

ENFORCING A SUPPORT ORDER

Best Practices & Frequently Asked Questions For Medical Enforcement

SUPERSEDES

Medical Enforcement Best Practices & Frequently Asked Question, March 25, 2014

Best Practices for Medical Enforcement

- ✦ It is considered a best practice to issue the Notice of Intent (NIE) to both parents at case opening or upon establishment of the medical order. The goal is to get both parents into enrollable status, which will reduce the time delay in pursuing medical enforcement.
CS 520.7 Enforcing Health Insurance Orders, Step 2 Preparing and Serving the Enrollment Notice.
- ✦ The role of the Voluntary Enrollment Authorization (VEA) has the same effect as a Notice of Intent to Enroll (NIE) resolved in favor of enrollment. The VEA cannot be withdrawn if the parent later disagrees with a CSED enrollment action for the children covered by the authorization. *CS 520.7 Enforcing Health Insurance Orders, Step 2b. Preparing and Serving the Enrollment Notice.*
- ✦ It is considered a best practice to access the Blue Cross/Blue Shield website to see if HMK coverage is already in place *before* sending an Order to Enroll (OTE) to the NCP's employer. This is because an OTE that is already in place with the NCP's employer cannot be terminated after the fact. To check the Blue Cross/Blue Shield website see authorized personnel in your region.

Frequently Asked Questions

This FAQ addresses some of the CSED's most common medical enforcement questions. It is intended to compliment the medical support enforcement sections of the policy manual.

TIP: Can't find what you're looking for? Control "F" allows for a document search.

1. When should the LAST MED REVIEW date be updated?

When you enter a medical policy on MEC.

Explanation: The only purpose of the "LAST MED REVIEW" field on MEC is to identify the last date that the CSED knew: either the children were insured, or neither parent had insurance available at a reasonable cost. When those facts exist, the caseworker does not need to look at medical again for 12 months, unless a triggering event occurs. The field sets a 12-month tickler and signals the reviewer that the medical process is complete.

The LAST MED REVIEW date must not be updated until one of two things happens:

- 1) Insurance is obtained and loaded, or
- 2) All enforcement avenues of employer insurance are exhausted for both parents and you determined that insurance is not available at a reasonable cost for either parent. Updating the medical review date prematurely defeats the purpose of the tickler.

2. When a child is covered by private insurance is there anything for the caseworker to do?

Yes, confirm the insurance. Confirmation is required for as long as it is carried.

To confirm insurance contact the NCP, the CP, the employer or the plan administrator by phone, or by sending CS 520.3B Confirmation of Health Insurance Status. Then update the last review date on the SEARCHS MEC screen and monitor for any change. Document confirmation by phone in case notes.

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3. What should be done when there is a lapse in private health insurance?

- 1) End the private insurance policy on the MID screen and
- 2) Evaluate to determine whether employer based insurance is available to the ordered parent(s)

4. Does a Notice of Intent to Enroll (NIE) confer immediate enrollment?

No

Explanation: “Immediate enrollment” is a specific term that describes the authority to issue an OTE (FEDMED) without first issuing a NIE. This authority is derived from specific language in the medical support order. Immediate enrollment language is included as part of a NOCS/SNOCS/MONO/NOMS. When an OTE (FEDMED) is issued after a NIE is resolved, the enrollment status is not defined as “immediate enrollment”.

5. What happens after medical enforcement is exhausted for an NCP?

Review for medical enforcement against the CP (parent).

Explanation: The answer presumes that both parents are ordered to provide health insurance, but the NCP was selected as the enforcement parent via the matrix and the caseworker chose to exhaust insurance avenues for the NCP first. The medical process is not complete until the child is insured, or a determination has been made that neither parent has employer insurance available at a reasonable cost.

6. Should HMK be loaded as an insurance policy?

Yes, use **HMK_** for the TPL#

7. How often is HMK coverage reviewed?

Annually

8. When the CP has HMK, does enforcement stop against the CP?

Yes. If a CP contacts the CSED regarding an application denial for HMK due to CSED enforcement against the CP, the caseworker should terminate the OTE so the child may be eligible for HMK. If the CP has HMK in place *prior to* an OTE being issued, **do not** send an OTE to the CP’s employer. The caseworker may stop enforcement activity once the CP is in an enrollable status.

9. Is HMK *Plus* the same as HMK (CHIP)?

No. HMK *Plus* is Medicaid and is not the same as HMK (CHIP).

