

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Mahony**

A BILL ACT 368 OF 1991
HOUSE BILL 1254

For An Act To Be Entitled

8 "AN ACT TO PROVIDE FOR INCOME WITHHOLDING FOR HEALTH CARE
9 COVERAGE PREMIUMS FOR MINOR CHILDREN; TO PROVIDE FOR THE
10 INCLUSION OF ALL MINOR CHILDREN ON HEALTH CARE POLICIES;
11 AND FOR OTHER PURPOSES."

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13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. In all decrees and orders which direct the noncustodial
16 parent to provide and maintain health care coverage for any child, the court
17 shall include a provision directing the employer to deduct from money, income
18 or periodic earnings due the noncustodial parent an amount which is sufficient
19 to provide for premiums for health care coverage offered by the employer.

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21 SECTION 2. *As used in this act "health care coverage" includes, but*
22 *need not be limited to, insurance of human beings against bodily injury,*
23 *disability or death by accident or accidental means, or the expense thereof,*
24 *or disablement or expense resulting from sickness, and every insurance*
25 *appertaining thereto.*

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27 SECTION 3. (a) *No contract of individual or group health care coverage*
28 *sold, delivered or issued for delivery, renewed, or offered for sale in this*
29 *state, directly or indirectly, by any insurer, health maintenance*
30 *organization, self-funded group, multiple employer welfare arrangement, or*
31 *hospital or medical services corporation shall restrict or deny health care*
32 *coverage due to the fact that the minor child does not reside with the non-*
33 *custodial parent or that the parent/child relationship was established through*
34 *a paternity action. Any insurance policy provision which would deny or*
35 *restrict coverage to a minor child under such circumstances shall be void as*
36 *against public policy.*

1 (b) Any insurer, health maintenance organization, self-funded group,
2 multiple employer welfare arrangement, or hospital or medical services
3 corporation operating in this state shall receive claims for payment, respond
4 to requests concerning information necessary to determine coverage status for
5 minor children and otherwise communicate with the custodial parent of the
6 minor child or children or their assignee without regard to the fact that such
7 coverage may be through a policy benefiting the noncustodial parent of such
8 child or children.

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10 SECTION 4. An order of income withholding for health care coverage
11 shall take effect immediately upon completion of enrollment requirements.
12 Enrollment requirements shall be completed at the earliest enrollment period.
13 Enrollment information shall be provided by the custodial parent,
14 noncustodial parent or the Child Support Enforcement Unit as available.

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16 SECTION 5. An order of income withholding for health care coverage
17 shall have priority over all other legal processes under state law against
18 money, income or periodic earnings of the noncustodial parent except an order
19 of income withholding for child support.

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21 SECTION 6. Health care coverage premiums shall not be deemed or used as
22 a direct offset to the child support award. However, premiums for health care
23 for a minor child can be considered in determining net take home pay of the
24 noncustodial parent when setting the current child support award.

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26 SECTION 7. Income withholding for health care coverage shall apply to
27 current and subsequent periods of employment once activated.

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29 SECTION 8. Any person under a court order to provide and maintain
30 health care coverage as of the effective date of this act shall be subject to
31 income withholding for health care coverage provisions of this act. An order
32 of income withholding for health care coverage shall become effective upon the
33 completion of the notice requirement set forth below. The only grounds to
34 contest an order of income withholding for health care coverage shall be
35 mistake of fact.

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SECTION 9. Prior to notification to the employer, the noncustodial parent shall be sent a notice by any form of mail addressed to the parent at his or her last known address as contained in the records of the court clerk.

The information contained in the notice shall include:

- (1) That the parent has been directed to provide and maintain health care coverage for the benefit of a minor child.
- (2) The name and date of birth of the minor child(ren).
- (3) That the income withholding for health care coverage applies to current and subsequent periods of employment.
- (4) The procedure available to contest the withholding on the grounds that the withholding is not proper because of mistake of fact.
- (5) That failure to contest the withholding within fifteen (15) days of the mail date of the notice will result in the payor being notified to begin the enrollment requirements and withholding.
- (6) That if the noncustodial parent contests the withholding, he/she will be afforded an opportunity to present his case to the court or its representative in that jurisdiction within thirty (30) days of receipt of the notice of contest.
- (7) That state law prohibits employers from retaliating against a noncustodial parent under an income withholding order for health care coverage and that the court or its representative should be contacted if the noncustodial parent has been retaliated against by his employer as a result of the income withholding for health care coverage.

