

**10 GCA HEALTH AND SAFETY
CH. 95 COORDINATION OF BENEFITS**

**CHAPTER 95
COORDINATION OF BENEFITS**

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SOURCE: Chapter 95 was added by P.L. 22-101:2 (3/31/94).

§ 95100. Coordination of Benefits with Medicaid.

(a) *Insurer* means for purposes of this chapter any health insurer (including a group health plan, as defined in §607(1) of the Employee Retirement Income Security Act of 1974), health maintenance organization, or hospital and medical service plan. An insurer is prohibited from considering the availability or eligibility for medical assistance in Guam or any other state under §1396a, Title 42 United States Code, (§1902 of the Social Security Act), such assistance being herein referred to as *Medicaid*, when considering eligibility for coverage or making payments under its plan for eligible enrollees, subscribers, policyholders or certificate holders.

(b) To the extent that payment for covered expenses has been made under Guam's Medicaid program for health care items or services furnished to an individual, in any case where a third party has a legal liability to make payments, Guam is considered to have acquired the rights of the individual to payment by any other party for those health care items or services.

§ 95101. Coverage of Children.

(a) An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that:

(1) The child was born out of wedlock;

(2) The child is not claimed as a dependent on the parent's Guam tax return;

(3) The child does not reside with the parent or in the insurer's service area;

(4) The child has a pre-existing or excluded medical condition; or

(5) The child is adopted or is the subject of adoption proceedings.

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(b) Where a child has health coverage through an insurer of a noncustodial parent the insurer shall:

(1) Provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(2) Permit the custodial parent (or the provider, with the custodial parent's approval) to submit claims for covered services without the approval of the noncustodial parent; and

(3) Make payments on claims submitted in accordance with subparagraph (2) of this section directly to the custodial parent, the provider or the state Medicaid agency.

(c) Where 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, the insurer shall be required:

(1) To permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season or open enrollment restrictions;

(2) If the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the local agency administering the Medicaid program or the local agency administering §§651 to 669, Title 42 United States Code, the child support enforcement program; and

(3) Not to disenroll (or eliminate coverage of) the child **unless** the insurer is provided satisfactory written evidence that:

(i) The court or administrative order is no longer in effect; or

(ii) The child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment.

(d) An insurer may not impose requirements on a territorial agency, which has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual so covered.

§ 95102. Employer Obligations.

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Where a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in Guam, the employer is required:

(a) To permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season or open enrollment restrictions;

(b) If the parent is enrolled but fails to make application to obtain coverage of the child, to enroll the child under family coverage upon application by the child's other parent, by the Guam agency administering the Medicaid program or the Guam agency administering §§651 to 669, Title 42 United States Code, the child support enforcement program;

(c) Not to disenroll (or eliminate coverage of) the child **unless** the insurer is provided satisfactory written evidence that:

(i) The court order is no longer in effect;

(ii) The child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(iii) The employer has eliminated family health coverage for all of its employees.

(d) To withhold from the employee's compensation the employee's share (if any) of premiums for health coverage and to pay this amount to the insurer.

§ 95103. Recoupment of Amounts Spent on Child Medical Care.

The government of Guam may garnish the wages, salary or other employment income of, and withhold amounts from territorial tax refunds to, any person who:

(a) Is required by court or administrative order to provide coverage of the cost of health services to a child eligible for medical assistance under Medicaid; and

(b) Has received payment from a third party for the costs of such services but has not used the payments to reimburse either the other parent or guardian of the child or the provider of the services;

To the extent necessary to reimburse the Guam Medicaid agency for its costs, but claims for current and past due child support shall take priority over these claims.

§ 95104. Adopted Child Coverage: Definitions.

As used in this chapter:

(1) *Child* means, in connection with any adoption, or placement for adoption of the child, an individual who has not attained the age of eighteen (18) as of the date of the adoption or placement for adoption.

(2) *Placement for adoption* means the assumption and retention by a person of a legal obligation for total or partial support of a child in anticipation of the adoption of the child. The child's placement with a person terminates upon the termination of such legal obligations.

§ 95105. Requirements for Coverage of an Adopted Child.

(a) Coverage effective upon replacement for adoption. In any case in which a group health plan provides coverage for dependent children of participants or beneficiaries, the plan shall provide benefits to dependent children placed with participants or beneficiaries for adoption under the same terms and conditions as applied to the natural, dependent children of the participants and beneficiaries, irrespective of whether the adoption has become final.

(b) Restrictions based on preexisting conditions at time of placement for adoption prohibited. A group health plan may not restrict coverage under the plan of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption, solely on the basis of a preexisting condition of the child at the time that the child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant or beneficiary is eligible for coverage under the plan.
