounts that accrue after the default determination* must be considered a final judgment entered by a Court for which execution may issue. Interest may be charged to the judgment if a Court determines the default is willful.

Any arrearages accumulating after the issuance of the Default Notice are enforceable by administrative means without the need to provide additional notification to the obligor.

DOES AN OBLIGOR HAVE A RIGHT TO AN ADMINISTRATIVE HEARING?

An obligor who receives a Default Notice does have a right to an administrative hearing. Not later than seven business days after the notice is sent, an obligor who receives a Default Notice has the right to make a request for an

administrative hearing.

If the obligor does not request an administrative hearing upon receipt of the Default Notice, the Default Notice becomes a final and enforceable determination by the CSEA.



WHAT IS THE NATIONAL MEDICAL SUPPORT NOTICE?

With HB 657, newly enacted Code sections provide for the generation and use of the National Medical Support Notice (NMSN). The NMSN is a ten-page form required by federal legislation. Employers favored the federal legislation for the NMSN because of the resultant consistency with a form used by all states.

The NMSN is used to notify an employer of a *newly hired* employee's court ordered responsibility to provide health insurance coverage for children who are the subject of a child support order.

Generally speaking, upon receipt of the notice, the employer is required to complete the form and provide the requested information regarding health insurance availability to the CSEA. Employers are then required to enroll the children under the available plan and to withhold employee contributions necessary for coverage of the children.

In order to inform the employee about the NMSN activity, the CSEA will send A Notice of Medical Support Enforcement Activity directly to the employee.

Once the employee receives the notice, they may make a written request for an administrative hearing to determine whether a Mistake of Fact was made in the NMSN.

During the Mistake of Fact Hearing, two issues would be addressed:

1. Correctly identifying the party responsible for health insurance coverage.
2. Correctly identifying the children covered under the health insurance order.

WHAT HEALTH INSURANCE COSTS ARE CONSIDERED "REASONABLE"?

Federal regulations identify "reasonable costs" for health insurance as the costs of any plan "available through an employer."

In addition, Ohio regulations

require an employer to ensure that the amount of child support and the amount of the health insurance premium do not surpass the limits established under the

Consumer Credit Protection Act. This limit can equal as much as 65% of net disposable earnings.

WHAT ARE THE BENEFITS AND POTENTIAL CONCERNS OF THE NMSN?

The NMSN is a consistent, uniform method of communicating information between the CSEA and employers. The business community supported the concept of a consistent, uniform national notice. The communication will help children get timely health insurance coverage as required by a court order.

From a customer service perspective, the CSEA and the State of Ohio will be required to increase education and

outreach efforts to help parties to cases know their rights and responsibilities associated with the NMSN and with health insurance coverage.

There will likely be increased hearings to bring out facts in cases. In some cases, there will need to be additional court filings to adjust health insurance orders to include coverage provided by a stepparent.

Also, because the issuance of

the NMSN is tied to new hire reporting, there could be times when the NMSN would be issued more than once. There will be times when the notice should be withdrawn.

In addition, the automatic enrollment under the NMSN will lead to an increase in the number of Administrative Adjustment and Review requests so that the health insurance premium can be factored into the child support obligation.



More detailed information about the NMSN can be found at the ODJFS Office of Child Support website: www.state.oh.us/odjfs/ocs/employers.stm. Information can also be found at the Federal Office of Child Support Enforcement website: www.acf.dhhs.gov/programs/cse.

