

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1172

4 By: Representatives Northcutt, M. Wilson, and Ferrell

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For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 9, CHAPTER 14,
9 SUBCHAPTER 5 OF THE ARKANSAS CODE ANNOTATED DEALING WITH
10 HEALTH CARE COVERAGE FOR MINOR CHILDREN TO COMPLY WITH
11 SECTION 13623 OF THE FEDERAL OMNIBUS BUDGET RECONCILIATION
12 ACT OF 1993; TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES."

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Subtitle

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

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22 SECTION 1. Arkansas Code Annotated § 9-14-502 is hereby amended to
23 read as follows:

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"9-14-502. Income withholding authorized.

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(a) In all decrees and orders which direct the noncustodial parent to
26 provide and maintain health care coverage for any child, the court shall
27 include a provision directing the employer to deduct from money, income, or
28 periodic earnings due the noncustodial parent an amount which is sufficient
29 to provide for premiums for health care coverage offered by the employer.

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(b) The Office of Child Support Enforcement is authorized to garnish
31 wages, salary, or other employment income pursuant to § 16-110-101, et seq.
32 and withhold amounts from state tax refund due any person who:

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(1) Is required by court or administrative order to provide
34 coverage for costs of health services to a child who is eligible for medical
35 assistance under this section; and

1 (2) Has received payment from a third party for the costs of
2 such services for the child; but

3 (3) Has not used such payment to reimburse, as appropriate, the
4 custodial parent, the provider of such services, the Department of Human
5 Services, or the Office of Child Support Enforcement for expenditures for
6 such costs.

7 (c) Any claims for current or past due child support shall have
8 priority over any claim for the costs of such services."
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10 SECTION 2. Arkansas Code Annotated § 9-14-503 is hereby amended to
11 read as follows:

12 "9-14-503. Minor children - Certain provisions denying or restricting
13 coverage void.

14 (a) No contract of individual or group health care coverage sold,
15 delivered, issued for delivery, renewed, or offered for sale in this state by
16 any insurer, health maintenance organization, self-funded group, multiple
17 employer welfare arrangement, or hospital or medical services corporation
18 shall, *directly or indirectly*, restrict or deny health care coverage due to
19 the fact that the minor child does not reside with the noncustodial parent
20 or that the parent-child relationship was established through a paternity
21 action or that the minor child is covered through the state-administered
22 medicaid program or that the minor child is not claimed as a dependent on the
23 noncustodial parent_s federal or state income tax return. *Furthermore, no*
24 *insurer, health maintenance organization, self-funded group, multiple*
25 *employer welfare arrangement, or hospital or medical services corporation*
26 *shall, directly or indirectly, restrict or deny benefits to a minor child*
27 *because the child lives outside of its service area; benefits provided*
28 *outside the service area shall be in accordance with the terms and conditions*
29 *of the health care plan.*

30 (b) *All* contract of individual or group health care coverage sold,
31 delivered, issued for delivery, renewed, or offered for sale in this state by
32 any insurer, health maintenance organization, self-funded group, multiple
33 employer welfare arrangement, or hospital or medical services corporation
34 shall *provide for the immediate enrollment of the minor child or children.*
35 The minor child shall be enrolled immediately in the noncustodial parent_s

1 health care plan upon submission of the notice as provided in § 9-14-511.

2 (c) *Except for nonpayment of premium, no contract of individual or*
3 *group health care coverage sold, delivered, issued for delivery, renewed, or*
4 *offered for sale in this state by any insurer, health maintenance*
5 *organization, self-funded group, multiple employer welfare arrangement, or*
6 *hospital or medical services corporation shall permit, directly or*
7 *indirectly, the removal of a minor child from enrollment for coverage unless*
8 *the insurer has received evidence in writing that the court or administrative*
9 *order providing for the health care coverage is no longer in effect or that*
10 *the child is or will be enrolled on comparable health coverage through*
11 *another insurer, which will take effect not later than the effective date of*
12 *such disenrollment.*

13 (d) No contract of individual or group health care coverage sold,
14 delivered, issued for delivery, renewed, or offered for sale in this state by
15 any insurer, health maintenance organization, self-funded group, multiple
16 employer welfare arrangement, or hospital or medical services corporation
17 shall, *directly or indirectly*, impose requirements on the Office of Child
18 Support Enforcement that are any different from those applicable to any other
19 agent or assignee assigned the rights of a person eligible for medical
20 assistance under this section and covered for health benefits from the
21 insurer.

22 (e) Any insurance policy provision which would deny or restrict
23 coverage to a minor child under such circumstances shall be void as against
24 public policy."
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26 SECTION 3. Arkansas Code Annotated § 9-14-504 is hereby amended to
27 read as follows:

28 "9-14-504. Communication with custodial parent or assignee.

