



Office of Temporary and Disability Assistance

KATHY HOCHUL
Governor

DANIEL W. TIETZ
Commissioner

BARBARA C. GUINN
Executive Deputy Commissioner

June 29 , 2022

VIA EMAIL: infocollection@acf.hhs.gov

Tanguler Gray, Commissioner
United States Department of Health and Human Services
Administration for Children and Families
Office of Child Support Enforcement
330 Street, S.W.
Washington, DC 20201

RE: COMMENTS ON PROPOSED INFORMATION COLLECTION ACTIVITY: NATIONAL MEDICAL SUPPORT NOTICE – PART A, OMB No. 0970-0222, May 5, 2022, Federal Register, Vol. 87, No. 87, page 26762

Dear Commissioner Gray:

The New York State Office of Temporary and Disability Assistance (NYS OTDA) appreciates the opportunity provided by the Office of Child Support Enforcement (OCSE) to comment on proposed revisions to the National Medical Support Notice (NMSN) – Part A, OMB 0970-0222. We welcome the opportunity to submit comments that will increase the effectiveness of the NMSN as an administrative tool for the enrollment of children in employment-based health insurance coverage. The following comments are provided regarding the quality, utility, and clarity of the information to be collected, and the ways to minimize the burden of the collection of information. Unless otherwise noted, NYS OTDA supports the current format and language of the NMSN – Part A.

General Comments

Comment 1, Implementation Timeframe

The proposed revisions to the NMSN – Part A would impact centralized notice production by NYS OTDA. At a minimum, text changes would be required to the form and associated cover letters. In addition, a notice production data file layout change could be necessary to add a field for the email address of the Issuing Agency. The mapping and data capture procedures for the NMSN – Part A would also require modification. Finally, training manuals and procedures would need to be updated. Therefore, NYS OTDA strongly recommends a time frame for implementation of not less than one year.

Comment 2, Termination Order/Notice

The Notice to Withhold for Health Care Coverage includes a *Termination Order/Notice* check box, which is checked when the NMSN is being issued to advise the employer/withholder (“employer”) to terminate the NMSN/Qualified Medical Child Support Order (QMCSO) and health care coverage for the identified child(ren).

Although Title 45 Code of Federal Regulations § 303.32(c)(7) provides that state IV-D agencies must notify the employer when there is no longer a current order for medical support in effect for which the IV-D agency is responsible, there is no requirement that the NMSN contain a termination provision.

Therefore, states employ different mechanisms for the termination of the NMSN. In New York, a one-page *Termination of National Medical Support Notice Pursuant to Section 5241 of the Civil Practice Law and Rules* is issued.

Further changes will be needed if states are no longer permitted to send their own standalone termination notice. These changes would require significant resources to shift, realign, and add to the data provided for notice production to accommodate the one, combined NMSN Order/Notice/Termination Order/Notice.

In addition, use of the *Termination Order/Notice* check box requires states, at a minimum, to send the entire NMSN – Part A to terminate a NMSN. For states such as New York, this would result in increased costs for the production and mailing of the full five-page termination order/notice. Further, the mailing of the entire NMSN-Part A to terminate a NMSN is counter to the general trend toward reducing the amount of paper sent to employers and may even foster confusion among employers as most of the information and instructions do not apply when the NMSN is being terminated.

Therefore, NYS OTDA **strongly recommends** continuation of states' optional use of the *Termination Order/Notice* check box to provide notice of the termination of the NMSN/QMCSO and health care coverage.

Comment 3, Child(ren)'s Information

The NMSN – Part A includes input lines for information about six children. NYS OTDA recommends states be given flexibility to include additional space for information about the children.

Comment 4, Footer

The NMSN – Part A should provide states with flexibility to include relevant identifying information (e.g., county code, employer number, and worker code) in the footer of each page of the NMSN – Part A. The inclusion of such information in the footer would facilitate automated processing of returned documents.

Recommended Form Revisions - Supplemental Instructions for Employers, Employer Partners, and Child Support Agencies

Comment 5, Page 2, General Information, Item 8c Legal Authority

Item 8c of the *General Information* section references “paragraphs (3) and (4) of section 609(a) of the [Employee Retirement Income Security Act \(ERISA\)](#).” The provided link, however, is to the published final regulation revising the minimum requirements for benefit claims procedures of employee benefit plans covered by Title I of ERISA, and this regulation does not include any references to paragraphs (3) and (4) of section 609(a).

