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# **FAMILY LAW RIPPLES**

*"A pebble drops, transforming the lake"*

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## **About Family Law Ripples**

This issue marks a new venture for "Ripples." It is being distributed to most readers by e-mail and is available for review in the new "Newsletters" tab at [www.dewaltlaw.com](http://www.dewaltlaw.com).



"Ripples" is a bi-monthly publication focused on legal matters affecting families. It promotes responding to that type of family change with an eye to cooperation, connection and positive values.

Inside this Issue: *New Support Law Allows Court to Choose Appropriate Health Coverage for Children*  
*Practical Factors in Comparing Different Health Insurance Policies*  
*Minnesota Health Insurance on the Internet*

## **Courts Can Now Determine Which Parent Has Appropriate Health Coverage**

Real life moves faster than the pace of legislation in the arena of health insurance. Free or low cost family coverage through an employer group has become increasingly rare. Insurance policies have become increasingly complex with higher deductibles and co-pays. All of these circumstances which have challenged separating families in the past few years.

Years ago, the Legislature placed the responsibility for carrying health insurance for a child on the child support obligor, typically the noncustodial parent.

In practice, as the costs of health care rose along with co-pays and deductibles, as dental and vision insurance became available, as parents lost employment or health coverage in group plans covered less and less, and as the number families with two employed



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parents rose, both with access to group health insurance -- more and more separated parents began to negotiate who would carry the coverage or which type of coverage each would carry, and how much each party would pay towards premiums and out-of-pocket expenses.

As of January 1, 2007, the Legislature authorized the Court to exercise decision-making over more aspects of health insurance than in the past, basically permitting Courts to compare all policies available to the children. This change was part of the overhaul of the child support guidelines.

The Court must order the person currently carrying the health insurance for the child to continue carrying it unless:

1. The parents agree otherwise.
2. One parent requests a change and the Court determines that other health care coverage is more appropriate.

In evaluating the available policies, the Court is directed to consider the following factors:

1. Is the coverage accessible? The statute defines accessible as "if the ...child can obtain services from a health plan provider with reasonable effect by the parent with whom the ...child resides." There is a presumption of accessibility in three circumstances:
  - a. Primary care coverage is available within 30 minutes or 30 miles of the joint child's residence and special care is available within 60 minutes or six miles of the joint child's residence.
  - b. The coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and
  - c. No pre-existing conditions exist to delay coverage unduly.

2. Is the coverage comprehensive? Health care coverage for a child is presumed to be comprehensive if it includes medical and hospital care and provides for preventive, emergency, acute and chronic care. If both parents have health care coverage which



meets these basic requirements, then the Court must determine which of the two policies is more comprehensive

by looking at additional coverages such as basic dental, orthodontic, optical, mental health and substance abuse.

3. Is the coverage affordable? The standard for affordability is reasonableness.
4. Does the child have any special needs? While not stated in the statute, presumably the Court is to consider the availability and extent of coverage for any health care due to the special needs.

If both parties' coverage is comparable in accessibility and comprehensiveness, then there is a presumption that the least costly health insurance is appropriate for the child.

If both parties' coverage is appropriate (i.e., of about the same cost), then the Court is required to order the parent with whom the child resides to carry the health coverage except in certain circumstances.

If only one parent has appropriate coverage available, then the Court is required to order that parent to carry the coverage.

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Rules for other situations such as neither party having insurance and factors for overcoming presumptions are also included in the statute.

The full text of the statutes governing Court-selection of health care coverage is at <http://www.leg.state.mn.us/leg/statutes.asp> -- select retrieve a section – type in 518A.41 (for Minn. Stat. Sec. 518A.41).

***Practical Factors in Comparing  
Health Insurance Policies***

1. Monthly cost.
2. Extent of coverage: deductibles, co-pays, % of coverage, # of visits or treatments per year or other period of time.
3. Covered services: prescriptions, mental health, specific procedures.
4. Covered conditions: pre-existing, waiting period.
5. All or some providers.
6. Location of providers.
7. Definition of dependent.
8. Who pays the premium: employer, party.
9. Reliability of the premium payor.
10. Frequency of change in the policy – annual, intermittent.
11. Who selects the enrollment options – receives notices of enrollment deadlines.
12. Willingness of the person carrying the insurance to communicate about policy changes prior to an annual enrollment deadline.
13. Who receives the insurance payment – provider, policy holder, patient.
14. Who files the insurance claims – provider, policy holder, patient.
15. Who receives the insurance notices permitting or denying claims.
16. Existence of a pre-tax health expense savings plan.

***Minnesota Health Insurance  
on the Internet***

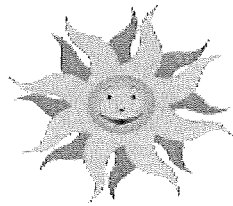
*For help in understanding, locating and selecting a private plan, see the website maintained by a coalition of private insurance companies at [www.mnhealthnetwork.com/](http://www.mnhealthnetwork.com/)*

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*For general information on health insurance, see the Minnesota Department of Health website at [www.dhs.state.mn.us/](http://www.dhs.state.mn.us/) The site includes specific sections with information on buying health insurance. Under Quick Tips, the reader can find factors for evaluating insurance information that you find on the Web.*

*For those who have been denied insurance due to pre-existing insurance, see the website for the Minnesota Comprehensive Health Association at [www.mchamn.com/](http://www.mchamn.com/)*

*For those who want to know what health coverage is available through the state or county, see the Minnesota Department of Human Services website at [www.dhs.state.mn.us/](http://www.dhs.state.mn.us/)*



## **QUOTES FOR THE SEASON**

**The problem with picnics is that they always happen on holidays when ants have the day off too. *Unknown.***

**Sometimes you're the bug; sometimes you're the windshield. *Dire Straits***

**God in his wisdom made the fly and then forgot to tell us why. *Ogden Nash***

**Summer afternoon -- summer afternoon -- the two most beautiful words in the English language. *Henry James***

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