

137-050-0750 Medical Support

(1) The basic support obligation (OAR 137-050-0725) includes ordinary unreimbursed medical costs of \$250 per child per year. These costs represent everyday expenses such as bandages, non-prescription medication, and co-pays for doctor's well visits. The basic support obligation does not account for health care coverage costs or for extraordinary medical expenses.¹

(2) "Cash medical support", as used in OAR 137-050-0700 through 137-050-0765, has the meaning given in ORS 25.321(1).²

(3) For purposes of this rule, "to provide" health care coverage means to apply to enroll the child and pay any costs associated with the enrollment, even if the cost to the parent is zero.

(4) For purposes of ORS 25.323, private health care coverage may be "available" to a parent from any source, including but not limited to an employer, spouse, or domestic partner.

(5) Private health care coverage is reasonable in cost if it costs no more than the total of four percent of each parent's adjusted income as determined in OAR 137-050-0720.

(a) The amount calculated for each parent in this section may not exceed that parent's available income after deducting the parent's shares of basic support obligation and child care costs.³

¹ Commentary: It is no longer appropriate to deduct the first \$250 of unreimbursed medical expenses before dividing costs between the parents. Ordinary expenses are included in the support amount. Extraordinary unreimbursed expenses may be divided from the first dollar.

Prior to 2013, we did not differentiate between the types of medical expenses. Rather, the guidelines required parents to always deduct the first \$250 in unreimbursed expenses before dividing any subsequent expenses. During the 2013 review, we realized that approach was not entirely consistent with the economic study on which our support scale is based. Also, it would be unreasonable to require a parent to painstakingly document small, routine costs like bandages and vitamins in detail before receiving reimbursement for the extraordinary expenses.

Ordinary expenses, such as bandages, non-prescription medication, and vitamins, are included in the basic support amount based on national economic data indicating an average amount of about \$250 per child per year in ordinary expenses. Since these kinds of costs are already included in the scale and allocated between the parents based on parenting time, they should not be divided among the parties.

Extraordinary expenses are not included in the basic support obligation and are suitable for division between the parties from the first dollar. This includes uncovered costs of treatment of illness or injury; chronic medical conditions, like asthma or diabetes; orthodontia; medical equipment; and visits to the emergency room.

For more information, see the [2013 Guidelines Report and Recommendations](#).

² Commentary: ORS 25.321(1) reads: (1) "Cash medical support" means an amount that a parent is ordered to pay to defray the cost of health care coverage provided for a child by the other parent or a public body, or to defray uninsured medical expenses of the child.

³ Commentary: If a parent with *income* above the minimum wage has no *available income* as a result of adjustments to income or the self-support reserve, that parent may be ordered to provide health care coverage, but the other parent will be assessed the entire cost of the coverage.

(b) The reasonable cost contribution of a parent whose income is at or below the highest Oregon minimum wage for full-time employment is zero.

(6) A parent with income at or below the highest Oregon minimum wage for full-time employment may be ordered to provide health care coverage only if it is available at no cost.⁴

(7) Compelling factors may support a finding that health care coverage is reasonable in cost at an amount greater than the amount determined in section 5 of this rule so long as the providing parent has income greater than full-time employment at the highest Oregon minimum wage.⁵

(8) In determining the cost of private health care coverage, consider only the cost to the parents of covering the children for whom support is sought. To calculate the amount to be considered:

(a) If there is a known cost for self-only coverage for the providing parent, deduct that cost from the cost of family coverage. Divide the remainder by the total number of people covered, excluding the providing parent. Multiply the result by the number of children for whom coverage is sought in the present calculation.⁶

(b) If there is no self-only coverage option or the cost cannot be determined, divide the total cost of coverage by total number of people covered, including the providing parent. Multiply the result by the number of children for whom coverage is sought in the present calculation.⁷

(9) If only one parent has private health care coverage that is appropriate and available under ORS 25.323, that parent must be ordered to provide it.⁸

⁴ Commentary: If a parent's income as determined in OAR 137-050-0715 is at or below the highest Oregon minimum wage, that parent may not be ordered to pay *any* cost to provide insurance, even if the other parent can reimburse the full cost.

⁵ Commentary: Compelling factors may include but are not limited to continued access to health care for a child with a chronic health condition or a frequent need for medical care, the parents' agreement to continue coverage despite the cost, and minimal difference between the cost determined under sections (5) and the parent's portion of the cost of coverage.

⁶ Example: Health care coverage costs \$375 and covers obligor, obligor's spouse, obligor's two non-joint children, and the joint child that is the subject of this calculation. The cost to cover the obligor is \$175. The cost to cover the people other than the obligor is \$200 (\$375 minus \$175). The per-person cost is \$50 (\$200 divided by 4 covered people). The cost to cover the child in this calculation, then, is \$50.

⁷ Commentary: If there is no known premium cost for an individual parent, the cost for that parent can be calculated by dividing the total premium cost by the number of individuals to be covered by the policy.

⁸ Commentary: In addition to the reasonable in cost standard, ORS 25.323 requires that coverage be "accessible" and not impose unreasonable deductibles or copays. "Accessible" means that the coverage will be available for at least one year, based on the work history of the parent providing the coverage, and that the coverage either does not have service area limitations or the child lives within 30 miles or 30 minutes of a primary care provider who is eligible for payment under the coverage. Whether copays and deductibles are "unreasonable" is for the fact-finder to determine in light of the family's circumstances, such as the child's medical needs, the availability of alternate forms of coverage, and the sufficiency of cash medical support to meet the child's needs.