29 (a) Any insurer, health maintenance organization, self-funded group,
30 multiple employer welfare arrangement, or hospital or medical services
31 corporation operating in this state shall receive claims for payment, respond
32 to requests concerning information necessary to determine coverage status for
33 minor children or to obtain benefits through such coverage for minor
34 children, and otherwise communicate with the custodial parent or the
35 noncustodial parent of the minor child or children, an assignee, or the

1 Office of Child Support Enforcement, without regard to the fact that such
2 coverage may be through a policy benefiting the noncustodial parent of such
3 child or children.

4 (b) Any insurer, health maintenance organization, self-funded group,
5 multiple employer welfare arrangement, or hospital or medical services
6 corporation operating in this state shall permit the custodial parent or the
7 provider, with approval of the custodial parent, to submit claims for covered
8 services without approval of the noncustodial parent and shall make payment
9 on such claims directly to the custodial parent, the provider, or the Office
10 of Child Support Enforcement."

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12 SECTION 4. Arkansas Code Annotated § 9-14-508 is hereby amended to
13 read as follows:

14 "9-14-508. Persons subject to income withholding - Ground for contest.

15 (a) Any person under a court order to provide and maintain health care
16 coverage as of March 6, 1991, shall be subject to income withholding for
17 health care coverage provisions of this subchapter.

18 (b) An order of income withholding for health care coverage shall
19 become effective upon the completion of the notice requirement set forth in
20 § 9-14-509.

21 (c) The fact that the custodial parent provides supplemental medical
22 insurance coverage or that the minor child or children are otherwise eligible
23 for medicaid assistance shall not be a ground to contest an order of income
24 withholding for health care coverage.

25 (d) The only ground to contest an order of income withholding for
26 health care coverage shall be mistake of fact.

27 (e) The noncustodial parent shall not eliminate health care coverage
28 for the minor child or children without receiving evidence in writing that
29 the court or administrative order providing for the health care coverage is
30 no longer in effect.

31 (f) Whenever the court orders the noncustodial parent to provide
32 health care coverage and the noncustodial parent fails or refuses to comply
33 or eliminates health care coverage in violation of subsection (e), that fact
34 shall be disclosed to the court and may be considered a ground for civil or
35 criminal contempt of court."

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2 SECTION 5. Arkansas Code Annotated § 9-14-511 is hereby amended to
3 read as follows:

4 "9-14-511. Notice to employer.

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

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

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

11 (1) The parent_s name and social security number;

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

14 (3) The name, date of birth, and social security number for each
15 child;

16 (4) That the employer should complete the enrollment
17 requirements with the assistance of the custodial parent, noncustodial
18 parent, employee, or the Office of Child Support Enforcement and begin
19 withholding funds sufficient from the earnings due the parent to cover
20 premiums for placing the minor child on the parent_s health care coverage as
21 provided by the employer and pay such funds so withheld to the insurer;

22 (5) That withholding is binding on the payor for current and
23 subsequent periods of employment or until further notice by the court or its
24 representative;

25 (6) That the payor must notify the court or its representative
26 immediately when the noncustodial parent terminates employment or takes other
27 adverse action terminating the income source or health care coverage and
28 shall provide the noncustodial parent_s last known address and the name and
29 address of any new employer or new health care coverage provider, if known,
30 or both;

31 (7) That the employer must implement health care coverage for
32 the minor child immediately upon receipt of the notice without regard to any
33 enrollment season restrictions;

34 (8) That the employer must not remove a minor child from
35 enrollment for coverage unless:

- 1 (A) The employer has received evidence in writing that the
2 court or administrative order is no longer in effect; or
3 (B) The child is or will be enrolled in comparable health
4 coverage by the noncustodial parent, which will take effect not later than
5 the effective date of such disenrollment; or
6 (C) The employer has eliminated family health coverage for
7 all of its employees."

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9 SECTION 6. All provisions of this act of a general and permanent
10 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
11 Code Revision Commission shall incorporate the same in the Code.

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13 SECTION 7. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

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19 SECTION 8. All laws and parts of laws in conflict with this act are
20 hereby repealed.

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22 SECTION 9. EMERGENCY. It is hereby found and determined by the
23 Eightieth General Assembly that Arkansas law governing health care coverage
24 for minor children does not conform with current federal requirements set
25 forth in Section 13623 of the Omnibus Budget Reconciliation Act of 1993; that
26 it is in the best interests of the people of the state of Arkansas that the
27 provisions of this act be given immediate effect so that federal funding is
28 not jeopardized and that minor children entitled to health care services be
29 able to receive those services. Therefore, an emergency is hereby declared
30 to exist and this act being necessary for the immediate preservation of the
31 public peace, health and safety shall be in full force and effect from and
32 after its passage and approval.

33 */s/Rep. Northcutt, et al*
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