

## 2012 Kansas Statutes

### **23-3114. Medical child support; order; coverage under health benefit plan; limited power of attorney; enrollment by employer, sponsor or administrator of health benefit plan; disenrollment.**

(a) Whether or not a medical child support order has previously been entered, the court shall address the medical needs of the child, and if necessary, enter a medical child support order. Subject to any requirements in child support guidelines adopted by the supreme court pursuant to K.S.A. 20-165, and amendments thereto, the medical child support order may require either parent or both parents to furnish coverage under any health benefit plan as provided in this section, allocate between the parents responsibility for deductibles and copayments, allocate between the parents responsibility for medical costs not covered by any health benefit plan, include costs of coverage under a health benefit plan in the calculation of a current child support order, require cash medical support as an adjustment to a current support order, and make any other provision that justice may require. Before requiring either parent to provide coverage under any health benefit plan, the court shall consider whether the benefits of the plan are accessible to the child and the cost of coverage, including deductibles and copayments, in relation to the overall financial circumstances. In no event shall the court consider as a factor the availability of medical assistance to any person. Nothing in this section shall prevent the court from prospectively ordering a parent to provide coverage under any health benefit plan which may become available to the parent.

(b) Except for good cause shown, if more than one health benefit plan is available for and accessible to a child, the court shall give preference to the plan: (1) Designated by court order or agreement of the parties, or, if none, then (2) in which the child already has benefits, or, if none, then (3) with terms closest to those designated by court order or agreement of the parties, or, if none, then (4) in which the parent or members of the parent's household have benefits, or, if none, then (5) in which the child will receive the greatest benefits.

(c) When a medical child support order has been entered, the obligor shall be deemed to have granted by operation of law a limited power of attorney to submit claims to a health benefit plan on the child's behalf and to endorse and negotiate any check or other negotiable instrument issued in full or partial payment of the child's claim. Except as otherwise provided in this subsection, the limited power of attorney shall be held by the obligee. If the child is receiving medical assistance from the secretary of social and rehabilitation services, the secretary of social and rehabilitation services shall be deemed the sole holder of the limited power of attorney with respect to payments subject to the secretary's claim for reimbursement. Upon termination of medical assistance in this state for the child, the secretary of social and rehabilitation services shall retain the limited power of attorney with respect to medical assistance already provided until the claim of the secretary for reimbursement is satisfied. If the child is receiving medical assistance under Title XIX of the federal social security act in another state or jurisdiction, the agency or official responsible for administering the Title XIX program in that state or jurisdiction shall be deemed the sole holder of the limited power of attorney with respect to payments subject to the claim of that agency or official for reimbursement. Upon termination of medical assistance in that state or jurisdiction for the child the agency or official administering the Title XIX program shall retain the limited power of attorney with respect to medical assistance already provided until the claim of that agency or official for reimbursement is satisfied.

(d) In any case in which a participating parent is required by a court or administrative order to provide health coverage for a child, the participating parent is eligible for family health coverage, and the child is otherwise eligible for family health coverage, without regard to any enrollment season restrictions the employer, sponsor or other administrator of a health benefit plan: (1) Shall permit the participating parent to enroll the child for coverage; or (2) if the participating parent is enrolled but has not applied for coverage for the child, shall permit the holder of a limited power of attorney pursuant to subsection (c) to enroll the child. A child enrolled under this subsection shall be treated, with regard to any preexisting condition, as though enrollment occurred during the normal open enrollment period.

(e) When a child has been enrolled for coverage pursuant to subsection (d), the employer, sponsor or other administrator of a health benefit plan shall not disenroll or eliminate coverage of the child unless the employer, sponsor or administrator is provided: (1) Satisfactory written evidence that the court or administrative order requiring the parent to provide health coverage is no longer in effect for the child and either the participating parent has requested a change or discontinuance of the child's coverage, or the child is otherwise ineligible for continued coverage; or (2) satisfactory written evidence, signed by all holders of a limited power of attorney pursuant to subsection (c), that the child is or will be enrolled in comparable health coverage through another insurer or health benefit plan which will take effect no later than the effective date of the disenrollment. An employer may also disenroll or eliminate coverage for the child if the employer has eliminated family health coverage for all of its employees.

(f) The provisions of this section and the income withholding act and amendments thereto shall apply to all orders for support, including all medical child support orders, entered in this state regardless of the date the order was entered.

**History:** L. 1994, ch. 301, § 14; L. 2007, ch. 174, § 2; July 1.