If the referenced section of ERISA is to be displayed upon clicking the link, NYS OTDA recommends the address be corrected accordingly and the abbreviation “ERISA” be used, as this term was defined with its first occurrence. If the noted final regulation is to be displayed upon clicking the link, NYS OTDA suggests the displayed text be revised to reference the rule.

See also related Comment 9 and Comment 11, which concern links to ERISA associated with the same publication in the *Federal Register*, rather than to the text of the statute and its specific provisions.

Comment 6, Page 2, Employer Responsibilities, Item 9

Item 9 of the Employer Responsibilities section provides that an employer is to complete and return Part A- Employer Response, but “no later than 20 days from the date of receipt of the NMSN.” This instruction differs from the historical direction to complete and return “this Part A to the Issuing Agency within 20 business days after the date of the Notice, or sooner if reasonable.” NYS OTDA recommends

retention of the historical direction. The date of receipt of the notice will vary, while the notice date is known and can be used to determine timely compliance and, for example, whether it is necessary to automatically generate a reminder notice. In addition, the use of business days reflects a more traditional work schedule and provides a longer time frame for response.

The bulleted instruction following the first sentence of Item 9 also references the “date of receipt” and lacks a reference to the 20-day time frame. NYS OTDA recommends the direction be modified to replace “from the date of receipt” with “no later than 20 business days from the date of the Notice.”

Comment 7, Page 3, Employer Responsibilities, Item 14, Duration of Withholding

Item 14 of the *Employer Responsibilities* section includes an initial reference to “COBRA” without providing a definition of this term. NYS OTDA recommends the third sentence of Item 14 be revised as follows, including the use of the previously defined abbreviation “ERISA”:

However, the Consolidated Omnibus Budget Reconciliation Act (COBRA) amendment of ERISA may entitle the child to continuation coverage under the plan.

Comment 8, Page 3, Employer Responsibilities, Item 14, Duration of Withholding

Item 14 of the *Employer Responsibilities* section includes numbered conditions where the employer may discontinue withholding of employee contributions and disenroll (or eliminate coverage) for the children. For purposes of clarity, NYS OTDA recommends the identification of the conditions by letter (i.e., “A,” “B,” and “C”) instead of “1,” “2,” and “3.” Further, NYS OTDA recommends the paragraphs under the current “1” be changed from “a” and “b” to “i” and “ii” respectively. Finally, NYS OTDA recommends indentation of the conditions to enhance readability.

Comment 9, Instructions for Fields of the National Medical Support Notice – Part A, Page 5, Third Paragraph, Note

The note in the third paragraph of the *Instructions for Fields of the National Medical Support Notice – Part A* indicates the information that must be stated on the NMSN in order for it to also be a QMCSO and provides a link to ERISA § 609(a)(2) and 609(a)(5)(C). However, the link to the published final regulation does not provide the text of these sections of ERISA or confirm the required information for a QMCSO. NYS OTDA recommends inclusion of a relevant citation.

See also related Comment 5 and Comment 11, which concern links to ERISA associated with the same publication in the *Federal Register*, rather than to the text of the statute and its specific provisions.

Comment 10, Instructions for Fields of the National Medical Support Notice – Part A, Page 6, Item 3q, Mailing Address of a Representative of the Child(ren)

The second sentence of Item 3q describes the three address lines as follows: 1) street address, 2) c/o designation, apt/lot/suite/floor number (optional) and 3) city/state/zip. This differs from the description of the three address lines in Item 3n, which is as follows: 1) C/O designation and/or street address, 2) apartment/log number (optional), and 3) city/state/zip.

NYS OTDA recommends the use of a consistent description for the three address lines in Item 3n and Item 3q.

Comment 11, Instructions for Fields of the National Medical Support Notice – Part A, Page 6, Item 4, The Types of Coverage Ordered

In Item 4, the provided link to ERISA §609(a)(3)(B) is to the published final regulation revising the minimum requirements for benefit claims procedures of employee benefit plans covered by Title I of ERISA, and this regulation does not include any references to paragraphs (3) of section 609(a). NYS OTDA recommends the link be updated to access the noted citation.

