

# QMCSO Procedures for [SD or SU] Group Health Plans

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# QMCSO Procedures for [SD or SU] Group Health Plans

## Section I. Introduction

This document establishes the procedures to be followed by [SD or SU Name] group health plans upon receipt of "medical child support orders" (MCSOs), including National Medical Support Notices. These MCSO procedures have been developed in accordance with federal law, which requires group health plans to establish reasonable administrative procedures for determining whether orders are 'qualified' (QMCSOs) and administering the provision of benefits under QMCSOs. They are designed to assist the employer in determining whether a particular order is a QMCSO and in carrying out its responsibilities relating to QMCSOs.

The employer is adopting these procedures to comply with the law and to clarify certain administrative methods. QMCSOs, and these procedures, do not apply to benefits that are not "group health plan" benefits under federal law, such as life insurance benefits.

### A. What Is a QMCSO?

A QMCSO is a judgment, decree or order, issued by a court or through a state administrative process that requires health plan coverage for the child of a participant (called an "alternate recipient") and meets certain legal requirements. These orders typically are issued as part of a divorce or as part of a state child support order proceeding. Federal law requires a group health plan to pay benefits in accordance with the order, if it is "qualified." A QMCSO may apply to an employer's major medical plan, as well as to other types of group health plans such as dental plans, vision plans and health FSAs. In general, a child who is an alternate recipient under a QMCSO is to be treated like any other child covered by the plan. If the Medical Child Support Order is not qualified, the group health plan does not provide group health plan coverage to the child, unless the child is otherwise eligible for the plan.

State child support enforcement agencies are required to use the *National Medical Support Notices* when enforcing the provision of health care coverage to children under an employment-related group health plan. This is a standard form that was jointly developed by the DOL and HHS. When properly completed by the issuing agency, the Notice will constitute a QMCSO. Other orders are not required to follow a standard format. Typically, these orders are drafted by divorce lawyers and may vary widely in terminology, format and sophistication.

In some cases, orders will refer to or require a plan to comply with state laws enacted in response to *Section 1908A of the Social Security Act*, which requires states to enact certain medical child-support laws in order to receive federal Medicaid funds. These state laws are designed to help state governments and non-employee parents obtain private-sector health coverage for children, including coverage under employer-sponsored group health plans.

### B. What Are the Plan's Rights and Responsibilities Relating to QMCSOs?

Plans are not required to provide coverage in accordance with child support or other court orders that are not "qualified" under federal law. The employer has the ultimate authority to determine whether an order meets the requirements of federal law. If the order does not meet these requirements, the plan need not (and should not) provide any benefits to the alternate recipient, unless the child is otherwise eligible or the order's deficiencies are corrected by the parties.

All actions related to QMCSOs must be made in accordance with these procedures and must be performed on a timely basis.

## **Section II. Procedures for Determining Whether Orders Are QMCSOs**

### **A. Upon Receipt of an Order**

The procedures to be followed upon receipt of an order depend on whether the order is a National Medical Support Notice or another type of court order.

#### ***1. Upon Receipt of a National Medical Support Notice***

Upon receipt of a National Medical Support Notice, the employer must-

- promptly provide written notification to the participant and the alternate recipient named in the Notice (and their legal representatives, if any):
  - that the plan has received the Notice; and
  - of the plan's QMCSO procedures
    - For the participant, the employer should send the notification to the participant at the address shown in the employer's records.
    - For the alternative recipient, the employer should send the notification to the address in the Notice, or if the Notice does not specify an address, to the last-known address shown in the employer's records);

The information about the Custodial Parent and Child(ren) contained in the Notice is confidential and should not be shared with or disclosed to the employee.

- review the Notice to determine if it has been properly completed and meets the legal requirements of a QMCSO, using the Checklist attached to these procedures and the instruction to the employer and the plan administrator on the Notice itself.

Within 40 business days after the date of the Notice, or sooner if reasonable, the employer must notify the participant, alternate recipient, state agency, and any legal representatives or other parties indicated in the Notice, using the spaces indicated on the Notice, that either-

- the Notice is a QMCSO; or
- the Notice is not a QMCSO (the employer's reasons for rejecting the Notice should be indicated in the space provided on the Notice).