10. Is HMK considered an alternative insurance coverage?

Yes

Explanation: As of the date in this FAQ, the Federal OCSE does not yet count State Health Insurance Programs for Children (CHIP) as insurance. However, the Montana CSED has decided to recognize HMK (CHIP) as alternative coverage for the purpose of medical support enforcement.

11. If the CP is not ordered to provide health insurance, can HMK be considered alternative coverage?

For HMK to be considered alternative coverage, the order must be modified to include a medical support obligation for the CP.

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12. When the CP has HMK, does enforcement stop against the NCP?

Yes and no. The CSED does continue to enforce against the NCP if an OTE is already in place. Generally, children are not eligible for HMK if already insured; this should be a rare occurrence.

If a CP contacts the CSED, regarding an application denial for HMK, due to CSED enforcement against the NCP, the caseworker should not terminate the OTE. If the CP has HMK in place *prior to* an OTE being issued, do not send an OTE to the NCP's employer. The caseworker can stop enforcement activity once the NCP is in an enrollable status. Check for a modification requirement if the NCP is the only parent ordered to provide insurance coverage. See CS 520.3 Reviewing Health Insurance Orders, Table 2.

13. If the NCP has HMK for children in his home, not the children of a CSED case, can he receive the HMK exception?

No. There is no exception to medical enforcement for the NCP when the other children in his home are on HMK. Medical enforcement should proceed as usual unless the NCP qualifies for a hardship.

14. What types of insurance coverage meet the medical insurance requirements?

Any of the following will meet medical insurance requirements: Medical, Dental, Vision, Prescription.

Explanation: CS 520.7 Enforcing Health Insurance Orders "Medical care" means diagnosis, cure, mitigation, treatment, or prevention of disease, illness, or injury, including well baby checkups, periodic examinations, and any other undertaking for the purpose of affecting any structure or function of the body. Under Montana law, an insurance plan that provides any of the services listed above is sufficient to satisfy the enforcement parent's requirement for health insurance. MCA § 40-5-804(7)

15. What method of service *cannot* be used for medical penalty actions?

Certified mail, return receipt requested

Explanation: Certified mail may only be used if a statute or law allows it. The Montana Rules of Civil Procedure (MRCivP) require either personal service through a sheriff or process server or by acknowledgment. CS 520.10 Enforcing Health Insurance Orders—Penalty Actions, step 7.

16. What method is used to require the non-public assistance applicant for CSED services to obtain employer related insurance (insurance that is not subject to an OTE)?

Case closure

17. Is health insurance coverage through a union considered alternative coverage?

Yes for purposes of completing the MEC screen, health insurance through a Union should be considered alternative coverage.

Explanation: MCA §40-5-810, states that an order to enroll is sent to an employer or plan administrator, individual or other entity. Unions are generally not employers or plan administrators. The OTE and the law have specific instructions and information (required by federal law) for the employer and plan administrator. Specifically, the employer must transfer part of the OTE to the plan administrator and deduct premiums and the OTE imposes various other duties on both the employer or plan administrator.

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The OTE is not sent to union, unless they qualify as a payor/employer or plan administrator. To be a payor/employer, the union must actually pay the parent money on a periodic basis, have health insurance available to the parent, and be subject to Montana's jurisdiction. (Payors include employers) A union is a plan administrator only if they assess and collect premiums, accept and process insurance claims and pay insurance benefits, see MCA §40-5-801.

Explanation provided by HHS CSEALL from Chad Dexter, June 8, 2004.

18. Can a Voluntary Enrollment Authorization (VEA) be withdrawn?

No, a VEA cannot be withdrawn.

Explanation: The VEA is not served like a notice. It is voluntary, but it contains a warning that it may not be withdrawn. It differs from the concept of "immediate enrollment" language contained in administrative orders. Immediate enrollment authority in administrative orders may be affected by district court modifications. CS 520.7 Enforcing Health Insurance Orders.

19. When is it appropriate to replace an Order to Enroll?

When a new case opens with a new CP or plan administrator.

Explanation: An amended OTE is not available for a new case. Termination is not appropriate because the goal is to continue insurance, to obligate the plan administrator to deal with the new custodian and provide information to the new custodian and to provide the new case number to the employer and plan administrator. The manual refers to this type of order as a "replacement OTE" in CS 520.8 Amending/Terminating/Replacing the OTE.

