

The Court proceeded to hold a hearing on the Defendant's Motion for Reconsideration of the Court's October 2, 2019 Order on the Plaintiff's Petition to Enforce Order. The parties stipulated to the following facts. On November 27, 2018, the Plaintiff took the minor child for his routine child health examination (physical). The after visit summary from the physical included the following statements: "The following issues were addressed: Encounter for routine child health examination with abnormal findings, Obesity due to excess calories with serious comorbidity and body mass index(BMI) in 95th to 98th percentile for age in pediatric patient, and Elevated blood pressure reading in office without diagnosis of hypertension." See Mother's Exhibit 1. The after visit summary also included the statement: "Return in about 3 months (around 2/27/2019) for BP recheck." *Id.* The after visit summary set the next appointment for the minor child for March 6, 2019. *Id.* On November 28, 2018, the after visit summary was sent to the Defendant. Sometime after receiving the after visit summary, the Defendant objected to the Plaintiff taking the minor child to the follow up BP check appointment. On March 6, 2019, the Plaintiff took the minor child to the follow up BP recheck. On April 16, 2019, the Plaintiff sent the Defendant the after visit summary for the March 6, 2019 follow up BP recheck. See Mother's Exhibit 2. The after visit summary for the BP recheck (BP follow up) included the following statements: "The following issues were addressed: Obesity due to excess calories with serious comorbidity and body mass index (BMI) in 95th to 98th percentile for age in pediatric patient and Elevated blood pressure reading in office without diagnosis of hypertension." *Id.* The after visit summary also included the statement: "Return in about 6 months (around 9/6/2019) for f/u obesity." *Id.* The after visit summary set the next appointment for the minor child for August 21, 2019. *Id.*

The current custody order, dated July 29, 2016, requires the parties to split the cost of unreimbursed medical expenses of the parties' minor children. Pursuant to this provision, the Plaintiff notified the Defendant of the medical bill for the March 6, 2019 BP follow up appointment. The Defendant verbally informed the Plaintiff he would not pay for the medical bill. The Plaintiff had her attorney provide the medical bill to the Defendant's legal counsel in attempt to get it paid. Neither the defendant nor then legal counsel for the Defendant responded to Plaintiff's attorney. The Plaintiff proceeded to file the Petition to Enforce Order for payment of half of the unpaid medical bill.

At the January 28, 2020 hearing, the Defendant argued that he was not obligated to pay the medical bill because he had objected to the minor child attending the BP follow up appointment. The Defendant specifically argued the child is just big for his age and does not have an obesity issue. To support this position, the Defendant provided a photograph of the minor child from August 2019. The photograph was admitted as Father's Exhibit 1. The Defendant further argued that not only was he not obligated to pay the medical bill but that the Plaintiff had violated the custody order by taking the minor child to a medical appointment over his objection. The Defendant's position is that the legal custody provisions in paragraph 9 of the custody order prohibit either party from making unilateral decisions regarding medical treatment.

The Plaintiff asserts that medical bill at issue is related to a routine checkup and does not involve medical treatment. The Plaintiff analogizes the doctor visits to the equivalent of taking the child to school each day. The Plaintiff views the doctor visits as routine activity that does not involve a unilateral decision by either party. The Plaintiff's school analogy is not the equivalent of a doctor visit. While parents can reasonably expect what a school day will entail for their child and that most days at school will not require making a significant decision on behalf of the child, a doctor visit on the other hand is not an everyday event for most children and may require a significant decision be made about the child. Therefore, the Court declines to treat all doctor visits as routine matters that do not include decisions that significantly affect a child.

Instead, the specific doctor visit at issue must be examined to determine if it involves a decision that significantly affects the child and requires both parties to consent to it. In making this decision, the language of paragraph 9 of the custody order provides guidance. The specific language states: "Neither party shall make a unilateral decision that significantly affects the children without the consent of the other party. Such decisions shall include, but are not limited to, decisions on medical and dental treatment, education, religious upbringing, choice of day care provider, choice of pre-school, choice of school, psychotherapy or like treatment, and extracurricular activities." The uncontested facts support the doctor visit at issue was a BP follow up. The question is whether the taking of the child to the BP follow up amounted to a decision on medical treatment that significantly

affected the child. The Court holds that taking the child to such a doctor visit does not amount to a significant decision that affected the child. The doctor visit at issue involved the rechecking of the child's blood pressure and a non-invasive evaluation of the child related to potential obesity concerns stated at the prior doctor visit (physical). The evaluation done of the child at the March 6, 2019 appointment was similar to (or likely less extensive) than the one conducted at the November 27, 2018 appointment. This fact is important because the Defendant did not object to the November 2018 evaluation or the medical provider that conducted it. The Plaintiff taking the child to the same medical provider for a follow up visit that involved similar non-invasive limited evaluation does not amount to making a significant decision on the medical treatment of the child. If the Plaintiff had placed the child on medication, taken the child to a specialist or for invasive testing, such actions would have amounted to significant decisions that require the consent of the Defendant. It is important to note that the Defendant has not raised an opposition to mainstream medical treatment, for religious or other reasons, for the child and had not objected to the medical provider for the child. From the stipulated facts, admitted exhibits and arguments of the parties, the Court concludes the parties have previously consented to routine evaluations of the child by this particular medical provider.

For the above-stated reasons, the Court DENIES the Defendant's Petition for Reconsideration. The Court's prior Order of October 2, 2019 remains in full effect and force.

BY THE COURT,

Ryan M. Tira, Judge

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