(10) If both parents have access to appropriate, available private health care coverage, the parent with the greater share of parenting time as determined in OAR 137-050-0730 (Parenting Time Credit) may select which coverage will be ordered.

(a) If the parent with the greater share of parenting time does not select between the parents' coverage, or each parent has exactly 50% or 182.5 overnights of parenting time and the parents do not agree on which policy should be ordered, the policy with the lower out-of-pocket premium cost will be ordered unless the court, administrator, or administrative law judge makes a finding that the more expensive policy should be ordered.

(b) The parents may agree that both parents will be ordered to provide private coverage if both parents have appropriate coverage available so long as the total coverage to be provided is reasonable in cost under sections 5 or 7 of this rule.

(11) If the child lives with a caretaker, both parents are parties to the action, and both parents have appropriate and available private health care coverage, the caretaker may select which coverage will be ordered. If the caretaker does not select between the parents' coverage, the policy with the lower out-of-pocket premium cost will be ordered unless the court, administrator, or administrative law judge makes a finding that the more expensive policy should be ordered.⁹

(12) If neither parent has access to appropriate, available private health care coverage:

(a) One or both parents must be ordered to provide appropriate private health care coverage at any time whenever it becomes available;

(b) The parent with custody of the child may be ordered to provide public health care coverage for the child; and

(c) Either or both parents who are found to have a cash child support obligation as provided in OAR 137-050-0710(1)(i) must be ordered to pay cash medical support,¹⁰ or the order must include a finding explaining why cash medical support is not ordered.¹¹ The amount of the cash

⁹ Commentary: When the child lives with a caretaker or is in state care and the support obligation is being computed for only one parent under OAR 137-050-0710(3) (the method typically used by the Child Support Program), only that parent's health care coverage is considered. The single-parent calculation method assesses the obligor one-half of the responsibility for the coverage and credits the obligor for the full cost of the premiums. In most cases, this will mean the obligation is reduced by one-half of the cost of coverage. Also note that if another single-parent order is taken for the other absent parent to pay, the parents' medical support obligations are considered independently, without reference to one another. Regardless of the coverage provided by the first obligor, the second obligor's contribution might be made through providing additional coverage, through cash medical support, or by rebuttal of the guideline support amount.

¹⁰ Commentary: Cash medical support is assigned to the state for any month the child receives Medicaid benefits as described in OAR 461-120-0310.

¹¹ Commentary: The Child Support Program's administrative child support actions under ORS Chapter 25 do not modify or supersede existing provisions entered under ORS 107.106 requiring parents to share the cost of uninsured medical expenses. Amounts a parent pays as cash medical support may offset that parent's obligation for uninsured expenses imposed by the underlying court order judgment unless otherwise noted in that judgment. To the extent that a child's medical needs are being met in some other

medical support obligation is the lesser of:

(A) four percent of the parent's adjusted income as determined in OAR 137-050-0720,

(B) the parent's available income after deducting the parent's shares of basic support obligation and child care costs, or

(C) zero, if the parent's income is at or below the highest Oregon minimum wage for full-time employment.¹²

(13) A medical support clause may order an obligor to provide appropriate private health care coverage whenever it is available to the obligor, and to pay cash medical support whenever the obligor does not provide appropriate private health care coverage.

(14) Determine each parent's share of the cost of health care coverage to be ordered under this rule by multiplying the total cost by each parent's percentage share of the parents' combined reasonable in cost limitation, as determined in section 5 of this rule.¹³

(a) If only one parent has income above the highest Oregon minimum wage, that parent is responsible for all health care coverage costs. No share of the cost is apportioned to a parent with income at or below the highest Oregon minimum wage as provided in section 12(c)(C) of this rule.

(15) When enforcing the health insurance provision of a child support judgment entered under this rule, health insurance is reasonable in cost if the premium cost for the child is equal to or less than the amount that was determined reasonable in cost under section 5 of this rule based on both parents' income at the time support was calculated, regardless of whether that cost exceeds either:

(a) The providing parent's individual contribution to the reasonable cost cap, or

(b) The actual cost of insurance allocated to the providing parent under section 14 of this rule.¹⁴

way, it may be appropriate to include findings in lieu of cash medical support. One such way might be provision under ORS 107.106 for the parents to share in the children's uninsured medical expenses. If a child receives Medicaid funded medical benefits, medical support is assigned to the state, and the state must be served with the action and has the right to object.

¹² ORS 653.025, as amended by SB 1532 (2016), provides a three-tiered structure of minimum wages applicable to employers in different areas of Oregon. This provision is intended to ensure the fairest results and minimize the need for additional factual determinations by ensuring that in determining whether a parent has sufficient earnings to be ordered to pay to provide health insurance or to pay cash medical support, the parent's income is compared against the highest Oregon minimum wage.

¹³ Commentary: Include health care coverage costs that will be ordered pursuant to this rule, even if they are not yet being paid. Also, if a parent will provide coverage through a spouse or domestic partner, include the costs as if the parent paid the costs directly.

¹⁴ Commentary: The 2013 guidelines combine the parents' income for purposes of determining whether health insurance is reasonable in cost, but divide only the exact cost of the current coverage between the parents. This means that if the cost of coverage increases after entry of the support order, the providing parent may be required to pay a greater cost for insurance than is accounted for in the support amount. If

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35 months have passed since entry of the order, or if the change rises to the level of a substantial change of circumstances, the parent may be eligible for a modification. However, small changes in the insurance premium are unlikely to put the order out of substantial compliance with the guidelines.