INSTRUCTIONS

Contesting a Request from the Other Parent for Payment of Unreimbursed or Uninsured Health Care Expenses for Joint Children

Forms you will need:

- ✓ Instructions (Court Form FAM405)
- ✓ Notice of Motion, Motion and Affidavit to Contest Request for Payment of Unreimbursed or Uninsured Health Care Expenses (Court Form FAM406)
- ✓ Affidavit of Service by Mail (SOP104)

Important Notices and Resources:

The Court provides forms and instructions as a general guide to the court process. The instructions explain the steps and address common questions, but are not a comprehensive guide to the law.

You are responsible for your own case. Court employees can provide general information on court rules, procedures and practices but are prohibited from giving legal advice.

If you do not understand the forms and instructions, you may contact the MN Courts Self Help Center at **www.mncourts.gov/selfhelp** or by calling **651-259-3888**.

If you are not sure if you should file court papers or if you have questions not addressed in the instructions, you should talk to a lawyer. For lawyer referral information see **www.mncourts.gov/selfhelp/?page=252**.

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp. For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

MOTION TO CONTEST UNREIMBURSED or UNINSURED HEALTH CARE EXPENSES
Minn. Stat. § 518A.41, subd. 17

Use these forms to challenge the amount if:

- You have received a "Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment" or "Notice of Motion, Motion and Affidavit to Collect Unreimbursed or Uninsured Health Care Expenses" from the other parent asking you to pay him/her for your share of the health care expenses for your joint child(ren) OR
- You have received notice from the County Child Support Agency regarding collection of unreimbursed or uninsured health care expenses, AND
- You believe that the amount stated in the Notice or Motion is incorrect or you want a monthly payment schedule, and you have not been able to reach an agreement with the other party or the county.

Definition of terms:

Health care expenses

Include both medical and dental expenses of the joint child.

Joint child

The dependent child of both you and the other parent as listed in the child support order.

Uninsured health care expenses

Reasonable and necessary medical and dental expenses incurred if the joint child is not covered by a health plan, including over the counter medications.

Unreimbursed health care expenses

Reasonable and necessary medical and dental expenses not covered by the child's health plan, that include, but are not limited to, deductibles, co-payments, expenses for orthodontia and prescription eyeglasses and contacts. Unreimbursed medical expenses do not include the cost of premiums or over-the-counter medications.

INSTRUCTIONS

STEP 1

FILL OUT THE "NOTICE OF MOTION, MOTION AND AFFIDAVIT TO CONTEST REQUEST FOR PAYMENT OF UNREIMBURSED OR UNINSURED HEALTH CARE EXPENSES" FORM

The information to fill in the boxes and blanks at the top of the form can be found at the top of your current child support order or your divorce or paternity decree, including:

- The county where your case is located (which may be different from the county where you live).
- The number of the judicial district.

- The court file number.
- The name of the Petitioner/Plaintiff.
- The name of the Respondent/Defendant.

If you are the Petitioner/Plaintiff in the current order or decree you will be the Petitioner/Plaintiff in this motion. If you are the Respondent/Defendant in the current order or decree you will be the Respondent/Defendant in this motion.

Fill in the name and last known address of the other party and the name. ***If the County Child Support Agency is involved in your case***, then you should check the box next to "County Attorney's Office" and fill in the name and address of the County Attorney for the county where your case is located.

DO NOT fill in the date, time, and location of the hearing. You will fill in this information as part of Step 2 below.

MOTION – This section contains what you are asking the Court to do (determine the amount each party owes, and set a monthly payment plan). Write in the earliest and latest dates of medical services. This information is in the papers the other party gave you.

NOTICE OF RIGHTS TO THE OTHER PARTY – You do not have to do anything in this section; this is information for the other party.

SETTLEMENT – If you are willing to settle this matter without a court hearing, you can let the other party/parties know by filling in your name and phone number. Both parents, and the County Attorney if the County Child Support Agency is involved in your case, must agree in order to settle the case out of court.

AFFIDAVIT

Underneath "State of Minnesota," next to "County of," fill in the name of the county where you will be when you sign the Affidavit.

Give the court information about the documents you received from the other parent or from the county.

1. Write in the amount that the other parent says you owe for unreimbursed or uninsured health care expenses.
2. Write why you think this amount is wrong.
3. Tell the court what amount you think you should pay.
4. Tell the court what amount you think the other parent should pay.
5. Attach a copy of the documents the other party sent you (for example, the other party's written request for you to pay, receipts, bills, or other documents). ***Be sure to write in the date the other party sent these documents to you***.
6. If you have receipts, cancelled checks or other documentation showing you already paid your share of the health care expenses, list the documents at number 6 and attach copies

of the documents to your "Notice of Motion, Motion and Affidavit to Contest Request for Payment of Unreimbursed or Uninsured Health Care Expenses." If there is anything else you think would help the Court understand the issues, write it down on the lines provided at number 6. Use additional paper if you need to.

7. Sign the "Notice of Motion, Motion, and Affidavit to Contest Collection of Unreimbursed / Uninsured Health Care Expenses" under penalty of perjury. By signing under penalty of perjury, you are stating that the information in the Motion and Affidavit is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

STEP 2
OBTAIN A HEARING DATE, TIME, AND LOCATION FROM COURT ADMINISTRATION

NOTE: If you were served with a "Notice of Motion, Motion and Affidavit to Collect Unreimbursed or Uninsured Heath Care Expenses", the other parent should have obtained a hearing date already. Fill in the hearing date information found on the first page of the other party's motion.

