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Health Insurance and Divorce



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Health Insurance and Divorce

How will a divorce affect your health insurance coverage? During marriage, it's common for one spouse to maintain health coverage for the entire family through his or her group health insurance plan at work. After a divorce, coverage for the other spouse and the children could terminate. State and federal laws offer protection to families in danger of losing health-care coverage, especially to children. But it's important to re-examine your family's health insurance situation before a divorce occurs to avoid serious complications afterward.

Health insurance coverage can be included in a divorce settlement

Because health coverage is such an important benefit, some divorce decrees stipulate that a spouse who provided health coverage for the other spouse or family during the marriage must continue to provide such coverage following a divorce. This is especially true if the other spouse didn't work outside the home and has no immediate access to health insurance. Neither an insurer nor an employer can deny such court-ordered coverage when children are involved.

If you're the spouse who carries the health coverage, you may have to pay additional premiums to continue coverage for your ex-spouse and your children, depending on the policy provisions. Some group policies will routinely allow you to continue full coverage for your family even after your divorce. Of course, this may change if you later remarry and want to include your new family on your policy. In any case, the premium for a group family plan may be less expensive than single coverage for two adults.

If your family has individual health insurance

If the issue of health insurance is not included in your divorce settlement, you'll need to do some scrambling around if your ex-spouse is the insured on the family's individual health insurance policy. It's very possible that the coverage provided to you and your children could be terminated. Talk to your insurance agent to determine if you're still covered, and for how long. If you're still included in the policy, find out how much the premiums will be over the next 6 to 12 months. Also, begin looking into new health insurance for you and your children.

Secure health coverage for your children

Hopefully, you and your former spouse can work out an agreement regarding health coverage for your children. The child support section of the divorce agreement assigns responsibility for providing the children's health insurance. But if the noncustodial parent or that parent's insurance company or employer refuses to cooperate, federal law provides for a court order that secures your children's continued health insurance coverage. This court order, known as a Qualified Medical Child Support Order (QMCSO), stipulates that custodial parents have the right to obtain health insurance coverage for their children through the noncustodial parent's group health plan, if the noncustodial parent has such coverage. The children can't be denied access to the plan, although limitations can be placed on the coverage. The order will not require the plan to provide additional benefits not actually offered in the plan.

The QMCSO can require that policy premiums be deducted directly out of the employee's paycheck. Reimbursements for medical care are made directly to the custodial (nonemployee) parent, when that parent pays a provider. Also, the noncustodial parent can't choose a medical plan that is unsuitable for the children. If you're the custodial parent, get copies of your ex-spouse's medical plan, medical claims and election forms, the summary plan description outlining your former spouse's employee benefits, and the page designating the current insureds of the health plan.

Temporary coverage through your former spouse's employer

Temporary protection may be available through the Consolidated Omnibus Budget Reconciliation Act (COBRA). This federal law was designed to protect employees and their dependents at companies with 20 or more workers from losing group insurance coverage as a result of job loss or divorce.

If your former spouse maintained family health coverage through work, you may (at your own expense) continue this group coverage for up to 36 months after the divorce or legal separation. Your cost of continuing COBRA coverage can't exceed 102 percent of the cost to the plan for providing identical benefits to an active participant. Be aware that you have the right to pay the premiums in monthly installments. Also, you must pay premiums on time or you'll lose your coverage. COBRA coverage will terminate sooner than 36 months if you remarry or obtain coverage under another group health plan. Certain governmental plans





and church-sponsored plans are exempt from the act.

Several states have enacted their own laws that preserve a spouse's eligibility for health insurance after a separation or divorce. Some of these laws may provide you with rights more generous than those offered under COBRA, so check your state's laws first. Ask your divorce attorney or contact your state insurance commissioner's office.

Also, if you're over a certain age, it may be wise to purchase individual health insurance or to make sure your working former spouse maintains health coverage as part of the divorce settlement. Otherwise, when COBRA coverage terminates after 36 months, you may find that poor health in your later years presents an insurability problem or that the cost of coverage is exorbitant. In addition, the Health Insurance Portability and Accountability Act of 1996 may provide certain protection regarding pre-existing conditions.



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