



Sometimes it takes a village... or a Qualified Medical Child Support Order

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Introduction

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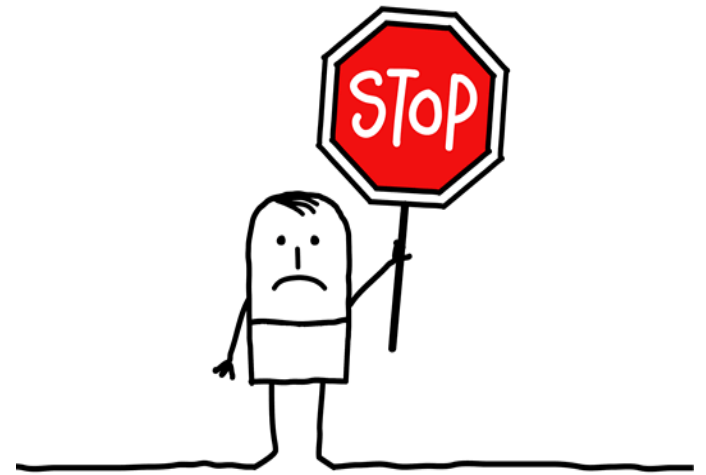
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What is a Medical Child Support Order?

- A medical child support order is a judgment, decree, or order (including an approval of a property settlement) that:
 - Is made pursuant to state domestic relations law (including a community property law) or certain other state laws relating to medical child support; and
 - Provides for child support or health benefit coverage for an Alternate Recipient under a group health plan

Must a Medical Child Support Order be Issued by a State Court?

- No -- Any judgment, decree, or order issued by a court or an Administrative Agency authorized to issue child support orders (e.g., state child support enforcement agency) that provides for medical support of a child can be a medical child support order



What is a National Medical Child Support Order?

- A state child support enforcement agency may obtain group health coverage for a child by issuing national medical support notice that plan administrator determines to be qualified
- National medical support notice, when filled out correctly, serves as QMCSO
- Notice treated as application for health coverage, if plan requires application

What is an Alternate Recipient under a QMCSO?

- “Alternate Recipient” is a child of an employee recognized under a QMSCO as having right to enrollment under a group health plan
- Alternate Recipients are plan beneficiaries under ERISA, but for reporting and disclosure are treated as participants even if Order isn’t QMCSO
- Alternate Recipients also COBRA beneficiaries

Who Can be an Alternate Recipient?

- Any child of a participant in a group health plan who is recognized under a medical child support order as having a right to enrollment under the plan with respect to the participant can be an Alternate Recipient, even a step-child not residing with employee
- A former spouse cannot be an alternate recipient

What is Required to be a “Qualified” Medical Child Support Order?

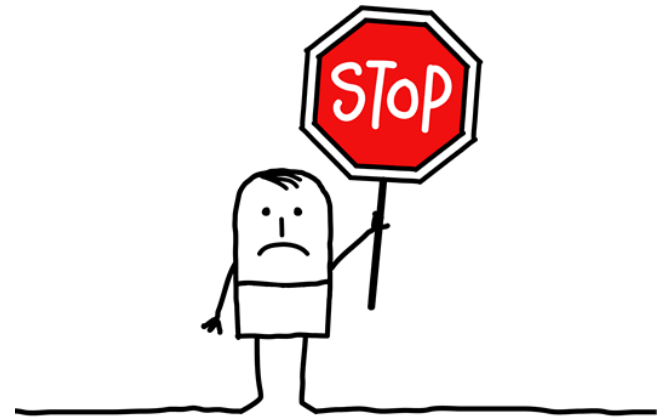
Must contain:

- Name and last address of participant and each alternate recipient (may substitute name and mailing address of state or local official for mailing address of alternate recipient)
- Reasonable description of type of coverage to be provided (or manner in which to determine this); and
- Period to which the order applies

What is Required to be a “Qualified” Medical Child Support Order?

Must not:

- Require plan to provide any type or form of benefit, or any option, not otherwise provided under the plan, except to the extent necessary to meet the requirements of certain state laws



What State Laws Can be Enforced Through a QMCSO?

