

Comments Received
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#	State	Submitted By	Comment	Date Received	Responses
1	NY	Eileen Stack Assistant Deputy Comissioner, Child Support Services	<p>Page 1, paragraph 1</p> <p>The Notice to Withhold for Health Care Coverage added two (2) check boxes to distinguish between a National Medical Support Order/Notice (NMSN) and a Termination Order/Notice. If the NMSN box is checked, the NMSN is being issued to advise the employer/withholder that the order of support requires the enrollment of the identified child(ren) in certain health coverages. If the Termination Order/Notice box is checked, the NMSN is being issued to advise the employer/withholder to terminate the health care coverage for the identified child(ren).</p> <p>Although Title 45 Gode of Federal Regulations § 303.34(7) provides that state IV-D agencies must notify the employer when there is no longer a current order for medical support in effect for which the IV-D agency is responsible, the NMSN has never contained a termination provision. Therefore, states have employed differnt mechanisms for the termination of the NMSN. In New York, a one page Termination of National Medical Support Notice Pursuant to Section 5241 of the Civil Practice Law and Rules (copy attached) is issued.</p> <p>The addition of the Termination Order/Notice check box appears to indicate that states would be required, at a minimum, to send the entire NMSN - Part A to terminate a NMSN. For states such as New York, this would result in increased costs for the production and mailing of the full five-page termination order/notice. Further, the mailing of the entire NMSN,..Part A to terminate a NMSN is counter to the general trend toward reducing the amount of paper sent to employers/withholders and may even foster confusion among employers/withholders as most of the information and instructions do not apply when the NMSN is being terminated. Therefore, NYS OTDA believes that the addition of the Termination Order/Notice check box is not the best way to provide notice of the termination of the NMSN. NYS OTDA recommends that states continue to use their current notification processes until a separate single-page NMSN. termination order/notice can be developed and approved.</p>	5/1/2019	<p>OCSE added the "Termination Order/Notice" checkbox in response to numerous employers stating that they were not getting notices.</p> <p>This is not a requirement and states can continue to use a process that they currently have in place.</p>
1 Cont.	NY	Eileen Stack Assistant Deputy Comissioner, Child Support Services	<p>However, if despite these concerns, ACF wishes to proceed with including a standardized notice of the termination of the NMSN within the existing form, NYS OTDA recommends that the appearance and placement of the check boxes be changed to provide greater emphasis. For example, the check boxes could appear in bold text above the first paragraph on page 1. In addition, explanatory text could appear adjacent to each check box (see attached draft NMSN - Part A, page 1). The inclusion of the explanatory text would eliminate the need for further instruction regarding the termination order/notice; that is, the proposed new instruction on page 4 would be unnecessary. If the page numbering was changed from "Pge x of 5" to "Page x," then only page 1 would need to be provided to terminate a NMSN.</p>	5/1/2019	<p>OCSE bolded the checkboxes and added an additional return to make them check boxes stand out.</p>

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2	NY	Eileen Stack Assistant Deputy Commissioner, Child Support Services	Page 1, Last paragraph States are required to check the appropriate box or boxes to indicate whether the order requires the child(ren) to be enrolled in all health coverages available, or only the following coverage(s): medical, dental, vision, prescription drug, mental health, or other. To that end, NYS OTDA recommends that the formatting of the boxes be changed so that they display correctly.	5/1/2019	OCSE has reformatted the check boxes.
3	NY	Eileen Stack Assistant Deputy Commissioner, Child Support Services	Page 3, Employer Response Check Boxes Employers/withholders are required to respond by checking the appropriate box, depending upon which numbered statement applies. To that end, NYS OTDA recommends that the formatting of the boxes be changed so that they display correctly. Part A, Page 4 of 5, Instructions to Employer	5/1/2019	OCSE has reformatted the check boxes.
4	NY	Eileen Stack Assistant Deputy Commissioner, Child Support Services	Page 4, Instructions to Employer Employer Responsibilities, Item 3 A third employer responsibility has been added to provide employers/withholders with instructions regarding the Termination Order/Notice check box. If this instruction is retained, at a minimum NYS OTDA recommends adding the word "If" to the beginning of the instruction. The instruction would then read as follows: "If the Termination Order/Notice check box .is checked, you are required to terminate the health care coverage for the child(ren) identified in the order." However, the noncustodial parent may wish to continue dependent coverage although he or she is no longer ordered to do so. If this instruction is retained, NYS OTDA strongly recommends the direction be re-written as follows: "Health care coverage for the children identified. in the order (see below) is no longer required under the order; you may terminate this coverage unless the employee/obligor elects to continue coverage for the child(ren)." As noted in Comment 1 above, most of the information and instructions on the NMSN - Part A do not apply when the NMSN is being terminated. If an instruction for this check box is deemed necessary, then it should be placed adjacent to the check box on page 1 of the form. In doing so, the need for further instruction regarding the termination order/notice would be eliminated, and the cost to send a five-page document to the employer/withholder would be avoided.	5/1/2019	OCSE has added the "If" to Page 5 #3. Further instructions have also been added.