This notification generally can be provided by sending copies of the completed "Plan Administrator Response" to the Notice to the parties. In addition, if the Notice is determined to be a QMCSO, the parties must be provided with certain information, such as the effective date of the child's coverage (or the steps necessary to effectuate coverage), a description of the coverage, and any forms or documents necessary to enroll in the plan. (See the instructions to the Notice.)

## **2. Upon Receipt of Any Other Order**

Upon receipt of an order other than a National Medical Support Notice, the employer must-

- promptly provide written notification to the participant and the alternate recipient named in the Notice (and their legal representatives, if any):
  - that the plan has received the Notice; and
  - of the plan's QMCSO procedures
    - For the Participant, the employer should send the notification to the participant at the address shown in the employer's records.
    - For the alternative recipient, the employer should send the notification to the address in the order, or if the order does not specify an address, to the last-known address shown in the employer's records); and
- review the order to determine if it meets the legal requirements of a QMCSO, using the Checklist attached to these procedures.

Within a reasonable time after receipt of the order (the time limits for reviewing the National Medical Support Notice will be used as a guideline-see subsection A.1), the employer must notify the participant and alternate recipient that either-

- the order is a QMCSO; or
- the order is not a QMCSO (an explanation of the defective or missing provisions should be included).

Copies of the notification should also be provided to the parties' legal representatives, if any.

### **B. Designation of Representative**

An alternate recipient may designate a representative to receive copies of notices that are sent to him or her with respect to an order. This designation should be included as part of the order.

### **C. Disputes**

Within 30 days after the date of the employer's notice as to whether an order is a QMCSO, the parties (or their legal counsel) will have the right to submit written comments regarding the determination. After considering any comments received, the employer will make a final determination as to the qualified status of the order. If no comments are received during the 30-day period, the decision will become final.

### **D. Resubmitted Orders**

If an order (including a National Medical Support Notice) is determined to not be a QMCSO, the parties or agency may submit a revised order to cure the deficiencies. If a revised order is submitted, the evaluation process in subsection A is repeated.

## **Section III. Additional Considerations**

### **A. Checklist for Assessing Whether an Order Is a QMCSO**

These procedures include a Checklist with a list of the provisions that are required for a medical child support order to be considered a QMCSO.

### **B. Forms and Information**

Additional forms and information may be necessary to effectively administer benefits under an order that has been determined to be a QMCSO and to enroll the alternate recipient in the applicable plans. These forms and information include the following:

- The name and address of the alternate recipient's custodial parent, legal guardian, or other person(s) to whom the SPDs and other plan-related information and correspondence should be furnished following the alternate recipient's enrollment. Where an agency is involved (as in the case of a National Medical Support Notice), it may be necessary or appropriate to provide certain plan information and/or correspondence to the agency as well.
- A completed enrollment form, if required under the plan.
- A change in the participant's cafeteria plan election, if applicable. If benefits required to be provided under a QMCSO are paid for on a pre-tax basis, the QMCSO may qualify as a permitted election change event under the company's cafeteria plan. If applicable, and if the cafeteria plan document permits an election change on account of the QMCSO, the participant may submit a change in his or her cafeteria plan election in accordance with the cafeteria plan's rules.
- The name and address of an individual to whom it is expected that benefit reimbursements may be made for the alternate recipient's child's claimed expenses. The QMCSO rules provide that if medical expenses are paid by either the alternate recipient or the alternate recipient's custodial parent or legal guardian, a plan must reimburse that person (not the employee) for those expenses. If expenses are submitted for reimbursement, information identifying the individual to receive payment should be provided to the plan.

Note that a QMCSO may provide that a person or entity other than the participant is responsible to pay for the alternate recipient's coverage. In these cases, the employer should indicate how and when payment is to be made. For example, payments might be required concurrent with each payroll period or on a monthly basis as required of qualified beneficiaries receiving COBRA continuation coverage. The employer should also make sure that it has contact information for the person or entity who will be making the payments.

