

## Child Support Enforcement

When a parent who is supposed to pay child support stops paying – whether it is simply out of spite and refusal or if the non-payment is for a good reason, there is plenty that the court can do about it.

**Employer’s Responsibilities:** Illinois law places several responsibilities on employers to ensure the proper collection and payment of child support.

**Income Withholding:** In most cases, child support is supposed to be withheld from an obligor’s paychecks – it works like garnishment. The money that is withheld for child support is supposed to be forwarded by the employer to the State Disbursement Unit (S.D.U.). Illinois law provides for a \$100 a day penalty for businesses that withhold support payments from paychecks, but fail to timely turn them over to the S.D.U.<sup>1</sup> The law is enforced regularly and has resulted in the financial ruin of several Illinois businesses that failed to properly withhold and pay over child support funds. In one noted case, Autozone, Inc. was fined \$20,700 for failure to comply.<sup>2</sup> In another case,<sup>3</sup> an employer properly withheld from an obligor / employee’s paycheck \$82.00 per week for child support. Although the money was turned over, it wasn’t turned over on time. That resulted in a fine of \$1,172,100. As of March, 2007, the case is before the Illinois Supreme Court.

**Medical Coverage:** Illinois law requires obligors ordered to pay child support to also provide health insurance coverage if it is available to the obligor through his or her employer.<sup>4</sup> If the obligor’s employer doesn’t offer health insurance coverage, the court has the power to force the obligor to join a group plan, if available, or to simply buy health insurance to provide coverage for the minor child(ren).<sup>5</sup> The court allows only 30 days for the obligor to obtain the insurance and provide proof to the custodial parent.<sup>6</sup> If the obligor refuses or fails to obey a court order to obtain insurance for the child, the custodial parent has the authority to enroll the child in a plan offered by the obligor’s employer.<sup>7</sup>

Whether the obligor obtains coverage through employment, by joining a group, or individually, the effort may involve some additional cost; and the court can consider the cost, as well as other factors, when making its determination.<sup>8</sup> Some employers offer more than one health insurance plan. Illinois law requires obligors who obtain insurance for their children through employment to enroll their children in the same plan in which they, themselves, enroll: what’s good for the parent is good for the child.

**Non-Covered expenses (deductibles, copayments, and non-covered costs and services):** Health insurance can be tricky and difficult to understand. Less costly policies cover very little or have high deductible and copayment requirements. Some obligors will disregard the needs of the child and try to save money by obtaining cheap insurance that offers little in the way of real benefits. Illinois law gives judges the power to consider a plan’s coverage, costs, copayments, and deductibles and judges can require the obligor to pay all or a portion of non-covered costs and services and additional expenses.

**Enrollment Seasons:** Insurance companies usually limit enrollment in their employer-sponsored plans to a specified period – if you miss the enrollment date, you have to wait another year before the opportunity will come again. Parents ordered to pay for their children’s health insurance sometimes use this limitation as a ploy to avoid the additional expense of providing health insurance for a child. Fortunately, Illinois law requires all employers (and insurance providers) doing business in Illinois to admit children covered by a child support order to obtain insurance immediately – without having to wait for an “enrollment opening.”<sup>9</sup>

**Finding out What's What:** Obligor's often try to run the show when it comes to health insurance. Employers give information to employees about the costs and benefits of the various policies that may be available. Obligor's will sometimes lie to custodial parents about coverage possibilities either to save money or to assert control over the situation. Illinois law requires employers to provide information about coverage availability to parents receiving child support. Specifically, the law says:

“750 ILCS 5/502(f) Disclosure information. The obligor's employer shall disclose to the obligee, upon request, information concerning any dependent coverage plans which would be made available to a new employee. The employer shall disclose such information whether or not a court order for medical support has been entered.”

So, parents receiving child support should be proactive: they should find out for themselves the plans available. All they have to do is write a letter (sending it certified mail, return receipt requested, is a very good idea) to the obligor's employer, include a copy of the child support order, and cite the law, above.

**Once Insurance is Turned On, It Can't Be Turned Off:** Obligor's sometimes screw around with a child's insurance in an effort to save money or exert influence over the custodial parent. Illinois law, however, prohibits an employer from removing a child from an employer-provided health insurance plan unless: 1) the employee is no longer employed and is no longer covered under the plan, or 2) the child support order is terminated or otherwise ceases to have effect, or 3) the child is enrolled in a comparable plan that satisfies the terms of the existing child order with no lapse in coverage.<sup>10</sup>

**Foreign Orders:** Illinois employers are supposed to honor child support orders from other states – just as though they were issued by an Illinois court – as long as they satisfy the requirement of Illinois law. Specifically, to be enforced, any foreign order must include: 1) the amount to be withheld for support, 2) the duration of the support payments, 3) the identity and address of the person to receive the support, 4) the terms of any obligation to provide health insurance or other medical coverage, 5) the amount of any arrearage, and 6) the amount of any administrative fees that may be withheld. The employer should provide to the employee a copy of the order when it is received. Illinois employers should use Illinois limitations on withholding and administrative fees as well as for the time periods regarding when to begin withholding and when to turn over funds. When an Illinois employer violates a foreign order it becomes subject to the penalties laid out in Illinois law (\$100 a day for each support payment not properly withheld and paid over).

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This article was written by the law office of Cowell Taradash, P.C., whose attorneys are familiar with the latest court decisions, recent changes in the law and even the tendencies of many judges. We can help. Contact us at 866.987.6723 or [info@illinoisdivorce.com](mailto:info@illinoisdivorce.com).