SECTION 10. Should the noncustodial parent contest the withholding because of mistake of fact, then, after providing the noncustodial parent an opportunity to present his case, the court or its representative shall determine whether the withholding shall occur and shall notify the noncustodial parent of the determination and, if appropriate, the time period in which withholding will commence.

SECTION 11. (a) Notice shall be sent to the employer or payor of the parent for whom income withholding for health care coverage has been ordered.

(b) The notice may be served on the employer or payor as if it were a

1 summons pursuant to Rule 4 of the Arkansas Rules of Civil Procedure or may be
2 sent to the employer by any form of mail requiring a signed receipt.

3 (c) The notice shall contain the following information:

4 (1) The parent's name and social security number;

5 (2) That the parent has been required to provide and maintain
6 health care coverage for a dependent minor child;

7 (3) The name, date of birth and social security number for each
8 child.

9 (d) That the employer should complete the enrollment requirements with
10 the assistance of the custodial parent, noncustodial parent, employee or the
11 Child Support Enforcement Unit and begin withholding funds sufficient from the
12 earnings due the parent to cover premiums for placing the minor child on the
13 parent's health care coverage as provided by the employer.

14 (e) That withholding is binding on the payor for current and subsequent
15 periods of employment or until further notice by the court or its
16 representative.

17 (f) That the payor must notify the court or its representative
18 immediately when the noncustodial parent terminates employment or takes other
19 adverse action terminating the income source or health care coverage and shall
20 provide the noncustodial parent's last known address and the name and address
21 of any new employer or new health care coverage provider if known, or both.

22 (g) That the employer must implement health care coverage upon the next
23 available enrollment period and notify the custodial parent of the effective
24 date of coverage.

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26 SECTION 12. Upon receipt of an objection from a payor under an order of
27 income withholding for health care coverage, the court or its representative
28 shall expeditiously determine whether the payor shall be relieved under the
29 order and shall so inform the payor within ten (10) days of receipt of the
30 objection by a notice of its determination sent to the payor by regular mail.

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32 SECTION 13. (a) A payor who has been notified of an order of income
33 withholding for health care coverage shall be bound by the order until further
34 notice by the court or its representative.

35 (b) A payor shall notify the court or its representative immediately

1 when the noncustodial parent terminates employment or takes other adverse
2 action terminating the income source and shall provide the noncustodial
3 parent's last known address and the name and address of any new employer, if
4 known.

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6 SECTION 14. (a) A payor who is an employer is prohibited from
7 discharging, refusing to employ, or taking other disciplinary action against a
8 noncustodial parent under an income withholding order for health care
9 coverage.

10 (b) Any employer violating this act shall be subject to the contempt
11 powers of the court issuing the order and may be fined up to fifty dollars
12 (\$50.00) per day.

13 (c) The noncustodial parent shall have the burden to prove that income
14 withholding for health care coverage was the sole reason for the employer's
15 action.

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17 SECTION 15. All provisions of this act of a general and permanent
18 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
19 Code Revision Commission shall incorporate the same in the Code.

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21 SECTION 16. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

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27 SECTION 17. All laws and parts of laws in conflict with this act are
28 hereby repealed.

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30 SECTION 18. EMERGENCY CLAUSE. It is hereby found and determined by the
31 Seventy-Eighth General Assembly that it is in the best interest of the people
32 of the State of Arkansas that child support be collected and medical insurance
33 requirements be enforced in the most expedient manner for all children of this
34 state; that the smooth transition from current requirements to those of this
35 act require that the provisions become effective upon passage. Therefore, an

Approved: 3/6/91

1 emergency is hereby declared to exist and this act being necessary for the
2 immediate preservation of the public peace, health and safety shall be in full
3 force and effect from and after its passage and approval.

4 */s/ J. Mahony*

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6 APPROVED: 3-6-91

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