### **C. Alternate Recipient as "Beneficiary"**

In general, the alternate recipient must be treated like any other covered child under each plan in which he or she is enrolled.

- Unless a QMCSO is more restrictive, the alternate recipient should be given the same coverage as would be provided to any other dependent child under the plan.
- The alternate recipient should be treated as a qualified beneficiary and offered COBRA continuation coverage upon the occurrence of a COBRA qualifying event (such as the participant's termination of employment or the alternate recipient's ceasing to qualify as a dependent child under the plan due to age).

#### **D. Alternate Recipient as "Participant"**

With respect to all federal and state reporting and disclosure rules, the alternate recipient generally is to be treated like a participant under each plan in which he or she is enrolled. Therefore, the alternate recipient should be sent copies of all applicable disclosures as required under all applicable laws, including, for example, summary plan descriptions and summaries of material modifications. These items generally should be furnished to the alternate recipient's custodial parent or guardian. (If the alternate recipient is an adult, the employer may provide copies to both the alternate recipient and the custodial parent or guardian.) Where an agency is involved (as in the case of a National Medical Support Notice), it may be necessary or appropriate to provide copies of these items to the agency as well.

#### **E. Effective Date of Enrollment: Termination of Coverage**

An alternate recipient generally will be enrolled in the plan as of the next regular enrollment date under the plan (i.e., the date on which the plan regularly adds new participants and beneficiaries) following the employer's approval of an order as a QMCSO (or the date provided in the order, if later) and receipt of any necessary enrollment forms. (If an employee is eligible for the plan but is not enrolled, he or she will also be enrolled if his or her enrollment is necessary for the alternate recipient to have the coverage required under the QMCSO.) However, if the employee has not yet satisfied the plan's waiting period, enrollment of the alternate recipient and employee will be delayed until the employee has completed the waiting period. Coverage is effective as of the date of enrollment.

Subject to the COBRA requirements of the Internal Revenue Code and ERISA, coverage for the alternate recipient will cease if the alternate recipient ceases to be eligible to participate in the plan for any reason, including the following:

- The period for coverage under the QMCSO ends;
- The QMCSO is revoked or materially amended by a court of competent jurisdiction or through an administrative process;
- The participant ceases to be a participant under the terms of the plan or an applicable component plan of the plan;
- The participant ceases to be eligible for coverage under the terms of the plan or an applicable component plan of the plan; or
- Similarly situated beneficiaries cease to be eligible for coverage under the terms of the plan or an applicable component of the plan.

#### **F. Special Consideration-Child Already Enrolled**

The parties may submit an order (including a National Medical Support Notice) that purports to require that a child be covered under a plan in which he or she is already enrolled. In this circumstance, the employer should process the order under these procedures but should also inform the parties of the child's status as a current beneficiary under the plan. The other requirements of the order (e.g., directing information and claim payments to the alternate representative designate) must be implemented.

### **G. Plans with Multiple Options**

An otherwise-qualified order may identify a plan or type of coverage with multiple options without designating the option in which the alternate recipient is to be enrolled or the manner in which an option is to be chosen. In the case of a National Medical Support Notice, the administrator should follow the instructions in the Notice regarding plans with multiple options. For other orders, the employer should enroll the alternate recipient in the same option as the employee if the employee is enrolled in the plan. Otherwise, the employer may follow procedures similar to those in the National Medical Support Notice. That is, the employer may, instead of rejecting the order, provide the parties with information about the available options and direct them to make a selection. If the plan has a default option, the employer may also notify the parties that the alternate recipient and employee will be enrolled in this option if a response is not received within a specified time period (e.g., 20 business days).

## **Appendix Materials**

**Appendix 1 - Sample Checklist Assessing Whether an Order or Notice Is a QMCSO (3)**

**Appendix 2 - Sample Record of Completed QMCSO Procedures (4)**

**Appendix 3 - Sample Letter Acknowledging Receipt of an Order or Notice (5)**

**Appendix 4 - Sample Letter Accepting a Court Order or Notice as a QMCSO (6)**

**Appendix 5 - Sample Letter Rejecting an Order or Notice (7)**