
What kind of insurance can the court award me?

Health and Hospital Insurance

Domestic Relations Law § 236, part B, subdivision 8, paragraph a, provides that in any matrimonial action the court may order a party to purchase, maintain or assign an insurance policy providing benefits for health and hospital care and related services for either spouse or the children of the marriage, not to exceed such period of time as such party shall be obligated to provide maintenance, child support or make payments of a distributive award.

Accident and Life Insurance

The court may also order a party to purchase, maintain or assign a policy of accident insurance or insurance on the life of either spouse, and to designate, in the case of life insurance, either spouse or the children of the marriage, or in the case of accident insurance, the insured spouse as irrevocable beneficiaries during a period of time fixed by the court. The statute provides that a copy of such order shall be served, by registered mail, on the home office of the insurer specifying the name and mailing address of the spouse or children. However, failure to so serve the insurer shall not affect the validity of the order. c DRL 236[B][8] as amended by Laws of 1999, Chapter 275, effective September 18, 1999.

Paragraph a of subdivision 8 of part B of section 236 of the domestic relations law as amended provides as follows:

a In any matrimonial action the court may order a party to purchase, maintain or assign a policy of insurance providing benefits for health and hospital care and related services for either spouse or children of the marriage not to exceed such period of time as such party shall be obligated to provide maintenance, child support or make payments of a distributive award. The court may also order a party to purchase, maintain or assign a policy of accident insurance or insurance on the life of either spouse, and to designate in the case of life insurance, either spouse or children of the marriage, or in the case of accident insurance, the insured spouse as irrevocable beneficiaries during a period of time fixed by the court. The obligation to provide such insurance shall cease upon the termination of the spouse's duty to provide maintenance, child support or a distributive award. A copy of such order shall be served, by registered mail, on the home

office of the insurer specifying the name and mailing address of the spouse or children, provided that failure to so serve the insurer shall not affect the validity of the order.

Health Insurance— Generally

In addition to "special relief," a provision of New York Domestic Relations Law § 240, which was enacted in 1986 and amended in 1993, provided that where either parent has health insurance available through an employer or organization that may be extended to cover the child and the court determines that the employer or organization will pay for a substantial portion of the premium or any such extension of coverage, the child support order "shall" require that such parent exercise the option of additional coverage in favor of such child and execute and deliver any forms, notices, documents or instruments necessary to insure timely payment of any health insurance claims for such child. When both parents have health insurance available to them and the court determines that the policies are complementary, the court may order both parents to exercise the option of additional coverage. The Family Court Act had an almost identical provision referring to "legally responsible relative" rather than parent. *c* New York Family Court Act § 416, as amended by Laws of 1986, Ch. 849 § 2, eff. Aug. 2, 1986. *Shafer v Shafer* (1983, 1st Dept) 96 App Div 2d 790, 466 NYS2d 17, held that there was no reason to require the defendant husband to go to the expense of buying a new health policy, since the plaintiff wife already had insurance coverage for their child through her employment. In *Jerkovich v Jerkovich* (1984, 2d Dept) 100 App Div 2d 575, 473 NYS2d 507, the husband appealed from portions of a judgment of Special Term that directed him to name his children as dependents on his health insurance policy without specifying when the coverage may be terminated. The Appellate Division modified the judgment, holding that while Supreme Court was expressly authorized to direct the husband to maintain both his health insurance policy and his life insurance policy for the benefit of his minor children, it had erred in failing to fix the duration of such policies.

New York Family Court Act § 416 was amended by L.1994, ch 170, § 368, effective June 9, 1994 to eliminate the reference to "seasonal enrollment restrictions for health insurance coverage."

New York Domestic Relations Law § 240(1) and New York Family Court Act § 416 continue to provide that where employer or organization subsidized health insurance coverage is available through an employer or organization that may be extended to cover the child and the employer or organization will pay for a substantial portion of the premium on such coverage, the court must order the parent to exercise the option of additional coverage in favor of the child. However, they now require that in such case the court must direct the "legally responsible relative" to enroll in the plan the eligible dependents who are to be

named in the plan no later than the third business day of the first enrollment period allowable under the plan' s terms of enrollment. The order must also direct the "legally responsible relative" to maintain the coverage as long as it remains available to such relative and a substantial portion of the premium is paid for by the employer or organization. Upon a finding that a responsible relative willfully failed to obtain such health insurance in violation of a court order, the relative is presumptively liable for all medical expenses incurred on behalf of such dependents from the first date such dependent was eligible to be enrolled in the medical insurance coverage after the issuance of the order of support directing the acquisition of such coverage. In making an order for employer or organization provided health insurance pursuant to this provision, the court must consider the availability of such insurance to all parties to the order and direct that either or both parties obtain such insurance and allocate the costs consistent with obtaining comprehensive medical insurance for the child at reasonable cost to the parties. c New York Domestic Relations Law § 240(1) as amended by Laws of 1993, Ch. 59, § 1; New York Family Court Act § 416 as amended by Laws of 1993, Ch. 59, § 1. (Sections 1-33 became effective July 1, 1993.).

New York Family Court Act § 416 was amended by L. 1994, ch 170, § 368, effective June 9, 1994 to eliminate the reference to "seasonal enrollment restrictions for health insurance coverage."

New York Family Court Act § 416, as amended in 1993, also provides that the "legally responsible relative" must assign all of the insurance reimbursement payments to the provider of services or party who actually incurred and satisfied such expenses. Although this provision is not in the Domestic Relations Law, the Supreme Court is authorized to make an identical direction by virtue of its concurrent authority with the Family Court.