House
Legislative
Analysis
Section

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

UNINSURED HEALTH CARE EXPENSES

House Bill 6009 as passed by the House
Second Analysis (6-4-02)

Sponsor: Rep. Barb Vander Veen
Committee: Family and Children Services

THE APPARENT PROBLEM:

Under the Support and Parenting Time Enforcement Act (MCL 552.605a), if a child support order is entered in a domestic relations matter, the court is to require one or both parents to obtain or maintain health care coverage that is available to them, as an employment benefit, for the benefit of the parties' children. The act also requires a self-employed parent who maintains health care coverage to obtain or maintain dependent coverage for the benefit of the parties' children. In addition, under the Friend of the Court Act (MCL 552.517), if a support order lacks provisions relating to health care coverage, a Friend of the Court office is required to petition the court for a modification to require one or both parents to obtain or maintain health care coverage for the benefit of the parties' children if either parent has health care coverage available for the benefit of each child or either parent is self-employed, has coverage for himself or herself, and can obtain coverage for the parties' children. In addition to requiring one or both parents to obtain or maintain health care coverage, a defined amount of money for ordinary health care expenses is included in the child support order. These ordinary expenditures include nonprescription medications, vitamins, and bandages, which are generally purchased regularly in anticipation of minor illnesses and injuries.

The Friend of the Court Act (MCL 552.511) requires a local office of the Friend of the Court to initiate enforcement proceedings under the Support and Parenting Time Enforcement Act when, for example, a parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court. Under current law, the office is required to initiate enforcement within 60 days after the support order is entered, when the support order is reviewed, concurrent with enforcement proceedings due to a support arrearage, upon the receipt of a written complaint from a party, or upon the receipt of a written complaint from the Family Independence Agency if the child is receiving public assistance or medical assistance. However, in many instances, the dispute is not over the existence of health care coverage, but rather over the actual payment of any medical expenses that were not covered under the health plan. According to the 2001 Michigan Child Support Formula Manual, any uninsured health care expenses, excluding ordinary expenditures, should be apportioned between parents, based on the ratio of their incomes, provided that the proportion paid by either party is not less than 10 percent or not more than 90 percent. As is often the case, one party pays the entire amount of an uninsured health care expense, and then attempts to collect from the other party the amount that the other party should have paid.

It is believed that the current procedures do not adequately enforce the payment of uninsured health care expenses. Legislation has been introduced that would provide for the collection of health care expenses from the party actually responsible for such costs.

THE CONTENT OF THE BILL:

House Bill 6009 would add provisions to the Friend of the Court Act (MCL 552.502 et al.) pertaining to enforcement procedures for uninsured health care expenses and custody or parenting time order violations. The bill would take effect June 1, 2003.

Uninsured Health Care Expenses. A complaint seeking enforcement for the payment of a health care expense would have to show that all of the following have been met:

- The parent against whom the complaint is issued is obligated to pay the uninsured health care expenses, a demand was made for payment of the uninsured portion within 28 days of the insurers' final payment or denial, and that parent did not pay the uninsured portion.

- The complaint was submitted on or before one year after the expense was incurred; or six months after the insurers' final payment or denial of coverage, if all measures necessary to submit a claim were completed within two months after the expense was incurred; or six months after a parent defaults in paying for the health care expense as required under a written agreement, signed by both parents that states specific bills covered, the amounts to be paid, and a payment schedule.

The office would send a copy of the complaint to the parent who is obligated to pay the uninsured health care expenses, and notify the person of his or her ability to file an objection. If the parent did not file a written objection within 21 days after receiving the complaint and notice, the amount of the expense stated in the complaint would become a support arrearage and would be subject to any enforcement procedure. If, however, the parent filed an objection within the 21-day period, the office would set a court hearing to resolve the matter.

Parenting Time. Under the bill, if the Friend of the Court office received a complaint alleging a violation of a custody or parenting time order, within 14 days after receiving the complaint, the office would send a copy of the complaint to the accused individual and each other party to the custody or parenting time order.

The bill would also clarify language pertaining to the duties of the office after it receives a complaint. Under the act, 21 days after notifying the alleged violator, the office may schedule joint meeting, refer the parties to a domestic relations mediator, or proceed with enforcement actions under section 41 of the Support and Parenting Time Enforcement Act (which includes commencing a civil contempt proceeding, filing a motion to modify an existing order, and applying the makeup policy). [Note: House Bill 6011 would delete this provision.] The bill states that if the office believed that the alleged violation could be addressed by taking an action under section 41, the office would be required to proceed with that action. [Note: House Bill 6007 would add to section 41 that the office could schedule a mediation hearing or schedule a joint meeting.]

