

Employee Benefits Division Policy Memorandum

Number: Policy Memo 101r2

Date Issued: May 11, 2018

Subject: Court Orders to Add Previously Eligible Dependents

PURPOSE:

Determine if NYSHIP must enroll previously eligible children without a late enrollment waiting period when an enrollee or the agency is ordered by a family court order to immediately enroll dependents and determine if such a change would be a qualifying event under the Pre-Tax Contribution Program (PTCP).

BACKGROUND:

Under NYSHIP rules, if an enrollee wishes to change from individual to family coverage, any previously eligible dependents must satisfy a late enrollment waiting period before the family coverage becomes effective. Also, if an enrollee wishes to add previously eligible dependents to family coverage, then the previously eligible dependents will also experience a late enrollment waiting period before their coverage becomes effective. This is done to protect the plan from adverse selection.

A divorced enrollee with individual coverage was ordered by the court under Section 416 of the Family Court Act to enroll his children in his employer health insurance. Section 416 of the Family Court Act requires that the children be enrolled without regard to seasonal enrollment restrictions. Since the late enrollment waiting period is not seasonal, Counsel's Office was asked for its opinion as to whether we must comply. Counsel advised that we should.

POLICY:

When a NYSHIP enrollee is subject to a court order mandating that children be enrolled in employer health insurance, the late enrollment waiting period will be waived for eligible children covered by the court order. The enrollee must provide a copy of the court order and any supporting documentation that may be required to ascertain that the persons for whom coverage is requested are covered by the order and otherwise eligible for coverage under NYSHIP eligibility rules.

Under New York State Civil Practice Law and Rules (CPLR) 5241, "Health insurance benefits" means any medical, dental, optical and prescription drugs and health care services or other health care benefits which may be provided for dependents through an employer organization, including such employers or organizations which are self-insured. When any of these benefits are provided by a union benefit fund rather than through the State, the HBA should inform the court and provide the union benefit fund address.

Section 5241 of CPLR allows a court to order an employer to enroll eligible dependent children in health insurance and ancillary health benefits programs even if the enrollee will not submit an enrollment form to add the dependents. Agencies under such orders must add the dependents and change the coverage if necessary (or even start health insurance coverage if the employee is eligible for health insurance under NYSHIP rules but has previously declined) as well as institute the proper deductions. The court may also direct the employer to send dependents'

NYSHIP identification cards, information, and claim forms to the support unit and notify the support unit in case the employee tries to terminate or cancel the court ordered coverage.

If an agency is ordered under CPLR 5241 to enroll an eligible child and the enrollee refuses to sign the PS-404, the HBA should enter the appropriate transaction on NYBEAS, sign the PS-404 with the statement "Enrolled pursuant to an execution for medical support under CPLR 5241" in the signature box and file the PS-404 with a copy of the order.

An order requiring coverage for a child is, under IRS rules, a qualifying event under the PTCP.

Section 5241 CPLR does not require an employer to grant health insurance coverage to an employee or dependent who is ineligible under the plan's eligibility requirements.