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5	NY	Eileen Stack Assistant Deputy Commissioner, Child Support Services	<p>Page 5, Duration of Withholding - Parent Wishes to Continue Coverage</p> <p>The Duration of Withholding section describes the situations where the employer may disenroll, or eliminate coverage, for the child(ren). As noted in Comment 4 above, there may be situations where the parent does not want the employer/withholder to take this action; that is, the parent may wish to continue coverage for his or her child(ren). Therefore, NYS OTDA recommends that the following sentence be added at the end of this section: "The employee/obligor may elect to continue coverage for his or her child(ren)."</p>	5/1/2019	The Duration of Withholding section contains information about ERISA continuation of coverage. Qualifying events must occur to trigger the continuation.
6	IA	Carol Eaton Chief - Bureau of Collections	<p>Page 1 - "Notice to Withhold for Health Care Coverage" section</p> <p>New boxes and labels were added for o National Medical Support Order/Notice (NMSN) and o Termination Order/Notice. Currently there is no federal "termination notice." States have developed and used their own forms to notify employers when they are no longer enforcing medical support. This is to comply with 45 CFR 303.33(c)(7) which says, "The State agency must promptly notify the employer when there is no longer a current order for medical support in effect for which the IV-D agency is responsible."</p> <p>It's unclear if states will now be required to use the NMSN and mark the termination order/notice box to notify employers when medical support enforcement stops through the IV-D agency. If states will now be required to use the NMSN to notify the employer when the IV-D agency is no longer enforcing a health insurance provision of an order, we are strongly opposed. There are many situations that occur when the ordered parent wants to continue to provide coverage regardless of whether or not the IV-D agency is enforcing the provision or whether or not he or she is ordered to provide coverage. Requiring the coverage to be terminated without the employer speaking with the employee will likely cause customer service issues, employee/employer confusion, and undesired gaps in coverage for the child(ren). Examples of situations in which the employee may want to continue coverage for the child(ren) may include:</p> <ul style="list-style-type: none"> • A non-public assistance applicant requesting the IV-D agency to stop enforcement of the IV-D case. The order for health care coverage is still in effect and the parent ordered to provide it wants the health care coverage to continue for the child(ren). • The final child on an order emancipates and the order ends. The IV-D agency notifies the employer that the court order requiring the employee to provide health insurance is no longer in effect. The employee wants health care coverage to continue for the child(ren) because the child(ren) is eligible for coverage while in college. 	5/1/2019	This is not a requirement and states can continue to use a process that they currently have in place. Wording has been added to cover employees wishing to continue coverage.

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6 Cont.	IA	Carol Eaton Chief - Bureau of Collections	<ul style="list-style-type: none"> • There's a court ordered change in custody and the employee now has custody of the child(ren). The IV-D agency is no longer enforcing the case due to the change in custody. The employee wants health care coverage to continue since the child(ren) is in his or her care. • The parents reconcile and the court order is ended. The IV-D agency is no longer enforcing the case. The employee wants health care coverage to continue for the child(ren) now that the family is reconciled. 	5/1/2019	Wording has been added to cover employees wishing to continue coverage.
7	IA	Carol Eaton Chief - Bureau of Collections	<p>Page 1 - Notice to Withhold for Health Care Coverage Section</p> <p>Towards the bottom of the page, a sentence exists telling the employer what types of health benefit plans the underlying order requires the employee to provide for the child(ren). The current wording of the phrase, "o a// health coverages available" gives the impression the employer must enroll the dependent(s) in any and all plans available to the employee. If the intent of this statement is tell the employer that the employee must enroll the child(ren) in at least one of any plans available through the employer, we suggest changing the wording of this phrase to, "o a health insurance plan," thus making the entire section read,</p> <p>The order requires the child(ren) to be enrolled in o a health insurance plan; or o only the following health insurance plan(s):</p> <p>oMedical; oDental; oVision; oPrescription drug; oMental health; oOther (specify):</p> <p>Note: If the above language is accepted, a similar change will need to occur on page 1 of Part B of the notice which is currently undergoing solicitation of public comment - OMB Number: 1210-0113, Federal Register Vol. 84 Number 59, Wednesday, March 27, 2019, page 11575.</p>	5/1/2019	With only one state commenting on this OCSE will not be making a change at this time.

