

This is an amendment to 8.50.109 NMAC, Sections 2, 3, 6, 8, 10, 11, 12, 13, 14, 15, and 17, effective 1/1/2022.

8.50.109.2 SCOPE: To the general public. For use by the ~~[enforcement officer]~~ Title IV-D agency and recipient of Title IV-D services.

[8.50.109.2 NMAC - Rp 8 NMAC 5.CSE.000.2, 5/31/2001; A, 10/1/2003; A, 1/1/2022]

8.50.109.3 STATUTORY AUTHORITY: Public Assistance Act, Section 27-2-27 et seq., NMSA 1978. ~~[Mandatory Medical Support Act, Section 40-4C-1 et seq., NMSA 1978. Support Enforcement Act, Section 40-4A-1, et seq., NMSA 1978.]~~ The human services department is designated as the single state agency for the enforcement of child and spousal support obligations pursuant to Title IV-D of the Social Security Act (42 USC 651 et. seq.).

[8.50.109.3 NMAC - Rp 8 NMAC 5.CSE.000.3, 5/31/2001; A, 10/1/2003; A, 1/1/2022]

8.50.109.6 OBJECTIVE: ~~[To conform the regulations with changes made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), the Child Support Performance and Incentive Act of 1998, and the Deficit Reduction Act of 2005. The regulations herein codify present practices in accordance with federal and state law and regulations.]~~ To provide regulations in accordance with federal and state laws and regulations.

[8.50.109.6 NMAC - Rp 8 NMAC 5.CSE.000.6, 5/31/2001; A, 10/1/2003; A, 8/14/2009; A, 1/1/2022]

8.50.109.8 ESTABLISHMENT OF MEDICAL SUPPORT: All orders obtained by the IV-D agency must include a provision for medical support for the children. For the purposes of the IV-D program reporting, medical support includes any one of the following: private health insurance, public health care coverage (health, dental, or vision), coverage through Indian health services (IHS), state children's health insurance program (medicaid), or the defense enrollment eligibility reporting services (DEERS), cash medical support, or a percentage split of uncovered medical expenses for the minor children. Determination of a reasonable cash medical support obligation is pursuant to 45 CFR §303.31(a)(3). If the children are covered by IHS, the IV-D agency will request that private ~~[health insurance]~~ care coverage be provided by either or both ~~[parents]~~ parties, when available. If the non-custodial parent provides health care coverage and changes employment, and the new employer provides health care coverage, the IV-D agency must transfer notice of the provision to the new employer. The IV-D agency must request the inclusion of a medical support provision even when employment-related or other group health care coverage is not available or when children cannot be added at the time the order is entered. The IV-D agency shall request the provision of cash medical support only if the case is actively enrolled in Title XIX medicaid at the time medical support is established or modified. The cost of health care coverage is calculated by determining the amount charged to the medical support obligor for adding children to the existing coverage, or the difference between individual and family coverage. The reasonableness of the cost of the care coverage will be determined by stipulation of the parties or by the court. The IV-D agency may request the provision of health care coverage by either or both the custodial party and the non-custodial parent and that the parties should be responsible for any uncovered medical expenses in proportion to their incomes on the current child support worksheet. If the court does not enter an order for medical support, the IV-D case record must specify that a provision for medical support was requested but was not issued, in accordance with 45 CFR §303.31(b)(1-4).

[8.50.109.8 NMAC - Rp 8 NMAC 5.CSE.830, 5/31/2001; A, 10/1/2003; A, 8/14/2009; A, 7/1/2021; A, 1/1/2022]

8.50.109.10 AVAILABILITY OF MEDICAL ~~[INSURANCE]~~ CARE COVERAGE: Medical support will be addressed in actions to establish, enforce, or modify a child support award for minor children. All support orders obtained or modified by the IV-D agency will include a provision requiring either or both custodial party and the non-custodial parent to promptly inform the IV-D agency of the name and address of their current employers, whether either the custodial party or the non-custodial parent has access to health ~~[insurance]~~ care coverage and, if so, the health ~~[insurance]~~ care coverage policy information.

