CHAPTER 26.1-36.5
HEALTH COVERAGE FOR CHILDREN

26.1-36.5-01. Definition.

For purposes of this chapter, unless the context otherwise requires, "insurer" means any health insurer, including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], a health maintenance organization as defined in section 26.1-18.1-01, a health service corporation as defined in section 26.1-17-01, and a provider of an accident and health insurance policy as defined in section 26.1-36-03.

26.1-36.5-02. Prohibited practices.

1. No insurer may deny enrollment of a child under the health coverage of the child's parent on the grounds that:
   a. The child was born out of wedlock;
   b. The child is not claimed as a dependent on the parent's federal income tax return; or
   c. The child does not reside with the parent or in the insurer's service area.
2. Any provision in an individual or group accident and health insurance policy, nonprofit health service contract, or group health plan issued by any insurer that conflicts with subsection 1 is void.

26.1-36.5-03. Enrollment of children.

If a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an insurer, the insurer shall:

1. Permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any open enrollment restrictions and subject to the prohibited practices provisions of this chapter;
2. If a parent fails to provide health coverage for any child, enroll the child under family coverage upon application by the child's other parent or by the department of health and human services;
3. Upon receipt of the national medical support notice issued under section 14-09-08.20 from the employer:
   a. Comply with the provisions of the national medical support notice;
   b. Within forty business days of the date of the national medical support notice, take appropriate action pursuant to the notice; and
   c. Enroll the child, and the obligor if necessary, in the insurer's default plan, if any, if required under subsection 2 of section 14-09-08.20; and
4. Not disenroll or eliminate coverage for any child unless the insurer is provided satisfactory written evidence that:
   a. The court or administrative order is no longer in effect; or
   b. The child is or will be enrolled with comparable coverage that will take effect no later than the effective date of disenrollment.

26.1-36.5-04. Providing information and paying claims.

If a child has health coverage through the insurer of a noncustodial parent, the insurer shall:

1. Provide information to the custodial parent as may be necessary for the child to obtain benefits through the health coverage;
2. Permit the custodial parent, the provider of health care, with the custodial parent's approval, or the department of health and human services, as the custodial parent's assignee, to submit claims for covered services without the approval of the noncustodial parent; and
3. Make payment on claims submitted in accordance with subsection 2 directly to the custodial parent, provider, or department, as their interests may appear.

26.1-36.5-05. Authority and jurisdiction.

This chapter is adopted pursuant to the requirements of sections 4301 and 13623 of Public Law 103-66 [107 Stat. 312; 29 U.S.C. 1161 et seq. and 42 U.S.C. 1396g-1]. The commissioner may take any action reasonably necessary to enforce this chapter and section 26.1-36-12. Any insurer subject to the provisions of this chapter or section 26.1-36-12 must submit to the jurisdiction of the commissioner and to the courts of this state to the greatest extent permitted under state or federal law.