



## Healthcare Reform Webinar Series

### Child Support and Healthcare Reform

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#### Presenters:

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#### Goals of this Webinar:

- 1) Provide an overview of the environment created by Healthcare reform legislation
- 2) Educate Child Support agencies and other interested parties by increasing awareness of the issues and by discussing the impact reform legislation will likely have on child support enforcement.
- 3) Encourage Child Support agencies, and Medicaid, CHIP, Health Insurance Exchanges, and other programs to work in harmony to benefit the children affected

#### **PART I: AFFORDABLE CARE ACT (ACA) AND THE CHILD SUPPORT ENFORCEMENT PROGRAM**

There are approximately 17 million children in the **Child Support Program**—that's nearly 25% of the 72 million children in our country under the age of 18. The program enhances the well-being of children, and reduces the demands on public funds by securing Child Support and medical support from legally responsible parents.

Since the passage of ACA, a number of states have created healthcare reform implementation committees and councils to map out new requirements for the state. We've observed that officials from the states' Child Support Programs are not usually represented in these groups, even though Child Support plays a vital role in the healthcare system of each state.

Healthcare reform coordination bodies should understand that Child Support orders are mandated to include a provision for Medical Support, which requires one or both parents to provide health insurance coverage or cover the cost of insuring the child. In cases when a child is covered by Medicaid or CHIP, the parents may be required to reimburse the state for the child's coverage or enroll them in private coverage, if appropriate.

As states develop and roll out Health Insurance Exchanges, the Exchanges must coordinate and share data with Child Support Agencies in order to properly assess and enforce Medical Support Orders.

It is important for all stakeholders to have an open dialogue to achieve the common goal of ensuring and expanding healthcare coverage to those children who need it most.

## The Office of Child Support Enforcement's (OCSE) response to Healthcare reform:

### Goals:

- 1) Expand healthcare coverage for children
- 2) Harmonize medical support and healthcare policy

### Focus:

- 1) Determine what Child Support's role could or should be
- 2) Clarify state flexibility to improve how it operates with Medicaid and the Children's Health Insurance Program (CHIP)
- 3) Seek partnerships and collaboration with CMS, States, and Health Insurance Exchanges by:
  - Encouraging outreach and referral services from Child Support to Medicaid
  - Examining barriers to data exchange
- 4) Examine and possibly updating medical support guidelines, policies, and regulations.

## PART II: KEY CHILD SUPPORT-RELATED PROVISIONS FROM THE ACA

### Individual Mandate, Section 1501.

**Provision:** *Requires individuals to maintain minimum essential coverage.*

#### Impact on Child Support:

- More children with healthcare coverage
- Increase in new Medical Support Orders (MSOs)
  - o Private health insurance will be available to all individuals through increased employer offerings or individual policies through Health Insurance Exchanges
  - o The majority of parents will no longer be able to report "lack of access to insurance" as a reason to avoid a Medical Support order
  - o A shift toward increased number of Custodial Parents being ordered to provide coverage
- Increased need for Medical Support order review and modification
- Ordered parents will be more likely to comply with MSOs because of the increased availability of private insurance coverage options.

**Enforcement of Individual Mandate:** Within **Provision 1501** is the requirement that *parents who claim a child as a dependent for IRS purposes must prove coverage for the child or face tax penalty.*

- Compliance with Medical Support Orders should increase, resulting in more children with coverage.
- This provision has caused the Federal Government to question Child Support's role in the new world of Healthcare reform, and whether or not the enforcement burden should be shifted away from Child Support and assumed by the IRS.

#### Potential Conflicts in the Law Need to Be Addressed:

- How will the Custodial Parent obtain coverage information if the Non-Custodial Parent is ordered?

- Which agency will be required to assist the Custodial Parent in obtaining the information?
- Where do the courts stand on the tax issue?
- Who will decide—and how will this conflict be resolved?

**Differences between IRS and Child Support Agencies:**

- Requirements
  - o Child Support requires Medical Support Order compliance within 30 days of lapse of coverage, while IRS compliance reads a gap of 3 months or less in a tax year.
  - o These requirements need to be harmonized.
- Penalties
  - o Child Support has strong, criminal consequences available – including the possibility of jail, a strong deterrent—for failure to comply with a Child Support Order. IRS enforcement prohibits criminal penalties, but they may apply liens and levies against non-complying tax payers.
  - o If the IRS is the lead “enforcement” agency, what happens if an ordered parent chooses to pay the IRS penalty instead of insuring the child?
  - o Child Support’s response remains to be seen.

**Reporting of Health Insurance Coverage, Section 1502.**

**Provision:** *Requires every person who provides coverage to an individual to report certain information about the coverage to the IRS.*

**Impact on Child Support:**

- Child Support agencies need access to accurate insurance data in order to properly assess and process Medical Support Orders.
- IRS data is point-in-time, and not always up-to-date.
- Insurance data reported to the IRS may not be accurate.
- Case in point: Initial findings of HMS’s pilot project to assist Massachusetts in evaluating compliance with the Individual Mandate provision under the state’s 2006 healthcare reform initiative indicated a large number of taxpayers may not have accurately reported health insurance status on tax returns.

