

Sec. 3. Section 173.3, Code 2001, is amended to read as follows:

173.3 CERTIFICATION OF STATE AID ASSOCIATIONS.

On or before November 15 of each year, the secretary of agriculture shall certify to the secretary of the state fair board the names of the various associations and societies which have qualified for state aid under the provisions of chapters ~~176~~ 177 through 178, 181, 182, 186, and 352, and which are entitled to representation in the convention as provided in section 173.2.

Sec. 4. Section 331.602, subsection 13, Code 2001,⁶ is amended by striking the subsection.

Sec. 5. Section 490.1701, subsection 2, Code 2001, is amended to read as follows:

2. Unless otherwise provided, this chapter does not apply to an entity subject to chapter 174, 176, 497, 498, 499, 499A, 524, 533, or 534 or a corporation organized on the mutual plan under chapter 491, or a telephone company organized as a corporation under chapter 491 qualifying pursuant to an internal revenue service letter ruling under Internal Revenue Code § 501(c)(12) as a nonprofit corporation entitled to distribute profits in a manner similar to a chapter 499 corporation, unless such entity voluntarily elects to adopt the provisions of this chapter and complies with the procedure prescribed by subsection 3 of this section.

Sec. 6. Section 504A.100, subsection 1, Code 2001, is amended to read as follows:

1. Except for this subsection, this chapter shall not apply to or affect corporations subject to the provisions of ~~chapters 176, chapter~~ 497, 498, 499, or 512B. Such corporations shall continue to be governed by all laws of this state heretofore applicable thereto and as the same may hereafter be amended. This chapter shall not be construed as in derogation of or as a limitation on the powers to which such corporations may be entitled.

Sec. 7. Chapter 176 is repealed.

DIVISION III EFFECTIVE DATE

Sec. 8. EFFECTIVE DATE FOR DIVISION II. Division II of this Act, amending sections 159.6, 173.3, 331.602, 490.1701, and 504A.100, and repealing chapter 176, is effective on July 1, 2005.

Approved March 14, 2002

CHAPTER 1018

SUPPORT OF DEPENDENTS — CALCULATION AND WITHHOLDING — MEDICAL AND EDUCATIONAL SUPPORT

H.F. 2395

AN ACT relating to child support including provisions relating to medical support and the calculation of the child support amount relative to receipt of federal social security benefits, providing an effective date, and providing for retroactive applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 252D.18A, subsection 1, Code 2001, is amended to read as follows:

1. The total of all amounts withheld shall not exceed the amounts specified in 15 U.S.C.

⁶ Code Supplement 2001 probably intended

§ 1673(b). For orders or notices issued by the child support recovery unit, the limit for the amount to be withheld shall be specified in the order or notice.

Sec. 2. Section 252D.18A, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. If, after completing the calculation in paragraph “a”, the withholding limit specified under ~~15 U.S.C. § 1673(b) subsection 1~~ has not been attained, the payor shall total the amounts due for arrearages and determine the proportionate share for each obligee. The proportionate share amounts shall be established utilizing the procedures established in paragraph “a” for current support obligations.

Sec. 3. Section 252E.1, Code 2001, is amended to read as follows:

252E.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. “Accessible” means any of the following, unless otherwise provided in the support order:

a. The health benefit plan does not have service area limitations or provides an option not subject to service area limitations.

b. The health benefit plan has service area limitations and the dependent lives within thirty miles or thirty minutes of a network primary care provider.

2. “Basic coverage” means coverage provided under a health benefit plan that at a minimum provides coverage for emergency care, inpatient and outpatient hospital care, physician services whether provided within or outside a hospital setting, and laboratory and x-ray services.

3. “Child” means a person for whom child or medical support may be ordered pursuant to chapter 234, 239B, 252A, 252C, 252F, ~~252H, 252K~~, 598, 600B or any other chapter of the Code or pursuant to a comparable statute of a foreign jurisdiction.

4. “Department” means the department of human services, which includes but is not limited to the child support recovery unit, or any comparable support enforcement agency of another state.

5. “Dependent” means a child, or an obligee for whom a court may order coverage by a health benefit plan pursuant to section 252E.3.

6. “Enroll” means to be eligible for and covered by a health benefit plan.

7. “Health benefit plan” means any policy or contract of insurance, indemnity, subscription or membership issued by an insurer, health service corporation, health maintenance organization, or any similar corporation, organization, or a self-insured employee benefit plan, for the purpose of covering medical expenses. These expenses may include, but are not limited to hospital, surgical, major medical insurance, dental, optical, prescription drugs, office visits, or any combination of these or any other comparable health care expenses.