A. The non-custodial parent may be required to provide immediate health, dental, or vision ~~[insurance]~~ care coverage for the minor children if ~~[insurance]~~ health care coverage (not including Title XIX medicaid) is not available to the custodial party at a more reasonable cost than to the non-custodial parent for coverage of the minor child; and it is available to the non-custodial parent through an employment-related or other

group health insurance plan, regardless of service delivery mechanism, which may be a labor organization, union, non-profit organization or professional association.

B. If medical [insurance] care coverage is not available to the non-custodial parent through an employment-related or other group health [insurance] care coverage plan, and health [insurance] care coverage is not being provided by the custodial parent, the non-custodial party may be required to provide immediate health insurance coverage for the children when it becomes available through an employment-related or other group health insurance plan.

C. Failure by a non-custodial parent to provide medical support for the minor children, and to provide information concerning health [insurance] care coverage, will subject the non-custodial parent to legal proceedings requiring the non-custodial parent to show cause as to why the non-custodial parent should not be held in contempt of court for failure to fulfill the requirements of the court order. This will be true even if medical support is the only area in which the non-custodial parent is not in compliance with the terms of the order.

[8.50.109.10 NMAC - Rp 8 NMAC 5.CSE.832, 5/31/2001; A, 10/1/2003; A, 8/14/2009; A, 1/1/2022]

8.50.109.11 PROVIDING CUSTODIAL PARENTS WITH MEDICAL [INSURANCE] CARE COVERAGE INFORMATION:

If the non-custodial parent is responsible for providing health [insurance] care coverage, the IV-D agency will provide the custodial party with available health [insurance] care coverage plan information when the non-custodial parent secures coverage for the dependent children. This includes any information available to the IV-D agency about the health [insurance] care coverage plan that would permit a claim to be filed or services to be provided. In cases enforced by the national medical support notice, the health [insurance] care coverage plan shall provide this information to the custodial party and the IV-D agency, as outlined on the notice.

[8.50.109.11 NMAC - Rp 8 NMAC 5.CSE.831, 5/31/2001; A, 10/1/2003; A, 8/14/2009; A, 1/1/2022]

8.50.109.12 MONITORING AND ENFORCING COVERAGE: In all cases in which there is a court order with no medical support ordered, the case will be reviewed pursuant to the IV-D agency's plan for automatic review of all IV-D cases every three years. Even if no other modification is expected, the IV-D agency must seek modification to include medical support, except in non-IV-A non-medicaid cases where the custodial party has not consented to the IV-D agency obtaining medical support. All remedies available for the collection and enforcement of child support apply to medical support. In cases where the non-custodial parent is required to provide health [insurance] care coverage through an employment-related or other group health [insurance] care coverage plan pursuant to a child support order, the IV-D agency shall use, where appropriate, the national medical support notice to enforce the provisions of health [insurance] care coverage for the children.

A. The IV-D agency must use the notice, when appropriate, to notify employers of the provision for health [insurance] care coverage of the children. The agency must transfer the notice to the employer within two business days after the date of entry of an employee who is an obligor in a IV-D case in the state directory of new hires.

B. Employers must transfer the notice to the appropriate group health [insurance] care coverage plan for which the children are eligible within twenty business days after the date of the notice.

C. Employers must withhold any obligation of the employee for employee contributions necessary for coverage of the children and send any amount withheld directly to the health [insurance] care coverage plan. Employees may contest the withholding based on a mistake of fact. If the employee contests such withholding, the employer must proceed with withholding until such time as the employer receives notice from the IV-D agency that the contest is resolved.

D. Upon receipt of the national medical support notice, the health [insurance] care coverage plan shall enroll the obligor's children as eligible dependents. Except as specifically outlined on the notice, the health [insurance] care coverage plan shall not be required to provide benefits or eligibility for such benefits in addition to those provided under the terms of the plan immediately before receipt of the notice.

