



# COMPLIANCE BULLETIN

## HIGHLIGHTS

- Providing health information to a state agency pursuant to an NMSN is not a violation of the HIPAA Privacy Rule.
- NMSNs may cover children of former employees who are receiving self-only COBRA coverage.
- Deductions from employees' pay for medical support are generally subject to certain limits.

## OTHER RESOURCES

- [National Medical Support Notice and Instructions](#), to be completed by a state child support agency
- Department of Labor (DOL) [publication](#) on medical child support orders
- DOL [guidance](#) on wage garnishment protections

**Provided By:**  
Professional Benefit Services,  
Inc.

## FAQs for Employers on Medical Child Support Orders

### OVERVIEW

Employers with group health plans must generally extend coverage to the children of an employee when a state court or agency issues a qualified medical child support order. A National Medical Support Notice (NMSN) is the standardized document that state agencies use for the medical child support order.

The Department of Health and Human Services (HHS) recently issued [frequently asked questions](#) (FAQs) for employers about NMSNs. These FAQs address a variety of topics related to NMSNs, including how to administer the notice and coverage requirements.

### ACTION STEPS

Employers with group health plans may sometimes receive medical child support orders, requiring them to extend coverage to an employee's children. These FAQs are helpful because they answer common questions about NMSNs.

Employers should also be aware that there are additional requirements that apply under ERISA when an employer receives a medical child support order, such as a requirement to notify the employee about the order.

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## FAQs

HHS has provided the following FAQs for employers on the NMSN:

### **General Questions**

#### ***When is the NMSN sent to the employer?***

Child support agencies send the NMSN to employers when appropriate. Specifically, when:

- A new child support order is issued requiring a parent to provide medical coverage;
- An existing order is modified;
- The parent(s) ordered to provide health care coverage has a change in employment; or
- It is not clear that the parent is complying with an existing order to provide coverage.

The NMSN is divided into two parts, Part A and Part B. Part A is a Notice to Withhold for Health Care Coverage and includes the employer response and instructions. Part B is a Medical Support Notice to the Plan Administrator and includes the plan administrator response and instructions.

#### ***Does the release of private medical information in response to the NMSN violate the Health Insurance Portability and Accountability Act (HIPAA)?***

No. The Privacy Rule at 45 CFR 164.512(f) permits a health plan to respond to a request for information by a child support agency that issued a NMSN. The Privacy Rule allows a medical plan administrator to disclose protected health information in response to the NMSN.

### **Coverage Requirements**

#### ***Do I enforce the NMSN to cover the child(ren) of a recently terminated employee if the employee elected self-only COBRA coverage?***

Yes. A child covered by a group health plan is a beneficiary under the plan. The covered child is a qualified beneficiary with the right to elect continued coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) if the plan is subject to COBRA and if the child loses coverage because of a qualifying event.

#### ***Can the plan administrator change the employee's coverage to a different option even if it affects the employee's premiums?***

Yes. The plan administrator may take whatever steps necessary to enroll the children named in the NMSN if coverage is available and the premiums can be deducted within the [Consumer Credit Protection Act](#) (CCPA) limits.

***The NMSN is the official form that child support agencies send to employers to ensure that children receive health care coverage when it is available and required as part of a child support order.***

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## *What should I do if the employee is no longer eligible for employer-sponsored medical insurance coverage?*

You should notify the child support agency that sent the NMSN.

## *What should I do if the medical insurance provider changes?*

You should notify the child support agency that sent the NMSN.

## *What should I do if the employee no longer makes enough money to continue employer-sponsored medical insurance coverage?*

You should stop withholding premiums if your employee cannot make the payments within the CCPA limits, and notify the child support agency.

## *What should the employee do if he or she does not make enough money to cover the medical insurance premiums?*

Your employee should look at other options to provide medical insurance coverage, such as:

- Enroll in the Health Insurance Marketplace;
- Obtain private coverage; or
- Enroll his or her child in a state Children's Health Insurance Program.

The employee should also notify the child support agency to modify the medical support order.

## **Administrative**

### *Are withholdings for medical support subject to the CCPA limits?*

Yes. In most states, payments deducted from an employee's pay for medical support are subject to CCPA limits. However, some states require that medical support premiums be withheld before computing the maximum to withhold under the CCPA. See HHS' [Income Withholding Requirements Matrix](#) for information on state withholding priorities and other withholding information.

### *Does withholding for medical support have a higher priority than child support?*

Not usually. Most states give priority to current child support. However, state law governs the priority given to ongoing child support and medical support, so please refer to the [Income Withholding Requirements Matrix](#) for information on priorities and withholding information.

### *Who can I contact with questions about the NMSN?*

You should contact the state child support agency that issued the NMSN. The contact information is in the top box on Page 1. You can also find each state's point of contact on HHS' [State Medical Support Contacts and Program Information Matrix](#).

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## *Who completes Part A of the NMSN?*

The employer completes Part A if the employee:

- Is not eligible for health insurance;
- Has been terminated; or
- Does not have enough disposable income to cover the health care premiums.

If any of the above applies, the employer must complete Part A and return it to the child support agency and discard Part B. If the employer determines that the employee is eligible to provide coverage, the employer forwards Part B to the plan administrator.

## *Who completes Part B of the NMSN?*

The plan administrator completes Part B and returns it to the child support agency. The plan administrator may enroll the child in existing coverage or notify the child support agency about other coverage options available to the parent(s). Once the child is enrolled in a plan, the plan administrator will let the employer know how much to deduct for the insurance premium. The employer may determine whether the premium and ongoing child support exceed the CCPA limits under the state priority for withholding. If so, the employer will notify the child support agency using Part A of the NMSN – the Employer Response.

**Compliance Tip** – The instructions to the NMSN clarify that, if the employer is also the plan administrator, the employer is responsible for completing both Parts A and B of the NMSN.

## *Must I determine if the cost of medical support coverage is reasonable?*

No. The child support agency generally determines if the cost to cover the children is reasonable.

## *Must I determine which parent meets the Affordable Care Act (ACA) affordability test before enrolling the children?*

No. If a child support agency sends the NMSN, the employer has to use the child support definition of reasonable cost, not the ACA's affordability test.