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8	IA	Carol Eaton Chief - Bureau of Collections	<p>Instructions Page 4 - Instructions to Employer Section Under the "Employer Responsibilities" section, number 3 is being added. It says, "the Termination Order/Notice checkbox is checked, you are required to terminate the health care coverage of the child(ren) identified in the order." The suggested language above requires employers to terminate coverage when the "Termination Order/Notice" box is selected. As stated in comment #1, there are circumstances when medical enforcement ends through a IV-D agency; however, the employee and the employer should work together to determine if health care coverage should continue for the child(ren) based on the family's circumstances. Requiring the coverage to be terminated without the employer speaking with the employee will likely cause customer service issues, employee/employer confusion, and undesired gaps in coverage for the child(ren). Again, examples of circumstances when it may be appropriate to continue coverage for the child(ren) may include:</p> <ul style="list-style-type: none"> • A non-public assistance applicant requesting the IV-D agency to stop enforcement of the IV-D case. The order for health care coverage is still in effect and the parent ordered to provide it wants the health care coverage to continue for the child(ren). • The final child on an order emancipates and the order ends. The IV-D agency notifies the employer that the court order requiring the employee to provide health insurance is no longer in effect. The employee wants health care coverage to continue for the child(ren) because the child(ren) is eligible for coverage while in college. • There's a court ordered change in custody and the employee now has custody of the child(ren). The IV-D agency is no longer enforcing the order due to the change in custody. The employee wants health care coverage to continue since the child(ren) is in his or her care. • The parents reconcile and the court order is ended. The IV-D agency is no longer enforcing the case. The employee wants health care coverage to continue for the child(ren) now that the family is reconciled. <p>We suggest the phrase "unless the employee chooses to keep the child(ren) enrolled" be added to number 3 to take into consideration some of the above circumstances. The sentence would then read, 3. If the Termination Order/Notice checkbox is checked, unless the employee chooses to keep the child(ren) enrolled, you are required to terminate the health care coverage of the child(ren) identified in the order.</p>	5/1/2019	Clarified that use of the NMSN to terminate medical support coverage is optional.

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9	IA	Carol Eaton Chief - Bureau of Collections	<p>Page 5 - Instructions to Employer Section</p> <p>The "Duration of Withholding" section, currently says the employer must continue to withhold employee contributions and may not disenroll (or eliminate coverage for) the child(ren) unless:</p> <ol style="list-style-type: none"> 1. The employer is provided satisfactory written evidence that: <ol style="list-style-type: none"> a. The court or administrative child support order referred to in this Notice is no longer in effect; or b. The child(ren) is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan; or 2. The employer eliminates family health coverage for all of its employees. <p>Using the same logic as in comments #1 and #3 above, we suggest adding an additional reason to #1 that allows disenrollment when the IV-D agency is no longer enforcing a medical support provision in a court or administrative order. In addition, since an employer may also discontinue enrollment when the employer is not able to withhold the employee's share of the premium based on prioritization and/or withholding limits, we suggest adding this as a third reason. The suggested change would read:</p> <p>[...]The employer must continue to withhold employee contributions and may not disenroll (or eliminate coverage for) the child(ren) unless:</p> <ol style="list-style-type: none"> 1. The employer is provided satisfactory written evidence that: <ol style="list-style-type: none"> a. The court or administrative child support order referred to in this Notice is no longer in effect; or b. The issuing agency is no longer enforcing the the court or administrative medical support order referred to in this Notice, or c. The child(ren) is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment from the plan; or 2. The employer eliminates family health coverage for all of its employees; or 3. The employer is unable to continue enrollment because of prioritization or limitations on withholding. <p>Note: If the above language is accepted, a similar change will need to occur in the Period of Coverage section of Part B of the notice which is currently undergoing solicitation of public comment - OMB Number: 1210-0113, Federal Register Vol. 84 Number 59, Wednesday, March 27, .2019, page 11575.</p>	5/1/2019	The Duration of Withholding section contains information about ERISA continuation of coverage. Qualifying events must occur to trigger the continuation.
10	IA	Carol Eaton Chief - Bureau of Collections	<p>Timefram for Implementation</p> <p>Currently there is no standard federal "termination notice." If state IV-D agencies will now be required to use the proposed NMSN to notify employers they are no longer enforcing medical support, states will need time to make programming changes. The NMSN currently expires on 08/31/2019. We request that OCSE allow for a transition period to give states time to make the programming changes after the new form is implemented.</p>	5/1/2019	This is not a requirement and states can continue to use a process that they currently have in place. OCSE will allow a 12 month grace period for states to automate their termination notice.

