WEST VIRGINIA CODE: §48-12-102

§48-12-102. Court-ordered medical support.

In every action to establish or modify an order which requires the payment of child support, the court shall ascertain the ability of each parent to provide medical care for the children of the parties. In any temporary or final order establishing an award of child support or any temporary or final order modifying a prior order establishing an award of child support, the court shall address the provision of medical support through one or more of the following methods:

(1) The court shall determine whether appropriate medical insurance coverage as defined in section one hundred one of this article is available to either parent. If such insurance coverage exists, the court shall order the appropriate parent to enroll the child in that coverage and the cost of providing appropriate medical insurance shall be entered on line 5b of worksheet A for the basic shared parenting child support calculation as provided in section two hundred four, article thirteen of this code or line 12b of worksheet B for the extended shared parenting child support calculation as provided in said section.

(2) If the court does not include the cost of the medical insurance in the child support calculation, the court may order the other parent to contribute to the cost of the premium through an award of medical support. If the amount of the award of child support in the order is determined using the child support guidelines, the court shall order that nonrecurring or subsequently occurring uninsured medical expenses in excess of $250 per year per child shall be separately divided between the parties in proportion to their adjusted gross incomes.

(3) If neither parent currently has access to appropriate medical insurance coverage, the court shall take the following actions:

(a) The court shall order the parties to provide appropriate medical insurance coverage if it becomes available in the future; and

(b) The court shall order the payment of cash medical support by either or both parties. The amount of the cash medical support to be awarded is within the discretion of the court but the total of the cash medical support and cost of the insurance premiums shall not exceed five percent of the payor's gross income.

(c) In setting a cash medical support award, the court may consider the costs of uncovered medical expenses for the child, the relative percentages of the parties' incomes or the cost to the government to provide medical coverage for the child.

(d) If the support obligor's adjusted gross income is less than two hundred percent of the federal poverty level, the court shall set the cash medical support amount at zero.

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(e) Cash medical support shall be collected and enforced in the same manner as child support payments.

(4) The order shall require the obligor to continue to provide the Bureau for Child Support Enforcement with information as to his or her employer's name and address and information as to the availability of employer-related insurance programs providing medical care coverage so long as the child continues to be eligible to receive support.

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