8. “Insurer” means any entity which provides a health benefit plan.

9. “Medical support” means either the provision of a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to chapter 514E, to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, or the payment to the obligee of a monetary amount in lieu of a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid. Medical support is not alimony.

10. “National medical support notice” means a notice as prescribed under 42 U.S.C. § 666(a)(19) or a substantially similar notice, that is issued and forwarded by the department to enforce medical support provisions of a support order.

11. “Obligee” means a parent or another natural person legally entitled to receive a support payment on behalf of a child.

12. “Obligor” means a parent or another natural person legally responsible for the support of a dependent.

13. “Order” means a support order entered pursuant to chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any other support chapter, or pursuant to a comparable statute of a foreign jurisdiction, or an ex parte order entered pursuant to section 252E.4. “Order” also includes a notice of such an order issued by the child support recovery unit to an employer department.

14. “Plan administrator” means the employer or sponsor that offers the health benefit plan or the person to whom the duty of plan administrator is delegated by the employer or sponsor offering the health benefit plan, by written agreement of the parties.

15. “Primary care provider” means a physician who provides primary care who is a family or general practitioner, a pediatrician, an internist, an obstetrician, or a gynecologist.

Sec. 4. Section 252E.2, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

An insurer who is subject to the federal Employee Retirement Income Security Act, as codified in 29 U.S.C. § 1169, shall provide benefits in accordance with that section which meet the requirements of a qualified medical child support order. For the purposes of this subsection “qualified medical child support order” means and includes a medical child support order as defined in 29 U.S.C. § 1169, or a child support order which creates or recognizes the existence of a child’s right to, or assigns to a child the right to, receive benefits for which a participant or child is eligible under a group health plan or a notice of such an order issued by the child support recovery unit department, and which specifies the following:

Sec. 5. Section 252E.4, subsection 1, Code 2001, is amended to read as follows:

1. When a support order requires an obligor to provide coverage under a health benefit plan, the district court or the department may enter an ex parte order directing an employer to take all actions necessary to enroll an obligor’s dependent for coverage under a health benefit plan or may include the provisions in an ex parte income withholding order or notice of income withholding pursuant to chapter 252D. The child support recovery unit, where appropriate, shall issue a national medical support notice to an employer within two business days after the date information regarding a newly hired employee is entered into the centralized employee registry and matched with a noncustodial parent in the case being enforced by the unit. The department may amend the information in the ex parte order or may amend or terminate the national medical support notice regarding health insurance provisions if necessary to comply with health insurance requirements including but not limited to the provisions of section 252E.2, subsection 2, or to correct a mistake of fact.

Sec. 6. Section 252E.5, subsections 1 and 3, Code 2001, are amended to read as follows:

1. When the order has been forwarded to the obligor’s employer pursuant to section 252E.4, the order is binding on the employer and the employer’s insurer to the extent that the dependent is eligible to be enrolled in the plan under the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer. The employer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions. If a provision of this section conflicts with a provision in the national medical support notice, or in subsection 9, the provision in the notice and subsection 9 shall apply.

3. The employer shall withhold from the employee’s compensation, the employee’s share, if any, of premiums for the health benefit plan in an amount that does not exceed the amount specified in the national medical support notice or the amount specified in 15 U.S.C. § 1673(b) and which is consistent with federal law. The employer shall forward the amount withheld to the insurer.

Sec. 7. Section 252E.5, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If the department issues a national medical support notice to an employer or plan administrator, all of the following shall apply:

- a. The employer and plan administrator shall comply with the provisions in the notice.
- b. The employer and the plan administrator shall treat the notice as an application by the department for health benefit plan coverage for the dependent to the extent such application is required by the health benefit plan.
- c. If the obligor named in the notice is not an employee of the employer, or if a health benefit plan is not offered or available to the employee, the employer shall notify the department, as provided in the notice, within twenty business days after the date of the notice.

d. If a health benefit plan is offered or available to the employee, the employer shall send the plan administrator's portion of the notice to each appropriate plan administrator within twenty business days after the date of the notice.

e. Upon notification from the plan administrator that the dependent is enrolled, the employer shall either withhold and forward the premiums as provided in subsection 3, or shall notify the department that the enrollment cannot be completed due to limits established for withholding as provided in subsection 3.

f. If the plan administrator notifies the employer that the obligor is subject to a waiting period that expires more than ninety days from the date of receipt of the notice by the plan administrator or that the obligor is subject to a waiting period that is measured in a manner other than the passage of time, the employer shall notify the plan administrator when the obligor becomes eligible to enroll in the plan and that the notice requires enrollment in the plan of the dependent named in the notice.

g. The plan administrator shall enroll the dependent, and if necessary to enrollment of the dependent shall also enroll the obligor, in the plan selected in accordance with this paragraph. All of the following shall apply to the selection of the plan:

(1) If the obligor is enrolled in a health benefit plan that offers dependent coverage, that plan shall be selected.