State laws that:

- Require health insurers to enroll child under parent's health insurance even if born out of wedlock, does not reside with the insured parent or in the insurers service area, or is not claimed as a dependent on the parents federal income tax return;
- Require health insurer to enroll child under court or administrative order without regard to the plan's open enrollment restrictions;

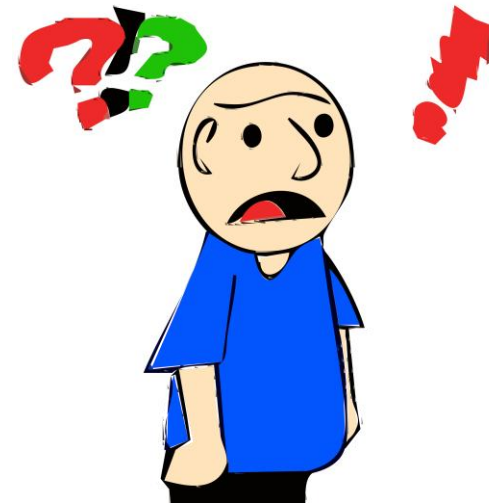
What State Laws Can be Enforced Through a QMCSO?

(Cont.)

- Require employers and insurers to comply with court or administrative orders requiring parent to provide health coverage for a child; and
- Require insurers to permit custodial parent to file claims on behalf of child under the noncustodial parent's health insurance, and to make benefit payments to custodial parent or healthcare provider

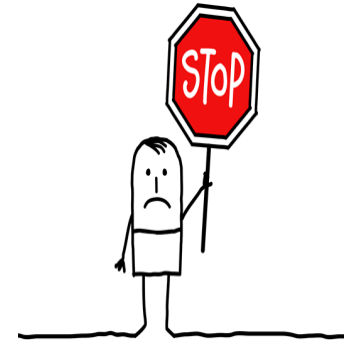
What Can QMCSO do to Enforce These State Laws?

- If QMCSO refers to these state laws or requires a plan to comply with them, the plan must comply
- **Example:**
 - QMCSO may require plan to enroll child before plan's next open enrollment period



Who Determines Whether Order is “Qualified?”

- The Plan Administrator must determine whether order is qualified, pursuant to reasonable written procedures adopted by the plan
- Just because Order is called/titled Qualified Medical Child Support Order doesn't mean it is



What are Reasonable QMCSO Procedures?

- Must be in writing
- Shall provide for the notification of each person specified in the order (as eligible to receive benefits under the plan at the address included in the order) of such procedures promptly upon receipt by the plan of the order
- Shall permit an Alternate Recipient to designate a representative for receipt of copies of notices that are sent to the Alternate Recipient with respect to an order

What Must the Administrator do When Order is Received?

- The Plan Administrator must:
 - Notify participant and alternate recipient when plan receives medical child support order; and
 - Must give them copies of the plan's procedures for determining whether it is qualified

What Must Employer Do Upon Receipt of National Medical Support Notice?

- For a National Medical Support Notice:
 - If no longer an employee or if employee not eligible, Employer must complete and send Part A “Employer Response” to issuing agency within 20 business days after notice date, or sooner if reasonable
 - Otherwise, must transfer Part B of notice to Plan Administrator within 20 business days after notice date

When Must QMCSO Determination be Made?

- National Medical Support Notice determination due within 40 days of notice date
- Plan Administrator must determine whether Order is qualified within a “reasonable” period of time after receipt (under the circumstances)

Example:

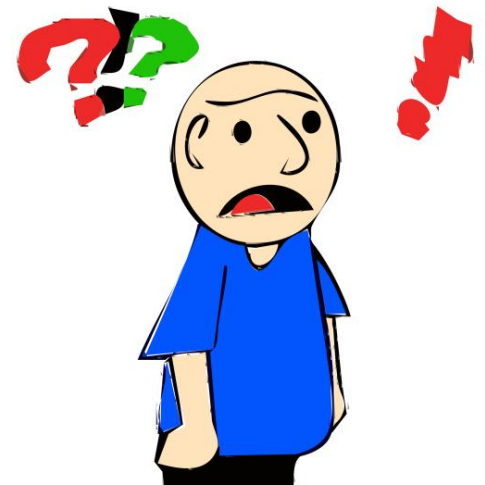
An order that is clear and complete may require 5 days to review, while incomplete or unclear order may require 10

Must Plan Provide Information Prior to Receipt of QMCSO?