E. If the obligor is enrolled in a plan, the children shall be enrolled in the same plan in which the obligor is enrolled. If the obligor is not enrolled in a plan, the premiums charged for enrollment of the children only shall be the same as would be charged for enrollment of the obligor only. If the obligor is not enrolled in a plan and there is more than one plan option available for enrollment of the children, the plan shall notify the IV-D agency and the agency, in consultation with the custodial party, will select a plan option. If the custodial party does not notify the agency of the selected plan option within the timeframe required by the agency, the children shall be enrolled in the plan's default option, which is defined as the least costly plan that conforms with the minimum health care protection as defined in the New Mexico Insurance Code, Section 59A-23B-1 et seq NMSA 1978.

F. The health ~~[insurance]~~ care coverage plan must notify the IV-D agency of the status of health ~~[insurance]~~ care coverage for the children, as outlined on the notice, within forty days after the date of the notice. The plan shall also promptly notify the custodial party of the plan coverage and effective date, as outlined on the notice.

G. Employers must notify the IV-D agency promptly whenever the obligor's employment is terminated, in the same manner as is required for income withholding cases.

H. The IV-D agency must promptly notify the employer when there is no longer a current order for medical support in effect for which the IV-D agency is responsible.

[8.50.109.12 NMAC - Rp 8 NMAC 5.CSE.832.2, 5/31/2001; A, 10/1/2003; A, 8/14/2009; A, 1/1/2022]

8.50.109.13 MEDICAL SUPPORT PROVIDED BY THE CUSTODIAL PARTY: In cases where the custodial party has satisfactory medical ~~[insurance]~~ care coverage for the minor children other than medicaid, the amount expended by the custodial party for health ~~[insurance]~~ care coverage will be taken into account pursuant to the New Mexico child support guidelines worksheet that will be attached to the order. The IV-D agency will not enforce court ordered medical support against a custodial party.

[8.50.109.13 NMAC - Rp 8 NMAC 5.CSE.832.3, 5/31/2001; A, 10/1/2003; A, 8/14/2009; A, 1/1/2022]

8.50.109.14 COMMUNICATION WITH THE MEDICAL ASSISTANCE DIVISION: The IV-D agency is required to relay information regarding private health, dental, or vision ~~[insurance]~~ care coverage to the medical assistance division. This information includes newly obtained coverage, changes in coverage, or coverage lapses. The IV-D agency must report to the medical assistance division any medical support payments made directly to the custodial party if there is an assignment of medical support pursuant to 42 CFR 433.146. The IV-D agency in cooperation with the medical assistance division will communicate to determine if there are any lapses in health ~~[insurance]~~ care coverage for medicaid applicant/recipient.

[8.50.109.14 NMAC - Rp 8 NMAC 5.CSE.832.4, 5/31/2001; A, 8/14/2009; A, 1/1/2022]

8.50.109.15 ORDERING SPECIFIC DOLLAR AMOUNTS FOR MEDICAL SUPPORT: The court order should include a set amount and specify that the amount is designated for cash medical support, when, for example, there is no private health ~~[insurance]~~ care coverage available. This amount should be in addition to and not in lieu of the non-custodial parent's obligation to pay a percentage of unreimbursed medical expenses. Either the custodial party or the non-custodial parent may request the court to order the provision of cash medical support. The IV-D agency will request the provision of cash medical support only if the children are actively enrolled in Title XIX medicaid at the time medical support is established or modified. The IV-D agency will enforce a provision for cash medical support established or modified by any party so long as the court order designates a specific dollar amount to be paid in regular, equal installments (i.e. monthly, bi-weekly, weekly). If the order does not designate a specific dollar amount for medical purposes, the agency is not required to collect the money. For example, if the non-custodial parent is ordered to pay for the child's orthodontia, but no dollar amount is ordered, the IV-D agency will not enforce this component of the order.

[8.50.109.15 NMAC - Rp 8 NMAC 5.CSE.832.5, 5/31/2001; A, 10/1/2003; A, 8/14/2009; A, 1/1/2022]

8.50.109.17 FEES: In IV-D cases being enforced for medical support pursuant to the requirements of the national medical support notice, an employer may not assess a fee for withholding or for sending to the health ~~[insurance]~~ care coverage plan, the employee contributions necessary for health ~~[insurance]~~ care coverage of the children.

[8.50.109.17 NMAC - N, 10/1/2003; A, 8/14/2009; A, 1/1/2022]