If you are responding to a Notice and Affidavit asking you to pay within 30 days, you need to get a hearing date. To do that:

- Contact the court administrator's office in the county where your case is located.
- Ask for a hearing date, time, location of the hearing, and the name of the judge, referee, or child support magistrate who will hear the matter. The hearing date must be at least 17 days after the date the motion papers will be mailed to the other party. Count the day after it will be mailed as Day 1.
- Fill in the date, time, and location of the hearing on the first page of your "Notice of Motion, Motion and Affidavit to Contest Request for Payment of Unreimbursed or Uninsured Health Care Expenses" form.

STEP 3
MAKE COPIES OF FORMS

- Make two copies of the completed "Notice of Motion, Motion and Affidavit to Contest Request for Payment of Unreimbursed or Uninsured Health Care Expenses" including attachments. ***NOTE:*** If the County Child Support Agency is involved in your case, you will need to make a total of three copies of the documents described in this paragraph.

- Keep one copy for yourself. The other copies are for the other parent and County Attorney (if the County Child Support Agency is involved.) The documents will be filed with the Court (Step 6).

STEP 4
HAVE COPIES OF THE FORMS AND SUPPORTING DOCUMENTS SERVED ON THE OTHER PARENT AND COUNTY ATTORNEY'S OFFICE

You must arrange for the other party to receive complete copies of all forms and supporting documents you have prepared for the hearing. This is called "service of process." ***NOTE:*** If the County Child Support Agency is involved in your case, you must arrange for the County Attorney's Office to be served as well.

A copy of the "Notice of Motion, Motion and Affidavit to Contest Request for Payment of Unreimbursed or Uninsured Health Care Expenses" and any supporting documents must be served upon all parties, either personally or by mail. If a party is represented by an attorney, the forms and supporting documents must be served on the attorney instead of the party, at the attorney's office.

Personal service: forms and supporting documents are hand-delivered to the other party personally or by leaving them at that party's place of residence with some person who is of suitable age or discretion who also lives at the same residence. Forms and supporting documents must be hand delivered at least 14 days before the hearing date. ***NOTE***: If responding to the other party's motion, you need to personally serve the other party at least 5 days before the hearing date.

OR

Mail service: forms and supporting documents are mailed by first class U.S. mail to the other party and the county attorney's office at least 17 days before the hearing date. ***NOTE***: If responding to the other party's motion, you need to serve the other party by mail at least 8 days before the hearing date.

If your forms and supporting documents are not timely served upon the other party (or his/her attorney) and the county attorney's office, if applicable, your motion may not be heard by the court.

NOTE! **YOU CANNOT HAND DELIVER OR MAIL THE DOCUMENTS YOURSELF. YOU MUST HAVE SOMEONE ELSE OVER THE AGE OF 18 WHO IS NOT A PARTY TO THE CASE HAND DELIVER OR MAIL THE DOCUMENTS FOR YOU.**

STEP 5
COMPLETE THE "AFFIDAVIT OF SERVICE" FORM

The person who hand delivers or mails the forms and supporting documents must fill out an "Affidavit of Service" form for each party served. After service is completed, the person signs the "Affidavit of Service" under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

STEP 6
FILE THE FORMS AND SUPPORTING DOCUMENTS WITH COURT ADMINISTRATION AND PAY ANY REQUIRED COURT FEE

File the following forms and supporting documents with court administration in the county where your case is located as soon as possible but no later than 5 days before the scheduled hearing. It is best to go to the Courthouse to file your forms, in case there are any questions or problems.

- The "Notice of Motion, Motion and Affidavit to Contest Request for Payment of Unreimbursed or Uninsured Health Care Expenses"
- Copies of documents the other party sent to you (for example, bills, statements, etc.)
- The signed "Affidavit(s) of Service"

Filing by facsimile: Any paper may be filed with the court by fax. If documents are filed by fax, the original documents must not be filed, but you must keep all original documents and make them available to the court or any party upon request.

Court Fees
There is no motion filing fee for this motion. However, if you did not pay an initial filing fee when this case first began, you will be asked by court administration to pay it now. Court administration will be able to tell you if you have paid the initial filing fee.

If a fee is owed and you cannot afford to pay the fee, you may qualify to have the filing fee waived by the court. You need to fill out a Fee Waiver (*In Forma Pauperis*) application (available from court administration or at www.mncourts.gov/forms) and have it reviewed by a judge. Court administration can tell you how to get your request to a judge. If the judge does not sign an order that waives the fee, you must be prepared to pay the fee. Court Administration cannot accept your filing without payment or an order waiving the fee.

STEP 7
APPEAR AT THE HEARING

Come to court on the date and time scheduled for the hearing allowing extra time for traffic, courthouse security, and finding the courtroom. Be sure to bring the papers the other party sent you, and your copy of the "Notice of Motion, Motion and Affidavit to Contest Request for Payment of Unreimbursed or Uninsured Health Care Expenses" and supporting documents. If you have additional documents to offer into evidence bring a copy for the judicial officer, one for the other parent, one for the county attorney, and one for yourself.