Furthermore, the act allows the office to petition the court for a modification of the parenting time order, if there is a dispute regarding parenting after a final parenting time order has been entered in a domestic relations matter. Under the bill, for an open Friend of the Court case, if there was an unresolved dispute, the office could file a motion for modification, and the office would be required to send each party to the parenting time order a notice of the filing of the motion. The motion and each notice would have to include a written report and recommendation, and a statement notifying the parties of their ability to object to the modification. If no party objected to the modification within 21 days after receiving notice, the office could submit an order incorporating the recommendation to the court for the court's adoption. If a party objected within the 21-day period, there would be a hearing before a judge or referee. At that hearing, the judge or referee could use statements of fact in the office's report or recommendation as evidence to prove a fact, if no other evidence were presented concerning that fact.

BACKGROUND INFORMATION:

The bill is part of a larger package of bills proposed by Governor John Engler and state Supreme Court Chief Justice Maura Corrigan that is designed to clarify and strengthen existing law, and centralize and streamline procedures taken to enforce orders, both of which are intended to better enable the local Friend of the Court Offices to refocus their resources, improve service, and increase child support collections. [See House Bills 6004-6012, 6017, and 6020.]

FISCAL IMPLICATIONS:

Fiscal information is not yet available.

ARGUMENTS:

For:

To enforce disputes regarding the payment of uninsured health care expenses, local offices of the Friend of the Court may invoke the enforcement remedies under the Support and Parenting Time Enforcement Act. These remedies include the attachment of liens, license suspension, state and federal income tax refunds, and income withholding. It is believed that these enforcement remedies do not work well in instances when the Friend of the Court seeks to enforce the payment or collection of certain uninsured health care expenses. Generally, these enforcement remedies may be utilized when the amount of a support arrearage is greater than or equal to the amount of support payable for several months. For instance, under current law, the Friend of the Court may attach a lien against the personal or real property of a payer if an arrearage is greater than or equal to the amount of support payable for one year. [Note: House Bill 6004 would lower this threshold to

two months.] In most instances, the amount of the health care expense that a party may be seeking to collect is not large enough to trigger an enforcement proceeding. As such, certain enforcement remedies may not be utilized.

In addition to the enforcement remedies list above, the court may order a person be brought before the court to show cause, if he or she fails or refuses to pay the required support, and an income withholding is inapplicable or unsuccessful. If the person fails to show up for the show cause hearing, a bench warrant is issued for the person's arrest. Generally, the money involved in disputes over the collection of certain health care expenses is not so great as to warrant the involvement of the court and law enforcement. These judicial proceedings can be expensive and time consuming, and do not appear to be a prudent use of the already-strained time and resources of the court. Use of this enforcement remedy potentially becomes problematic, especially if a person were to fail to appear for the show cause hearing, and a bench warrant was issued. Would it really be wise to issue a bench warrant for a person's arrest over a dispute involving a $70 doctor bill? The administrative procedures that would be added by the bill could be utilized as a means of keeping the matter out of the court whenever possible. This would enable the court to move other pending domestic relations matters through the system in a more expedited manner.

For:

According to committee testimony, it is common for parents to stockpile receipts from doctor visits and other medical expenses dating back several years, and then request that the other parent pay all or a portion of the expenses. Often, the Friend of the Court and the other parent are simply unaware of the expenses, which makes it difficult to corroborate or refute the validity of the claims for payment. Furthermore, it is simply a bad faith practice to collect receipts for medical expenses for several years and then suddenly request payment for a portion of those claims.

The bill would remedy this problem by requiring that the complaint seeking payment meet several conditions, including that the demand for payment be made to the other parent within 28 days of the insurers' final payment or denial of coverage. In addition, the complaint would have to be made within one year after the expense was incurred, six months after the insurers' final payment or denial, or six months after a parent defaults in paying for the expense.

Against:

With regard to the parenting time provisions, the bill would permit a judge or referee at a hearing to use the Friend of the Court's report and recommendation as evidence to prove a fact, but only if there is no other evidence presented regarding that fact. This appears to constitute hearsay within hearsay, and should not be used as a means to prove a fact.

POSITIONS:

The Family Independence Agency supports the bill (5-30-02)

The Friend of the Court Association supports the bill. (5-31-02)

Dads of Michigan PAC supports the concept of the bill. (6-3-02)

The Association for Children for Enforcement of Support (ACES) supports the bill. (5-31-02)

Analyst: M. Wolf

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.