**Definition of Unaffordable Coverage, Section 1501.**

**Provision:** *For the purposes of exemption from the individual mandate, coverage is unaffordable if, in any month the individual’s required contribution (determined annually) exceeds 8% of the individual’s household income for the taxable year.*

**Impact on Child Support:**

- Most Child Support Agencies define “unaffordable coverage” differently. OCSE has suggested 5% of gross, but states have passed various percentages.
- It’s critical to reconcile the differences between IRS and Child Support definitions to eliminate confusion.

- Whether or not the OCSE will change the Child Support regulations to match the ACA remains to be seen.

### **Medicaid and Child Support, Sections 2001 & 2101.**

**Section 2001 Provision:** *Re: Medicaid Coverage, the new law expands Medicaid to individuals up to 133% of poverty and creates a new eligibility category.*

**Section 2101 Provision:** *The CHIP program was extended until 12/31/2019.*

#### **Impact on Child Support:**

- More children on Child Support's caseload will become eligible for Medicaid or CHIP.
- More than half of the nation's Child Support case load is comprised of families that are not yet enrolled but may be eligible for Medicaid or CHIP. We encourage reaching out to Medicaid counterparts for outreach and enrollment collaboration efforts using the Child Support agency's data.
- A chance is created to clarify CHIP guidance, and overcome the apparent disconnect between CHIP regulation and private insurance coverage.
- It is important to keep an eye on whether courts will become increasingly reluctant to establish or enforce Medical Support Orders for Medicaid and CHIP dependents.
- Conferring with local courts about the potential impact of healthcare reform on MSOs.

### **State Basic Health Plans, Section 1331.**

**Provision:** *States will be permitted to establish a federally funded non-Medicaid state plan for people with incomes above the Medicaid eligibility level, but below 200% of poverty.*

**Impact on Child Support:** It could result in increased opportunity for new and/or modified Medical Support Orders, and could potentially increase compliance by ordered parents to enroll dependents in this insurance option.

### **Insurance Exchanges, Section 1331.**

**Provision:** *Requires each state to establish an exchange to facilitate the purchase of qualified health plans, and administers tax credits to qualified individuals. It also requires coordination between Exchanges, Medicaid, and CHIP.*

#### **Impact on Child Support:**

- Having access to data from the Health Insurance Exchanges will allow Child Support programs to properly assess and enforce Medical Support Orders.
- Exchange's benefits should be coordinated with Child Support to prevent ordered parents with outstanding Medical Support Orders from obtaining subsidized insurance coverage for themselves, unless the child is included under the plan or covered by other insurance.
- Consider supporting Exchanges by sharing your database of employer health plan information with them.

### **Small Business, Section 1311.**

**Provision:** *Provides for the establishment of a small business health options program. This program is designed to assist qualified small employers in the state by facilitating the enrollment of their employees in qualified health plans in the small group market.*

**Impact on Child Support:** More small employers may seek group insurance for their employees, resulting in increase ordered parent compliance, and the overall number of Medical Support Orders. Child Support should stay alert for further developments to ensure the NSMN will be accepted as an enrollment tool.

### **Tax Credits, Section 1401.**

**Provision:** *Tax Credits are provided to assist individuals with the cost of health insurance for those at or above 100% of poverty to 300% of poverty.*

#### **Impact on Child Support:**

- Tax Credits should be coordinated with Child Support to prevent ordered parents who have not provided coverage for their children from obtaining subsidized insurance unless the child is covered under the plan or the ordered parent proves coverage has been provided.
- Could potentially increase ordered parent compliance and create the opportunity for new Medical Support Orders.

### **Employer Requirements, Section 1513.**

**Provision:** *Large employers that do not offer coverage and have at least one full-time employee receiving the premium assistance tax credits will be required to pay an assessment for each full-time employee.*

**Impact on Child Support:** More employers will likely seek group insurance for their employees, resulting in more ordered parents having access to Employer Sponsored Insurance—increasing compliance and facilitating the use of the NMSN.

### **Automatic Enrollment in Employer-Sponsored Insurance, Section 1511.**

**Provision:** *Large employers who offer coverage will be required to enroll new employees in one of the plans offered, unless an employee has opted out of coverage.*

#### **Impact on Child Support:**

- Increase in compliance by the ordered parent and employers.
- It may have an impact to the National Medical Support Notice format and/or process.

### **PART III: CLOSING THOUGHTS**

- Healthcare reform will expand the availability of private healthcare coverage for children on the Child Support caseload.
- Health Insurance Exchanges should coordinate and exchange data with Child Support Agencies in order to properly assess and enforce Medical Support Orders.
- Child Support Agencies should be included in state-level implementation of Healthcare reform.