A PARENT'S OBLIGATION TO PROVIDE HEALTH INSURANCE FOR MINOR CHILDREN IN FAMILY LAW MATTERS

Wisconsin law already required courts in family law matters to assign responsibility for providing health insurance for minor children. Recent changes to the Wisconsin Administrative Code clarify this obligation. These changes are contained in section DCF 150.05 of the Code.

In addition to ordering child support for a child, courts are required to specifically assign responsibility for and direct the manner of payment for the child's health expenses under section 767.513, Wis. Stats. Courts are also required to order responsibility for the payment of medical expenses that are not covered by insurance after considering each parent's ability to pay these medical expenses. The requirement under section 767.513 existed prior to the changes to the Code and, as a practical matter, courts already assign responsibility for the payment of uninsured expenses.

Courts may order either or both parents to enroll a child in a private health insurance plan that is accessible to the child and available at a reasonable cost. BadgerCare Plus is not considered a private health insurance plan. Courts may order the non-insuring parent to contribute to the cost to enroll the children in a private health insurance plan in an amount that does not exceed 5% of the non-insuring parent's monthly income available for child support. However, if a person other than a parent has enrolled a child in an accessible private health insurance plan that covers hospitalization and other medical costs without large out-of-pocket deductibles or copayments, courts may determine whether to order a parent to enroll the child in a private health insurance plan. Further, courts may not order a parent whose income is below 150% of the federal poverty level to enroll a child in a private health insurance plan or contribute to the cost of a private health insurance plan unless there is no cost to the parent.

A private health insurance plan is accessible to the child if the plan's service providers are located within a reasonable distance from the child's home, which generally means service providers located within 30 minutes or 30 miles of the child's residence, with a greater distance allowed in some rural areas. A private health insurance plan is available at a reasonable cost if the cost to enroll the child or children does not exceed 5% of the insuring parent's monthly income available for child support and would cover hospitalization and other medical costs without large out-of-pocket deductibles or copayments. The cost to enroll the child or children in a private health insurance plan is the cost to add the child or children to existing coverage or the difference between the cost of self-only coverage and the cost to that parent after adding the child or children.

The responsibility for a contribution to the cost of private health insurance may be in the form of an upward or downward adjustment to a payer's child support obligation. The court would order an upward adjustment to a payer's child support order if the child support recipient is the insuring parent and the payer is contributing to the cost. The court would order a downward adjustment to the payer's child support obligation if the payer is the insuring parent, the child support recipient is contributing to the cost, and the child support recipient's contribution is less than the payer's child support amount.

If there is no private health insurance plan available that is accessible to the child and available at a reasonable cost, courts may order enrollment in a private health insurance plan as a child support deviation, responsibility for a contribution to the cost of the other parent's premium for the BadgerCare Plus unless the parent's income is below 150% of the federal poverty level, which may also be an upward or downward adjustment to a payer's child support obligation, and enrollment in a private health insurance plan if a plan that is accessible to the child and available at a reasonable cost becomes available to the parent in the future.

Should you have any questions about family law matters, contact Gregory Mager.