

State of Arkansas
77th General Assembly
Regular Session, 1989

HOUSE BILL

1420

By: Representative Mahony

"AN ACT TO PROVIDE FOR INCOME WITHHOLDING FOR HEALTH CARE
COVERAGE PREMIUMS FOR MINOR CHILDREN AND INCLUSION OF ALL
MINOR CHILDREN ON HEALTH CARE POLICIES."

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

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

SECTION 2. Health care coverage shall not be restricted or denied due to the fact the minor child does not reside in the household of the noncustodial or custodial parent or that the parent-child relationship was established through a paternity action. Any insurance policy containing a provision which would deny or restrict coverage to a minor child under the aforementioned circumstances shall be considered violative of public policy and such provision shall be considered void under this act.

SECTION 3. Orders of income withholding for health care coverage shall take effect immediately upon completion of enrollment requirements. Enrollment requirements shall be completed at the earliest enrollment period. Proof of coverage or the intent to provide coverage at the earliest enrollment period shall be provided to the Court or its representative within 30 days of receipt of notice by the employer.

SECTION 4. Orders of income withholding for health care coverage shall have priority over all other legal processes under state law against money, income, or periodic earnings of the noncustodial or custodial parent except orders of income withholding for child support.

SECTION 5. Health care coverage premiums shall not be deemed or used as a direct offset to the child support award. Premiums for health care for a minor child may be considered in determining net take home pay of the noncustodial parent when setting the current child support award.

SECTION 6. Income withholding for health care coverage shall apply to current and subsequent periods of employment, once activated.

SECTION 7. All persons under court order to provide and maintain health care coverage as of the effective date of this Act shall be subject to income withholding for health care coverage provisions of this Act. An order of income withholding for health care coverage shall become effective upon the completion of the notice requirement set forth below. The only grounds to contest an order of income withholding for health care coverage shall be mistake of fact.

SECTION 8. Prior to notification to the employer, the noncustodial or custodial parent directed to provide health care coverage 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:

(a) That the parent has been directed to provide and maintain health care coverage for the benefit of a minor child.

(b) The name and date of birth of the minor child.

(c) That the income withholding applies to current and subsequent periods of employment, if used in employment, or remuneration.

(d) The procedure available to contest the withholding on the grounds that the withholding is not proper because of mistake of fact.

(e) That failure to contest the withholding within ten (10) days of the receipt or refusal of the notice will result in the payor being notified to begin the withholding.

(f) That if the parent contests the withholding, he 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 the contest.

(g) That state law prohibits employers from retaliating against an employee under an income withholding order and that the court or its representative should be contacted if the parent has been retaliated against by the employer as a result of the income withholding order.

SECTION 9. Should the parent contest the withholding because of mistake of fact, then, after providing the parent an opportunity to present his or her case, the court or its representative shall determine whether the withholding shall occur and shall notify the parent of the determination and, if appropriate, the time period in which withholding will commence.

SECTION 10. (a) Notice shall be sent to the employer of the parent for whom income withholding for health care coverage has been ordered.

(b) The notice may be served on the employer as if it were a summons pursuant to Rule 4 of the Arkansas Rules of Civil Procedure or may be sent to the employer by any form of mail requiring a signed receipt.

(c) The notice shall contain the following information:

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

(2) That the parent has been required to provide and maintain health care coverage for a dependant minor child.

(3) The name and date of birth for each child.

(d) That the employer should begin withholding funds sufficient from the earnings due the parent to cover premiums for placing the minor child on the parent's health care coverage provided by the employer.

(e) That the payor may deduct a fee not to exceed two dollars and fifty cents (\$2.50) in addition to the court-ordered amount for the administrative costs incurred in each withholding.

(f) That withholding is binding on the payor until further notice by the Court or its representative.

(g) That the payor must notify the Court or its representative immediately when the noncustodial parent terminates employment or takes other adverse action terminating the income source and shall provide the noncustodial parent's last known address and the name and address of any new

employer if known.

(h) That the employer must implement health care coverage upon the next available enrollment period and provide proof of coverage or intent to provide coverage at the next available enrollment period to the Court or its representative within 30 days.

SECTION 11. That Ark. Code Ann. 9-14-223, 9-14-224, 9-14-226, 9-14-227 regarding income withholding for support shall also apply to income withholding for health care coverage.

SECTION 12. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 13. All laws and parts of laws in conflict with this Act are hereby repealed.