(2) If the obligor is not enrolled in a plan or is not enrolled in a plan that offers dependent coverage, and if only one plan with dependent coverage is offered by the employer, that plan shall be selected.

(3) If the obligor is not enrolled in a health benefit plan or is not enrolled in a health benefit plan that offers dependent coverage, if more than one plan with dependent coverage is offered by the employer, and if the notice is issued by the child support recovery unit, all of the following shall apply:

(a) If only one of the plans is accessible to the dependent, that plan shall be selected. If none of the plans with dependent coverage is accessible to the dependent, the unit shall amend or terminate the notice.

(b) If more than one of the plans is accessible to the dependent, the plan selected shall be the plan that provides basic coverage for which the employee's share of the premium is lowest.

(c) If more than one of the plans is accessible to the dependent but none of the accessible plans provides basic coverage, the plan selected shall be a plan that is accessible and for which the employee's share of the premium is lowest.

(d) If the employee's share of the premiums is the same under all plans described in subparagraph (b) or (c), the unit shall attempt to consult with the obligee when selecting the plan. If the obligee does not respond within ten days of the unit's attempt, the unit shall select a plan which shall be the plan's default option, if any, or the plan with the lowest deductibles and co-payment requirements.

(4) If the obligor is not enrolled in a health benefit plan or is not enrolled in a health benefit plan that offers dependent coverage, if more than one plan with dependent coverage is offered by the employer, and if the notice is issued by the child support enforcement agency of another state, that agency shall select the plan as provided in paragraph "h", subparagraph (3).

h. Within forty business days after the date of the notice, the plan administrator shall do all of the following as directed by the notice:

(1) Complete the appropriate portion of the notice and return the portion to the department.

(2) If the dependent is or is to be enrolled, notify the obligor, the obligee, and the child and furnish the obligee with necessary information. Provide the child support recovery unit with the type of health benefit plan under which the dependent has been enrolled, including whether dental, optical, office visits, and prescription drugs are covered services.

(3) If more than one health benefit plan is available to the obligor and the obligor is not enrolled, forward plan descriptions and documents to the department and enroll the dependent, and if necessary the obligor, in the plan selected by the department or in any default option if the plan administrator has not received a selection from the department within twenty busi-

ness days of the date the plan administrator returned the national medical support notice response to the department.

(4) If the obligor is subject to a waiting period that expires more than ninety days from the date of receipt of the notice by the plan administrator or if the obligor has not completed a waiting period that is measured in a manner other than the passage of time, notify the employer, the department, the obligor, and the obligee. Upon satisfaction of the period or requirement, complete the enrollment.

(5) Upon completion of the enrollment, notify the employer for a determination of whether the necessary employee share of the premium is available.

(6) If the plan administrator is subject to the federal Employee Retirement Income Security Act, as codified in 29 U.S.C. § 1169, or is subject to the federal Child Support Performance and Incentive Act of 1998, Pub. L. No. 105-200, § 401, subsection (e) or (f) and the plan administrator determines the notice does not constitute a qualified medical child support order, complete and send the response to the department and notify the obligor, the obligee, and the child of the specific reason for the determination.

Sec. 8. Section 252E.6, subsection 2, Code 2001, is amended to read as follows:

2. For cases for which services are being provided pursuant to chapter 252B, the department shall notify the employer when there is no longer a current order for medical support in effect for which the department is responsible. However, termination of an obligee's medical support ordered pursuant to section 252E.3 shall be governed by the insurer's health benefit plan provisions for termination and by applicable federal law.

Sec. 9. Section 252E.6A, Code 2001, is amended to read as follows:

252E.6A MOTION TO QUASH.

1. An obligor may move to quash the order to the employer under section 252E.4 by following the same procedures and alleging a mistake of a fact as provided in section 252D.31 or as provided in subsection 2. If the unit is enforcing an income withholding order and a medical support order simultaneously, any challenge to the income withholding order and medical support enforcement shall be filed and heard simultaneously.

2. The obligor may allege as a mistake of fact an error in the availability of dependent coverage under the health benefit plan because the coverage is not accessible to the dependent. Even if the plan is not accessible as defined in section 252E.1, the court may determine that the plan is substantially accessible if the obligee demonstrates that the dependent may receive a benefit under the plan. Section 252K.316 relating to evidence and procedure shall apply to the court proceeding.