See also related Comment 5 and Comment 9, which concern links to ERISA associated with the same publication in the *Federal Register*, rather than to the text of the statute and its specific provisions.

Comment 12, Instructions for Fields of the National Medical Support Notice – Part A, Page 7, Limitations on Withholding, Item 5b, Allowable Insurance Premium Amount, First Paragraph

The first paragraph of Item 5b indicates that if there is no court-ordered limit, the Issuing Agency inserts “not applicable” or “n/a.” NYS OTDA recommends that the instruction be modified to also permit the Issuing Agency to leave the line associated with number 3 blank (no insertion required).

Comment 13, Instructions for Fields of the National Medical Support Notice – Part A, Page 9, Additional Information for Termination Order/Notice (Filled Out by Issuing Agency), Item 6c, Children for Whom the Order/Notice is Terminated

NYS OTDA recommends the field name “Child(ren) for whom the order/notice is terminated” be changed to “Name of the Child(ren) for whom the order/notice is terminated” for purposes of accuracy.

Comment 14, Instructions for Fields of the National Medical Support Notice – Part A, Page 9, Additional Information for Termination Order/Notice (Filled Out by Issuing Agency), Item 6d

NYS OTDA recommends the field name “DOB” be added prior to the Item 6d instruction to enter the day, month, and four-digit year.

Comment 15, Instructions for Fields of the National Medical Support Notice – Part A, Page 11, Item 8h, Plan Administrator/Union Name

For purposes of accuracy, NYS OTDA recommends the Item 8h field name be changed from “Plan Administrator/Union Name” to “Plan Administrator Company/Union Name.”

Comment 16, Instructions for Fields of the National Medical Support Notice – Part A, Page 11, Item 8i, Plan Administrator/Union Contact Name

For purposes of accuracy, NYS OTDA recommends the Item 8i field name be changed from “Plan Administrator/Union Contact Name” to “Contact Name.”

Recommended Technical Corrections: NMSN – Part A

Comment 17, Page 1, Child(ren)’s Information

The input lines under the following fields are missing from the first row of the Child(ren)’s information section: *Child(ren)’s Names(s)*, *Gender*, and *DOB*. NYS OTDA recommends the insertion of these input lines.

Comment 18, Page 2, Limitations on Withholding, Item 3

Item 3 in the *Limitations on Withholding* section references the “child supportorder.” NYS OTDA recommends the inclusion of a space between “support” and “order” to replace “child supportorder” with “child support order.”

Comment 19, Page 4, Notice and General Instructions to Employer

The second paragraph of the *Notice and General Instructions to Employer* section references the NMSN – Part B form. NYS OTDA recommends the proper title of the form be used; that is “Medical Support Notice **to Plan** Administrator.”

Comment 20, Page 4, Employer Responsibilities, Item 1a

Item 1a of the *Employer Responsibilities* section references the NMSN – Part B form. NYS OTDA recommends the proper title of the form be used; that is “Medical Support Notice **to Plan** Administrator.”

Comment 21, Page 4, Employer Responsibilities, Item 1b

Paragraph 2) of Item 1b of the *Employer Responsibilities* section directs the employer to complete Section 1, item 4 of the Employer Response to notify the Issuing Agency that enrollment cannot be completed because of prioritization or limitations on withholding. However, Item 4 relates to the situation where the employee is no longer employed. NYS OTDA recommends “Item **4**” be changed to “Item **5**,” which concerns withholding limitations and/or prioritization.

Comment 22, Page 4, Employer Responsibilities, Item 1c

Item 1c of the *Employer Responsibilities* section references the NMSN – Part B form. NYS OTDA recommends the proper title of the form be used; that is “Medical Support Notice **to Plan** Administrator.”

Comment 23, Page 5, Notice of Termination of Employment

The second sentence of the *Notice of Termination of Employment* section indicates that the employer may provide notice of the employee’s termination by sending the Issuing Agency a copy of the NMSN – Part A with Section 1, item 5, of the Employer Response checked. However, Item 5 relates to state or federal withholding limitations and/or prioritization. NYS OTDA recommends “Item **5**” be changed to “Item **4**,” which concerns situations where the employer is no longer employed.

