



1       (b) As used in this article:

2       (1) "Claimant" means a beneficiary under a liability insurance  
3 policy, a life insurance policy or covered by workers' compensation  
4 who resides in the State of West Virginia or whose accident or loss  
5 occurred in the State of West Virginia;

6       (2) "Bureau" means the Bureau for Child Support Enforcement  
7 created by article eighteen, chapter forty-eight of the Code of  
8 West Virginia; and

9       (3) "Past-due support" or "arrearages" have the meaning as  
10 ascribed to them in section two hundred four, article one, chapter  
11 forty-eight of this code.

12       (c) This article takes effect on July 1, 2011.

13 **§33-4A-2. General provisions.**

14       (a) Every insurance company licensed to do business in the  
15 State of West Virginia that is authorized to issue liability  
16 insurance coverage, life insurance coverage or workers'  
17 compensation coverage is required to participate in an information  
18 data match with the Bureau for Child Support Enforcement.

19       (b) Any insurance company that participates in the Federal  
20 Office of Child Support Enforcement Case Registry Insurance Match  
21 Program or the Child Support Lien Network operated by the State of  
22 Rhode Island is deemed to have met the reporting requirements of  
23 this section.

1       (c) Any insurance company required by subsection (a) to  
2 participate in the information data match and is not participating  
3 in either option set forth in subsection (b) shall participate in  
4 the following manner: At least thirty days, or as soon as the  
5 payment is authorized, whichever is sooner, prior to making any  
6 nonrecurring payment equal to or in excess of \$500 dollars to a  
7 claimant, the insurance company shall notify the bureau in a manner  
8 prescribed by the bureau of the claimant's name, address, social  
9 security number and date of birth in a manner and format specified  
10 by the bureau.

11       (d) The bureau shall notify the insurance company if the  
12 payment is subject to withholding pursuant to Part 4, article  
13 fourteen, chapter forty-eight of the Code of West Virginia, for  
14 unpaid child support or spousal support.

15       (e) Upon notice from the bureau, the insurance company shall  
16 remit to the bureau the funds otherwise payable to the claimant up  
17 to the amount of the past-due support.

18       (f) The income withholding notice for past-due support has  
19 priority over all other liens or levies upon the payment with the  
20 exception of:

21       (1) Legal services and medical services guaranteed pursuant to  
22 such representation provided by a third party in relation to the  
23 claim; and

1       (2) Security interests in lost or damaged property covered by  
2 the claim to the extent that such security interest would otherwise  
3 have precedence over the income withholding.

4       (g) If an income withholding notice is not received from the  
5 bureau within thirty days of the insurance company notification of  
6 intent to disburse funds, the insurance company shall disburse the  
7 payment to the claimant in accordance with the contract of  
8 insurance.

9 **§33-4A-3. Medical insurance reporting.**

10       (a) (1) In order to fulfill the state's obligations imposed  
11 by state and federal legislation in regard to the establishment and  
12 enforcement of medical support, it is necessary that health  
13 insurance policy information be released to the Bureau for Child  
14 Support Enforcement.

15       (2) As a condition of conducting business in the state, health  
16 insurers, defined as any insurance company or other entity who is  
17 authorized to transact and is currently transacting health  
18 insurance business in this state, including self-insured plans,  
19 group health plans as defined in Section 607(1) of the Employee  
20 Retirement Income Security Act of 1974, service benefit plans,  
21 managed care organizations, pharmacy benefit managers, third-party  
22 administrators and any other parties that are, by statute,  
23 contract, or agreement, legally responsible for payment of a claim  
24 for a health care item or service, shall permit and participate in

1 data matching with the Bureau for Child Support Enforcement to  
2 assist in determining the availability of sources of health care  
3 insurance or coverage for beneficiaries of the child support  
4 program.

5 (3) All health insurers shall provide to the bureau or its  
6 designee an electronic listing of all individuals who may be  
7 covered by a health insurer and the nature of coverage provided,  
8 their social security numbers, addresses, dates of birth, policy  
9 holder, policy identification number, group number and effective  
10 dates for purposes of identifying coverage for establishing,  
11 modifying, and enforcing medical child support orders administered  
12 by the bureau. The information shall be provided in a format  
13 suitable for electronic data matches, conducted under the direction  
14 of the bureau, no less than monthly or as prescribed by the  
15 Commissioner of the Bureau. The health insurer must respond within  
16 thirty working days after receipt of a written request for  
17 enrollment data from the bureau or its designee.

18 (4) The provisions of paragraphs (1) and (2) of this  
19 subsection do not apply to the following types of insurance:  
20 Limited benefit health and accident, fixed indemnity, long-term  
21 care, Medicare supplement and Medicare Advantage.

22 (b) The Bureau for Child Support Enforcement, after obtaining  
23 information from a health insurer, may disclose such health

1 insurance policy information only for the purpose of, and to the  
2 extent necessary, to establish, modify or enforce a medical support  
3 obligation for a minor child.

4 **§33-4A-4. Liability.**

5 (a) Notwithstanding any other provision of this code, an  
6 insurance company is not liable under the law of this state to a  
7 claimant or other interested party for:

8 (1) Disclosing any insurance record of an individual, as  
9 required by this section, to the Bureau for Child Support  
10 Enforcement, the Federal Office of Child Support Enforcement Case  
11 Registry Insurance Match or the Child Support Lien Network operated  
12 by the State of Rhode Island;

13 (2) Disclosing health insurance policy information to the  
14 Bureau for Child Support Enforcement or its designee;

15 (3) Encumbering or surrendering assets held by such insurance  
16 company as required by this section; or

17 (4) Any other action taken in good faith to comply with the  
18 requirements of this section.

19 (b) An insurance company which fails or refuses to provide  
20 information as required by this section may have a civil penalty  
21 assessed of \$500 per violation by the Bureau for Child Support  
22 Enforcement. The Bureau for Child Support Enforcement may invoke  
23 the aid of any circuit court in the State of West Virginia in  
24 enforcing the civil penalty.

1       (c) An insurance company which, having received notice of an  
2 income withholding from the bureau, fails or refuses to surrender  
3 property subject to the income withholding is liable to the bureau  
4 or the support obliged in the amount noticed.

5       (d) Information provided by the bureau to an insurance company  
6 under this section may only be used for the purpose of assisting  
7 the bureau in collecting past-due support and in establishing,  
8 modifying or enforcing a medical support order. Any individual or  
9 company who uses such information for any other purpose is subject  
10 to a penalty of up to \$1,000 per violation.

NOTE: The purpose of this bill is to provide for the interception of insurance settlement claims by the Bureau for Child Support Enforcement for past-due support owed by an obligor and for establishing, modifying or enforcing medical support orders.

This article is new; therefore, it has been completely underscored.