20. What documents need to be sent when a new case opens with a new CP and the child is insured through the NCP's employer?

CS520.8A (explanation of change) and new OTE for the new case (Replacement).

Explanation: An amended OTE is not available for the new case. Termination is not appropriate because the goal is to continue insurance, but to obligate the plan administrator to deal with the new custodian and provide information to the new custodian and to provide the new case number to the employer and plan administrator. The manual refers to this type of order as a "replacement OTE" in CS 520.8 Amending/Terminating/Replacing the OTE.

21. Should I issue a replacement OTE when employment insurance is in place, and a change in plan administrator occurs?

Yes, issue a replacement OTE

Explanation: The goal is to obligate the new plan administrator to insure the child. CS 520.8 Amending/Terminating/Replacing the OTE.

The medical process is not complete until the child is insured, or a determination is made that NEITHER parent can insure the child at a reasonable cost. Because you exhausted the first parent, you must now pursue the second parent.

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24. What should I do if employer insurance will not be available to a parent for a period that exceeds 90 days?

Enter a case note explaining the extended waiting period, monitor for enrollment at the later time, and move to the other parent if applicable.

Explanation: CS 520.7 Enforcing Health Insurance Orders step 13d; Refer to the Enforcement Parent Decision Matrix at CS 520.3 Reviewing Health Insurance Orders.

25. How should a Medical hardship be documented?

Use a case note containing the pertinent information about income and insurance cost. Also, include the completed Hardship Worksheet (CS 520.5c), or document in case notes the results of the calculation.

Explanation: CS 520.5 Medical Hardship Review, step 5

26. Who must be notified that a medical hardship is granted for the NCP?

NCP & CP

Explanation: CS 520.5 Medical Hardship Review

27. What action is taken when an OTE response comes back, insurance isn't available for 90 days and at the time it becomes available, the parent qualifies for an employer hardship?

Update MEC and review to enforce against the other parent.

Explanation: The 90-day wait time has no impact in this instance, because insurance cannot be obtained through the parent due to hardship. The EMP H/S field on MEC should be updated with a "Y" indicator. Both parents must also be notified of the hardship determination. CS 520.5 Medical Hardship Review, step 2(b).

28. How do we encourage a parent to provide insurance from employer related insurance (Union or TRICARE)?

Send a Motion and Order for Medical Penalty to the parent.

Explanation: Statistics show that the medical penalty process is amazingly successful and results in insurance for children. If you actually go all the way to hearing, the number of exhibits is minimal and the hearing is virtually painless. A list of satisfied users can be supplied upon request. CS 520.10 Enforcing Health Insurance Orders—Penalty Actions.

29. What are the steps after a medical hardship is granted?

Notify parties, and update MEC.

Explanation: CS 520.5 Medical Hardship Review

30. When can a Medical hardship be denied?

When the parent is insured and there is no additional cost to add a child to the parent's plan

Explanation: Insurance is reasonable when there is no additional cost to add a child to the parent's existing plan. CS 520.5 Medical Hardship Review.

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31. What must be determined before taking a medical enforcement action?

Determine whether there is a medical support order, and which parent is the enforcement parent.

Explanation: An enforcement parent must be chosen. It is not appropriate to choose the NCP without applying Table 1 in CS 520.3 Reviewing Health Insurance Orders. Further, a medical support order must exist before it can be enforced. A determination must be made that the medical support order applies to the CP, the NCP, to neither or to both. This is a good time to review the SOS/SOD screen to make sure the MED INS code matches the order.

32. Once an employer hardship has been determined, how many "Y's" are updated on the MEC screen?

One

Explanation: The "Y" indicator is selected for EMP H/S. It is no longer necessary to mark the private insurance (PVT H/S) indicator. CS 520.5 Medical Hardship Review, step 1c.

33. Does "exceeds 50% cap" mean the same as "employer hardship"?

No

Explanation: CS 520.7 Enforcing Health Insurance Orders, step 12. "Exceeds 50% cap" refers to withholding limits under the Federal Consumer Credit Protection Act. Withholding for insurance premiums, when added to current support, cannot exceed 50% of the parent's net earnings. "Employer hardship" applies when insurance is available, but withholding cannot occur because the cost of premium exceeds 5% of the parent's gross income.

34. How can medical hardship information be verified?

By phone or in writing to an employer or a parent.

Explanation: CS 520.5 Medical Hardship Review

35. What is the purpose of a Medical Hardship Review?

The purpose is to determine whether health insurance is available to the enforcement parent at a reasonable cost.