- DOL: custodial parents and state child support agencies acting on child's behalf should have access to plan and participant benefit information sufficient to prepare QMCSO
 - SPD, relevant plan benefit booklets documents, description of coverage options, if any, that have been selected by participant, etc.
- Plan Administrator may condition disclosure of such information to party (other than state agency) on receiving information sufficient to reasonably establish that request is in connection with child support proceeding

What if the Employee Has Different Election in Place?

If QMCSO specifies Alternate Recipient is to receive particular level of coverage or option available under plan, but participant is not enrolled in that coverage or option, plan must change participant's enrollment to the extent necessary to provide the specified coverage to alternate recipient



What if the Employee is Not a Plan Participant?

- If employee is eligible to participate in plan, then child must be covered
- If plan requires employee to be covered as condition for covering his dependents, then employee must be enrolled, and plan must enroll both
- If employee is still in a waiting period, Plan Administrator must put procedure in place so child's coverage begins at end of waiting period

What if the Employee Contests the Validity of the Order?

- Plan Administrator does not determine whether the court or agency had jurisdiction to issue an order, whether state law is correctly applied in an order, whether service was properly made on the parties, or whether an individual identified in order as an alternate recipient is the child of the participant
- Must assume Order is validly issued unless advised otherwise by a countervailing Order

Who Pays for Coverage Under QMCSO?

- The Order will ordinarily establish the obligations of the parties for the child's support
- In most cases, the noncustodial parent/plan participant is responsible for payment of any costs associated with coverage
- A cafeteria plan pre-tax premium election change is permitted
- If withholding limits prevent reduction of participant's check notify parties unless participant voluntarily consents to waive withholding limit; (If NMSO, use Part A)

What if the Order is Missing Information?

- If order clearly describes identity and rights of parties, but factual identifying information is incomplete, if that information is:
 - within Plan Administrator's knowledge; or
 - easily obtained through simple communication with alternate recipient's custodial parent, participant, or state child support enforcement agencythen Plan Administrator should supplement the order, rather than rejecting it as not qualified

Example: order misstates the name of the participant, and Plan Administrator can clearly determine the correct name

What if the Order is Missing Information?

- If Order's description of coverage is unclear, Order should be rejected unless Plan Administrator can determine which options and levels of coverage should be provided
- If National Medical Child Support Order, must assume all coverage types involved unless stated otherwise

Example: Order requires that child be provided “any coverage available under the plan.” Plan administrator would determine what coverage is available under the plan (e.g., major medical, hospitalization, dental) and provide that coverage

Example: Plan offers more than one type of coverage (e.g., an HMO and a PPO), and Order does not say which should be provided or how the choice is to be made. Plan Administrator should reject the Order unless QMCSO procedures contain default election

When Must Coverage Begin Under QMCSO?

- Alternate Recipient (and participant, if necessary) must be enrolled as of earliest possible date following determination that Order is a QMCSO

Example: If plan only adds new participants or beneficiaries as of first day of each month, plan would be required to provide coverage to Alternate Recipient as of first day of first month following determination that Order is Qualified

When Will Coverage End Under QMCSO?

- Plan may drop Alternate Recipient coverage at same time and under same circumstances as it can for other dependents (e.g., participant terminates employment, and Alternate Recipient doesn't elect COBRA)
 - Must provide notice to custodial parent or state agency
 - If NMSO, use Part A
- If Order specifies end date for employee's support obligation, or if agency sends notice support obligation has ended, employee's pre-tax premium payment obligation ends but group health coverage must be available to end of month child reaches Age 26
- COBRA rights apply if coverage ends due to COBRA qualifying event

What Recordkeeping Requirements Apply to a QMCSO?

- By law, a medical child support order must be sent to Employer (rather than the Plan Administrator)
 - Employer keeps copy of Order and all related communications in employment files
- Plan Administrator keeps copies of QMCSO and all related communications; HIPAA privacy requirements apply
 - Retain QMCSO for minimum of 3 years following end of plan year in which QMCSO no longer applies

How Must Determinations and Notices be Sent?

- If Order or state agency provide fax number, then facsimiles can be sent
- Best practice is to send a paper copy by U.S. mail
- For notices to employee, company email system delivery not recommended

Questions?

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