

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

Theresa L. Harlan, Plaintiff	:	
	:	
v.	:	No. 00-20,971
	:	PACES #843102432
Randy A. Harlan, Defendant	:	
	:	
Valerie L. Fox, Plaintiff	:	
	:	
v.	:	No. 84-21,065
	:	PACES #955002186
Randy A. Harlan, Defendant	:	
	:	

OPINION and ORDER

In this case Randy Harlan advances the argument that Mrs. Harlan should have to contribute to the cost of his health insurance policy for their three children—even though Mrs. Harlan already has full insurance coverage for the children, free of charge. Mr. Harlan claims the Guidelines mandate that the non-custodial parent must always provide insurance coverage, and that the other parent must contribute to that coverage. The Guidelines do no such thing.

The Guidelines impose upon the non-custodial parent the initial burden of providing coverage on behalf of the children, when it is *to the benefit of the children*. See Rule 1910.16-6(b)(1) and (3). In that case, the custodial parent must contribute to the cost of the insurance. The purpose of this rule is to “encourage and facilitate the maintenance of health insurance coverage for dependents by giving the obligor a financial incentive to maintain health insurance coverage.” Explanatory Comment to Rule 1910.16-6--2000. Obviously, that purpose is not served when the custodial parent already has insurance coverage for the children, free of charge. Surely the

Guidelines do not intend to make either parent pay for unnecessary insurance coverage.

Mr. Harlan cites a case which he claims says the non-custodial parent must always provide the health insurance, no matter what. The case, however, does no such thing. Gerland v. Gerland, 703 A.2d 70 (Pa. Super 1997).

The statute mandating courts to include medical insurance in child support orders specifically states the court shall “ascertain the ability of *each parent* to provide health care coverage for the children of the parties and the order shall provide health care coverage for each child *as appropriate*.” 23 Pa.C.S.A. §4326(a). (Emphasis added). This clearly directs courts to look into the matter and do what makes the most sense. Forcing the parents ensure the children twice does not make sense.

Reading between the lines, it appears Mr. Harlan must provide health insurance for another child, and adding these three children to the policy probably does not increase his costs. So Mr. Harlan has devised a sneaky way to try to force Mrs. Harlan to subsidize health insurance for a child who is not hers. This will not fly, no matter how Mr. Harlan twists the words of the Guidelines. If Mr. Harlan wants to carry unnecessary insurance coverage for the children he is free to do so, but he cannot force Mrs. Harlan to pay for it.

ORDER

AND NOW, this _____ day of February, 2002, for the reasons stated in the foregoing opinion, the Exception filed by Theresa Harlan to the Master's order of 26 November 2001 is granted and the order is hereby altered to eliminate Mrs. Harlan's financial responsibility for a portion of Mr. Harlan's health insurance.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Jacques, Esq.
Hon. Clinton W. Smith
William Miele, Esq.
Janice Yaw, Esq.
Domestic Relations
Jocelyn Hartley, Esq.
Gary Weber, Esq.