



Divorce and Health Insurance – Don't Be Left Out With a Cold!

BY CAROLYN ON APRIL 8, 2010

Yesterday I attended a health insurance seminar at the Wellesley Library, put on by the Massachusetts Council on Family Mediation. The presenter, Attorney Clare McGorrian, did a great job of covering issues concerning access to health coverage during family transitions, such as divorce. Whether your divorce process of choice is litigation, mediation or collaborative law, there are a few things you should know about health insurance before you begin. Here are some popular questions and quick answers:

QUESTION 1: I just filed for divorce. My spouse wants to kick me off her/his health insurance. Can she/he do this?

ANSWER 1: No. When a party files for divorce, an automatic restraining order is entered by the Court. Among other protections, the restraining order prevents either party from removing their spouse and/or children from an existing health insurance policy. The restraining order typically lasts for the length of the divorce action.

QUESTION 2: My health insurance is covered through my spouses's employer. We are in the process of getting divorced. Can we put language in the Separation Agreement indicating my spouse has to keep me covered?

ANSWER 2: Well, it depends (*I know, I know... a typical lawyer answer*). Believe it or not, the Stephen F. McDonough, Esq.
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answer depends on what type of health plan your spouse has. For plans which are regulated by Massachusetts law, a spouse who is a group health plan member and is a party to a divorce judgment remains eligible as a plan member. This eligibility generally lasts until one of the parties remarries (unless the parties agree to other events which lead to coverage termination). However, if your spouse's health plan is a self-insured plan, then the insurer can decide whether or not an ex-spouse is covered and often chooses not to cover the ex-spouse.

QUESTION 3: How do I know whether or not my health care provider is self-insured?

ANSWER 3: Write a letter to your health care provider asking for a Summary Plan Description. You should do this early on in the divorce process and allow for some time for the insurer to respond. You will want to get this answer from the health care provider in writing.

QUESTION 4: If my spouse's health plan is self-insured and does not cover me following my divorce, what are my options?

ANSWER 4: You have several options available to you. You may qualify for [COBRA](#), a federal program which gives workers and their families the right to continue existing group health care coverage for up to 36 weeks. Under this plan, individuals must pay 102% of health care premiums. There are also many options available under Massachusetts' [Commonwealth Connector](#) program.

This is just a basic overview of common questions asked by litigation and mediation clients facing divorce. [Contact us](#) for more information on your options during divorce.

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