

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

GMM, : NO. 94-21,088
Petitioner :
: vs. : DOMESTIC RELATIONS SECTION
: Exceptions
JAC, :
Respondent :

OPINION AND ORDER

Before the Court are Respondent’s exceptions to the Family Court Order dated August 20, 2002, in which Respondent was directed to pay child support to Petitioner, including a health insurance contribution. Argument on the exceptions was heard October 16, 2002.

In his exceptions, Respondent contends the hearing officer erred in requiring him to contribute to ½ the cost of the health insurance provided by Petitioner’s husband for the child. Respondent contends he should have been required to contribute to only the child’s portion, and not the portion attributable to Petitioner’s husband as well.¹

Rule 1910.16-6(b) (1) provides as follows:

A party’s payment of a premium to provide health insurance coverage on behalf of the other party or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it. If the obligor is paying the premium, then obligee’s share is deducted from the obligor’s basic support obligation. If the obligee is paying the premium, then obligor’s share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

¹ It appears the insurance covers four (4) people and the requirement that Respondent contribute to ½ of the expense would thus cover two (2) people, the child and Petitioner’s husband.

Pa. R.C.P. Rule 1910.16-6(b) (1) (emphasis added). The specific issue presented by the instant case is whether the Court should interpret this Rule to require contribution to the portion of the premium attributable to the person paying it when that person is the party's spouse rather than the party.

A thorough reading of the applicable statutes and rules reveals the Legislature's intention that if at all possible, children be covered by health insurance. In 23 Pa. C.S. Section 4326, mandatory inclusion of child medical support, the Legislature directs that if health care coverage is available at a reasonable cost through employment to a non-custodial parent first, but if not then to a custodial parent, the Court shall require that parent to provide such coverage. Further, if health insurance coverage is not available through employment, the Court is to require the parents to obtain for their children health insurance coverage, which is available elsewhere at a reasonable cost. Further, the explanatory comment to Rule 1910.16-1, specifically that comment contained in paragraph (C)(7), indicates that the motive behind amending the Rule to require allocation of the premium between the parties, including that portion attributable to the party paying for such, was to provide incentive for the parties to obtain health insurance for their children.

Consistent with this Legislative intent, this Court has previously held that a health insurance premium paid to provide insurance for the parties' child is allocable between the parties even though the payment is made by a spouse of one of the parties, rather than one of the parties directly. The Court can see no logical distinction to disallow allocation of the payment which covers the portion attributable to the person paying the insurance. In both of these situations, the Court realizes that the word "party" is not being strictly interpreted, but believes such strict interpretation would be inconsistent with the Legislative intent.

Therefore, the hearing officer's requirement that Respondent contribute to the cost of both the child and the person carrying the insurance will be affirmed.

ORDER

AND NOW, this 21st day of October, 2002, for the foregoing reasons, Respondent's exceptions are hereby denied and the Order of August 20, 2002 is hereby affirmed.

By the Court,

Dudley N. Anderson, Judge

cc: Family Court
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Hon. Dudley N. Anderson