Explanation: CS 520.5 Medical Hardship Review

36. What event triggers the need to review a case for medical?

New hire report

Explanation: A new hire report includes a two-day time limit to issue an OTE. The new hire alert is a triggering event that requires a medical review. A new hire alert requires the caseworker to apply the decision matrix to re-evaluate the enforcement parent, unless the obligee has a medical support obligation and is already insuring the children. Triggering events include case opening or re-opening, support order establishment or modification, a change occurs in the case that may affect medical support, or a pre-specified medical review date occurs. CS 520.3 Reviewing Health Insurance Orders.

37. What percentage of gross income determines a medical hardship?

5%

Explanation: CS 520.5 Medical Hardship Review

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38. Should a Notice of Intent to Enroll (NIE) be issued after a district court issues a final support order that includes a requirement to insure the children?

Yes

Explanation: A NIE is only issued when enrollment authority does not otherwise exist. District courts do not address immediate enrollment as part of its orders.

39. Should the MID screen be updated when insurance is provided as a result of an OTE?

Yes, update the "Y" on the MID screen as a result of OTE.

Explanation: The "RSLT OF OTE?" field must be completed with a "Y" when the child is insured through an employer and an OTE is served on that employer. The "Y" indicator is appropriate, even when the parent voluntarily enrolled the child in the employer's plan prior to the OTE. This field should **not** remain blank when insurance is provided through an OTE.

40. When an interstate action is filed with another state and a Montana order exists, which state enforces the medical support order against the CP?

The other state's caseworker.

Explanation: The other state is responsible for medical support enforcement. CS 520.3 Reviewing Health Insurance Orders, Exception 2.

41. Why is the Order to Enroll (OTE) a multi-page document?

The Order to Enroll also, known as the National Medical Support Notice (NMSN) is a form required by federal law.

42. What steps should be taken when there is no response to the Order to Enroll?

Contact the employer by telephone, or send a payor's statement.

Explanation: CSED must have information to load insurance or to determine that a hardship or barrier to employer coverage exists. Information must be obtained to do so. CS 520.7 Enforcing Health Insurance Orders, step 12(a).

43. What action is an appropriate action if a 2006 district court order lacks medical language? Is that any district court order of a Montana District court order?

Review for a Notice and Order for Medical Support (NOMS) or a modification.

Explanation: Federal law requires that all support orders contain medical requirements. Modification or the NOMS accomplish the task in this instance. See: CS 402.1 Notice and Order for Medical Support or CS 520.3 Reviewing Health Insurance Orders, Table 2.

44. Is it alright for an OTE to fail when it is received outside of an open enrollment period?

No

Explanation: Plan administrators may not delay enrollment based on an open enrollment period. CS 520.7 Enforcing Health Insurance Orders.

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45. When is it appropriate to issue an OTE to the Department of Defense?

When the enforcement parent is a civilian employee of the Department of Defense.

Explanation: The OTE must be sent to the Department of Defense when the parent is a civilian employee. CS 520.7 Enforcing Health Insurance Orders.

46. If I'm enforcing another state's order for that state and the order does not contain medical language what should I do?

Send an IRUP (Interstate Request Update) to that other state advising them that there is no health insurance language in the order. Request that they modify or establish an order containing insurance language or give Montana the authority to establish a medical order.

Explanation: The support order must be modified. The other state performs modification under the Uniform Interstate Family Support Act (UIFSA). See CS 408.3 Establishing a Support Obligation, page 27 and CS 520.3 Reviewing Health Insurance Orders.

47. What coverage is considered Alternative Coverage?

Healthy Montana Kids (HMK), Indian Health Services (IHS), Union, TRICARE, National Insurance, voluntary coverage provided through an employer even though the parent qualifies for a hardship, coverage provided by a current spouse or family member.

Explanation: CS 520.7 Enforcing Health Insurance Orders, step 4j.

48. Who can make the determination to include "cost beneficial" in an order?

An Administrative Law Judge.

Explanation: CS 520.7 Enforcing Health Insurance Orders, step 4g.

49. If the CSED is enforcing for another state and the CP is obligated to provide health insurance, but the other state does not respond to the request for information what should I do?

Nothing your job is done, make the appropriate case note.

