

March 24, 2011

Important to Address Health Insurance in the Marital Settlement Agreement to Avoid a Lapse in Coverage

In New Mexico, one of the final documents (also called pleadings) filed with the court to complete a divorce is called a Marital Settlement Agreement, or MSA for short. An MSA should provide details as to the final division of the parties' property and debt, which may be the result of a settlement agreement between the parties or the order of the court.

The MSA does more than just assign debts and assets to the parties, it may also provide instructions as to how those debts and assets will be exchanged and protected. Health insurance is one asset to a marriage that may be addressed in an MSA. Generally, if one party to the divorce is providing health insurance for the family pursuant to his or her employment, he or she is not obligated to continue to provide health insurance for their former spouse, although they may be required to continue to provide coverage for their children. In fact, many insurance carriers will not allow continuation of coverage on the same policy for an former spouse.

However, some health insurance policies may allow the divorcing spouse to remain covered as long as they begin paying their own insurance premiums after the divorce. Also, parties can agree that one spouse will continue to pay the health insurance premiums for the divorcing spouse as a form of spousal support. The issue of health insurance coverage after a divorce is complicated because the coverage available will often depend on the terms of the policy in place at the time of the divorce and those terms can vary widely from policy to policy.

Parties to a divorce should consult an experienced divorce attorney who can counsel them as to the law regarding health insurance and can conduct proper discovery in order to explore the terms of the parties' policy. An attorney should also ensure that whatever agreement is reached regarding ongoing health insurance for the parties is properly included in the MSA.

DISCLAIMER

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

<http://www.albuquerquedivorcelawyerblog.com/>