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11	APA	Flores/Dunn	The American Payroll Association (APA) supports both changes. APA believes the checkbox will provide employers with valuable information that will save time and ease the administrative burden of complying with the notice.	5/13/2019	Thank you.
12	APA	Flores/Dunn	The added instruction is clear and definitive regarding the employer's obligations concerning a Termination Order/Notice.	5/13/2019	Thank you.
13	N/A	Kathi McMullan Outside Processor	<p>If the intent of the Proposed Addition of Termination Order/Notice Checkbox is to replace the separate Termination Order/Notice with the Part A Form we would advise against this change for the following reasons:</p> <p>1. The Termination Orders/Notices that we receive from various states provide much more detail than would be included on the Part A form, unless you envision adding information to Part A. As Part A stands today, the information provided would be inadequate for correct processing.</p> <p style="padding-left: 20px;">a. If an employer (or an outsourcer processing NMSNs on behalf of an employer) does not have the information required to process the termination, one of two things may happen: (1) Processing will be delayed as the employer contacts the agency to collect the required information. (2) The employer may make assumptions that may be incorrect. For example, the employer may guess at the date of the termination. Many terminations are retroactive so a termination effective date is critical and affects when deductions to the employee's pay cease, as well, as whether an employee is due a premium refund.</p> <p style="padding-left: 20px;">b. Most states provide information on the reason for the termination of the order. There is currently no place on the Part A for this information.</p> <p style="padding-left: 40px;">- This is essential information as it can dictate whether or not an employee may terminate the affected child's health coverage at the time the NMSN is terminated. Under ERISA, employer's must maintain plan documents, which include information on the circumstances under which an employee may make changes to his or her health coverage, as well as coverage provided to dependents, outside of the annual enrollment period. Some employers require their employees to maintain coverage – including coverage for children under a terminated QMCSO – until the next open enrollment period. Some employers allow a child's coverage to be terminated before the next open enrollment period if there is evidence that the order should never have been put in place, making the effective date important.</p>	5/15/2019	Use of the NMSN to terminate medical support coverage is optional for child support agencies. Detail has been added to include date of medical support coverage termination, reason for termination, and child(ren) to be terminated.

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13 Cont.	GA	Kathi McMullan	<p>2. The Termination Orders/Notices issued by the states are also much shorter than the current Part A and make finding the required information faster.</p> <p>3. Agencies often neglect to fill in all required information. If an agency neglects to check one of the two boxes, the employer will not know whether the order is new or a termination. Again, this is likely to cause either a delay or incorrect processing.</p> <p>4. We often receive Termination Orders/Notices associated with one dependent, so the case stays open and other children remain on health coverage. How do you envision communicating which dependent(s) are affected by the Termination Order/Notice using Part A?</p>	5/15/2019	See response above
14	GA	Kathi McMullan	<p>Proposed Addition of Language Requiring the Health Plan to Automatically Terminate the Child's Health Coverage</p> <p>1. We would also advise against implementing this change as in our experience, many employees choose to continue covering the child after the termination of a NMSN.</p> <p>2. For this reason, many of the Termination Orders/Notices we receive from different states specifically include language indicating that the termination of the order is not synonymous with terminating the child's health coverage and that the employee should be consulted before terminating a child's coverage. Here are excerpts from documents from three different states:</p> <p>a. Notice of Termination of National Medical Support Notice issued by Sacramento County - "Do not cancel the health insurance policy for the dependent(s) on the NMSN unless there is no court order for health insurance coverage and the employee has elected to cancel coverage."</p> <p>b. Change in Medical Support Enforcement issued by Iowa Department of Human Services - "This notice does not mean you must terminate the enrollment of the children. We recommend you talk with your employee ..."</p> <p>c. Termination of National Medical Support Notice issued by the Office of the Attorney General of the state of Texas - "Insurance should not be terminated for any child of your employee based on this notice ... Do not cancel unless authorized to do so by the employee."</p>	5/15/2019	See comment 13 above.
15	GA	Kathi McMullan	<p>We are happy to answer any questions you may have about our comments or about how employers actually process NMSNs. Based on our experience processing orders on behalf of corporations, including some of the country's largest employers, we find that the current published process flows are your website do not accurately depict how employers process NMSNs. For example, we are unaware of any payroll software that includes court-ordered health coverage as a garnishment; therefore, this work is generally performed outside of the Payroll department.</p>	5/15/2019	Thank you.