Explanation: This question pertains to Region 08 only. Federal law does not specifically require CP enforcement. Therefore, our interstate action cannot be closed based on the other state's failure to cooperate with CP enforcement. Region 08 deems the non-response as a request not to enforce insurance against the CP. **If the Plan Administrator response indicates, the premium exceeds the cap what should I do?**

Update the MEC screen. The employer is required to withhold current, the premium and then arrears in that order without exceeding 50%.

Explanation: CS 520.7 Enforcing Health Insurance Orders, step 12d. Documentation in case notes is required. The caseworker may switch enforcement parent if appropriate.

50. The NCP is ordered to provide health insurance, the CP is not, but the CP insures child. Is medical enforcement required against the NCP?

Yes, the custodial parent is not obligated.

Explanation: Modification may also be appropriate, see Table 2, Federal Modification and Enforcement Requirements in CS 520.3 Reviewing Health Insurance Orders.

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51. When is it appropriate to terminate the OTE?

When a case closes, the child emancipates, an OTE is sent in error, or the CP is requesting the CSED terminate the OTE in order to obtain HMK. This ONLY applies when the OTE is in place with the CP's employer. Do not terminate an OTE already in place with the NCP's employer for purpose of obtaining HMK.

Explanation: CS 520.8 Amending/Terminating/Replacing, termination is appropriate only when the child is enrolled through an OTE and **there is a reason** to disenroll the child.

52. When is it appropriate NOT to send an OTE?

When HMK or Indian Health Services (IHS) are in place, a parent's spouse provides coverage, or the child is covered by National Insurance, or for Union or Tricare insurance.

Explanation: CS 520.7 Enforcing Health Insurance Orders, step 4. OTE not appropriate when a child is covered through HMK or IHS, alternative coverage through a parent's spouse, or National Insurance. National Insurance is the term applied to free health care systems available in some foreign countries such as Canada, France, and Germany.

53. What is the definition of exceeds cap?

Exceeds cap = withholding amounts over 50% when the premium is added.

Explanation: CS 520.7 Enforcing Health Insurance Orders, Note 1, step 12

54. Should the review date on the MEC screen be updated when a parent has a new employer?

Yes, the review date should be updated when there is a new employer. A new employer is a "triggering event".

Explanation: The review date is updated when insurance is in place, or both parents are exhausted and a determination is made that neither parent can provide insurance at a reasonable cost. Assuming the child is not already insured by the other parent, a new hire report necessitates an OTE. The review date is updated after successful enrollment through the OTE. CS 520.7 Enforcing Health Insurance Orders.

55. When is a Voluntary Enrollment Authorization (VEA) appropriate?

When the parent already has the child enrolled, or when the case is in locate status.

Explanation: A VEA may be completed at any time. It is generally not appropriate, however, when the parent is already in an enrollment status via a Notice of Intent to Enroll (NIE) or immediate enrollment language.

56. Is a non-coop appropriate for failure to respond or return a Voluntary Enrollment Authorization (VEA)?

No

Explanation: The VEA is voluntary, not required. When a CP refuses to sign a VEA, enrollment status is obtained through a NIE, or immediate enrollment language in an order.

57. On which SEARCHS screen does the Alternative Coverage indicator appear?

MEC screen

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58. Should I load the insurance policy on SEARCHS when the CP insures the child, but no medical support order exists?

Yes

Explanation: Insurance is loaded at the time it is identified. The requirement to load insurance policies exists, regardless of the case status (LOC, PAT, EST, ENF) at the time insurance information is received.

59. Is FedMed the same document as the Order to Enroll (OTE)?

YES

Explanation: The name of the SEARCH's form is FEDMED. The document may be referenced as Order to Enroll, Enrollment Order or National Medical Support Notice (NMSN).

60. What barrier to coverage may apply when a child is eligible for Indian Health Services (IHS)?

Geographic accessibility

Explanation: IHS has nothing to do with employer insurance. IHS coverage is presumed to be geographically accessible if the child lives in Montana and is otherwise eligible. When a child moves to another state, geographic accessibility must be reviewed.

61. What constitutes geographically Inaccessible?

Child lives on the moon.

Explanation: Covered medical services that are available within an hour's drive are geographically accessible. If no medical services are available within an hour's drive, but the nearest medical services are covered, the services are geographically accessible. CS 520.7 Enforcing Health Insurance Orders

62. Who requires the review for a medical support order?

Both state law and federal law require review.

63. Where can I find the State's FEIN #?

Contact your regional manager or team lead for the FEIN #.