2. 3. The employer shall comply with the requirements of this chapter until the employer receives notice that a motion to quash has been granted, or that the unit has amended or terminated the national medical support notice.

Sec. 10. Section 252H.2, subsection 12, Code 2001, is amended to read as follows:

12. "State" means "state" as defined in section ~~252A.2~~ 252K.101.

Sec. 11. Section 252H.3, subsection 1, Code 2001, is amended to read as follows:

1. Any action initiated under this chapter, including any court hearing resulting from an action, shall be limited in scope to the adjustment or modification of the child or medical support or cost-of-living alteration of the child support provisions of a support order. A determination of a controlling order is within the scope of this chapter. If the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due is within the scope of this chapter.

Sec. 12. Section 252H.8, subsection 4, paragraph g, Code 2001, is amended to read as follows:

g. Copies of any computation worksheet prepared by the unit to determine the amount of support calculated using the mandatory child support guidelines established under section

598.21, subsection 4, and, if appropriate and the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due.

Sec. 13. Section 252H.9, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. If applicable, the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

Sec. 14. Section 252H.16, subsection 1, Code 2001, is amended to read as follows:

1. The unit shall conduct the review and determine whether an adjustment is appropriate. As necessary, the unit shall make a determination of the controlling order or the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

Sec. 15. Section 252H.22, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The support order is not subject to the social security disability provisions pursuant to sections 598.22 and 598.22C.

Sec. 16. Section 598.21, subsection 4, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. For the purposes of including a child's dependent benefit in calculating a support obligation under this section for a child whose parent has been awarded disability benefits under the federal Social Security Act, the provisions of section 598.22C shall apply.

Sec. 17. Section 598.21, subsection 5A, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A support order, decree, or judgment entered or pending before July 1, 1997, that provides for support of a child for college, university, or community college expenses, may be modified in accordance with this subsection.

Sec. 18. Section 598.22, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, 252F, or 600B, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. Beginning October 1, 1999, all income withholding payments shall be directed to the collection services center. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the order for income withholding or notice of the order for income withholding shall require the payment of such sums to the alternate payee in accordance with the federal Act. For dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor under the federal Social Security Act, the provisions of section 598.22C shall apply.

Sec. 19. NEW SECTION. 598.22C CHILD SUPPORT — SOCIAL SECURITY DISABILITY DEPENDENT BENEFITS.

If dependent benefits are paid for a child as a result of disability benefits awarded to the child's parent under the federal Social Security Act, all of the following shall apply:

1. Unless the court otherwise provides, dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor fully satisfy and substitute for the support obligations for the same period of time for which the benefits are awarded.

2. For the purposes of calculating a support obligation under section 598.21, subsection 4, the dependent benefits paid for any child shall be included as income to the disabled parent.

3. a. Any order or judgment for support for a child for whom social security disability benefits are paid to the child support obligee as a result of disability benefits awarded to the child support obligor shall include all of the following:

(1) The dollar amount of the child support obligation as calculated by application of the guidelines under section 598.21, subsection 4, and a statement that the social security dependent benefits are included as income to the obligor in that calculation.

(2) The dollar amount of the social security dependent benefits paid to the obligee which shall be dollar-for-dollar satisfaction of the obligor's child support obligation.

(3) The dollar amount, if any, the obligor shall pay after application of the social security dependent benefits as a credit to or dollar-for-dollar satisfaction of the child support obligation.

b. The amount of the child support obligation stated in the order, and the amount the obligor shall pay after application of the social security disability dependent benefit credit or satisfaction stated in the order, shall continue until modified, as provided in section 598.21.

4. The amount of any child support obligation satisfied under this section based upon the receipt of dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor shall not be considered delinquent.

Sec. 20. Section 600.11, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A person who is ordered to pay support or a postsecondary education subsidy pursuant to section 598.21, subsection 5A, or chapter 234, 252A, 252C, 252F, 598, 600B, or any other chapter of the Code, for a person eighteen years of age or older who is being adopted by a stepparent, and the support order or order requires payment of support or postsecondary education subsidy for any period of time after the child reaches eighteen years of age.

Sec. 21. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. Section 17 of this Act, relating to the modification of a support order, decree, or judgment pending on or before July 1, 1997, that provides for support of a child for college, university, or community college expenses, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to support orders, decrees, or judgments as described in section 17 of this Act entered or pending before July 1, 1997.

Approved March 15, 2002