



# Qualified Medical Child Support Orders

## Compliance for Group Health Plans

Group health plans subject to ERISA are required to comply with qualified medical child support orders (QMCSOs), which **includes medical, dental, and vision plans, as well as Health Flexible Spending Arrangements (FSAs) and Health Reimbursement Arrangements (HRAs)**. When a plan receives a QMCSO, it is obligated to review the terms of the order and respond in accordance with the guidelines issued by the Department of Labor (DOL).

### What is a QMCSO?

Issued by a court or through a state administrative process, a QMCSO is an order to the plan to provide coverage to an employee's noncustodial child (referred to as an "alternate recipient"). Plans may also receive National Medical Support Notices (NMSNs), which are standardized support orders used by state child support enforcement agencies. An NMSN is treated as a QMCSO. Therefore, an employer-sponsor's obligations are the same with respect to each.

### What are the Plan Sponsor's Obligations?

Importantly, a QMCSO is an order to the plan, not to the employee or an insurance carrier. This means that the employer-sponsor is responsible for receiving and complying with the order, and there are several administrative measures that must be followed.



**Disclosures.** There are two types of disclosure requirements that apply to QMCSOs: the general disclosure and the notices due upon receipt of an order. The general disclosure requires that the Summary Plan Description include information about the plan's QMCSO procedures (or a shorter statement indicating that a copy of the procedures can be obtained upon request). The second type of disclosure requirement is triggered upon the plan's receipt of an order and consists of two separate notices. One notice must immediately be issued to the employee and the named alternate recipient to inform them of receipt of the

order and the plan's procedures; another notice must be provided once the plan determines whether the order is a QMCSO.



**Determinations.** When a plan receives a medical child support order, it must evaluate whether the order is "qualified." ERISA and DOL guidance spell out the information that must be present in the order for it to be deemed qualified, such as the names and addresses of the employee and alternate recipient, a reasonable description of the coverage to be provided, and the period of time to which the order applies. If the order is deemed unqualified, a plan is not obligated to comply with its terms. Conversely, if the order is deemed a QMCSO, the plan must comply with the terms and proceed with offering coverage to the alternate recipient.



**Providing Coverage.** The QMCSO will specify the type of coverage that the plan is to provide the alternate recipient, which must be of a type that is already available under the plan. Where the employee is already enrolled in coverage, the alternate recipient can be added as a dependent. However, where the employee is not enrolled but is otherwise eligible, the employer-sponsor must enroll both the employee and the alternate recipient in coverage (subject to any waiting period that the employee must satisfy). Note that if the employee is not eligible for coverage under the plan, or if the plan does not provide coverage for dependent children, the alternate recipient cannot be enrolled.



**Terminating Coverage.** Coverage provided pursuant to a QMCSO can be terminated in several instances. First, coverage should terminate when the order itself terminates. This termination date may be specified in the original order, or it may be communicated to the plan sponsor in a separate, subsequent notice. Second, coverage should terminate if the employee loses eligibility for coverage, such as upon a reduction in work hours or employment termination. And if the alternate recipient becomes ineligible for coverage (for example, due to aging off of the plan), coverage should be terminated in accordance with the terms of the plan.

## How do Other Laws Interact with QMCSOs?

In addition to following the DOL's QMCSO procedures, employer-sponsors should also be mindful of obligations that arise under other laws. **For example, the general notice and disclosure provisions under ERISA will apply, requiring the alternate recipient to be provided with a Summary Plan Description, a Summary of Benefits and Coverage, and other plan notices.** Additionally, alternate recipients are **COBRA qualified beneficiaries**. Consequently, if the alternate recipient's coverage under the plan terminates due to a qualifying event, the right to elect to continue coverage via COBRA must be offered.

Finally, wage-withholding limits are a critical consideration when handling a QMCSO. Employers cannot withhold amounts for coverage that exceed the maximum amount permitted under federal and state laws. Where the cost of coverage under the order exceeds these wage-withholding limits, the plan is not required to extend coverage to the alternate recipient.

## OTHER RESOURCES

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### **U.S. Department of Labor's Qualified Medical Child Support Orders Compliance Guide**

<https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/qualified-medical-child-support-orders.pdf>



### **National Medical Support Notice - Part B**

<https://www.dol.gov/sites/dolgov/files/EBSA/employers-and-advisers/plan-administration-and-compliance/health-plans/national-medical-support-notice-part-b.pdf>