Recommended Technical Corrections: Sample Form - NMSN – Part A

Comment 24, Page 1, Title of Sample Form

For purposes of consistency with the actual form, NYS OTDA recommends that the second line of the title of the sample form be changed from “National Medical Support Notice – Part A Notice to” to “National Medical Support Notice – Part A.” The third line of the title of the sample form would then be “Notice to Withhold for Health Care Coverage.”

Comment 25, Page 1, Child(ren)’s Information

The sample form includes input lines for four children in the Child(ren)’s information section, while the actual form includes input lines for six children. For purposes of consistency with the actual form, NYS OTDA recommends the insertion of two additional input lines on the sample form.

Comment 26, Page 2, Limitations on Withholding, Item 3

Item 3 in the *Limitations on Withholding* section of the sample form references the “child supportorder.” NYS OTDA recommends the inclusion of a space between “support” and “order” to replace “child supportorder” with “child support order.”

Comment 27, Page 4, Notice and General Instructions to Employer

The second paragraph of the *Notice and General Instructions to Employer* section on the sample form references the NMSN – Part B. NYS OTDA recommends the proper title of the NMSN – Part B form be used; that is “Medical Support Notice **to Plan** Administrator.”

Comment 28, Page 4, Employer Responsibilities, Item 1a

Item 1a of the *Employer Responsibilities* section of the sample form references the NMSN – Part B. NYS OTDA recommends the proper title of the NMSN – Part B form be used; that is “Medical Support Notice **to Plan** Administrator.”

Comment 29, Page 4, Employer Responsibilities, Item 1b

Paragraph 2) of Item 1b of the *Employer Responsibilities* section of the sample form directs the employer to complete Section 1, item 4 of the Employer Response to notify the Issuing Agency that enrollment cannot be completed because of prioritization or limitations on withholding. However, Item 4 relates to the situation where the employee is no longer employed. NYS OTDA recommends “Item **4**” be changed to “Item **5**,” which concerns withholding limitations and/or prioritization.

Comment 30, Page 4, Employer Responsibilities, Item 1c

Item 1c of the *Employer Responsibilities* section of the sample form references the NMSN – Part B. NYS OTDA recommends the proper title of the NMSN – Part B form be used; that is “Medical Support Notice **to Plan** Administrator.”

Comment 31, Page 5, Notice of Termination of Employment

The second sentence of the *Notice of Termination of Employment* section of the sample form indicates that the employer may provide notice of the employee’s termination by sending the Issuing Agency a copy of the NMSN – Part A with Section 1, item 5, of the Employer Response checked. However, Item 5 relates to state or federal withholding limitations and/or prioritization. NYS OTDA recommends “Item **5**” be changed to “Item **4**,” which concerns situations where the employer is no longer employed.

Recommended Technical Corrections: Supplemental Instructions for Employers, Employer Partners, and Child Support Agencies

Comment 32, Page 1, General Information, Item 5

The second bullet of Item 5 in the *General Information* section includes a link to the National Medical Support Notice (NMSN) – Part B form. NYS OTDA recommends the proper title of the form be used; that is “Medical Support Notice **to Plan** Administrator.”

Comment 33, Page 2, General Information, Item 8 Legal Authority, Please note:

For purpose of consistency, NYS OTDA recommends the citation provided in the first bullet under “Please note:” in the *General Information* section be changed from “29 CFR 2590.701-2” to “29 CFR §2590.701-2.”

Comment 34, Page 2, Employer Responsibilities, Item 9

The bulleted instruction following the first sentence of Item 9 includes a direction to “Skip to Instruction 8 on page 11.” However, Instruction 8 begins on page 10. Therefore, NYS OTDA recommends “page **11**” be changed to “page **10**.”

Comment 35, Page 2 - 3, Employer Responsibilities, Item 10

The first three bulleted instructions of Item 10 of the *Employer Responsibilities* section reference the NMSN – Part B form. NYS OTDA recommends the proper title of the form be used; that is “Medical Support Notice **to Plan** Administrator.”

In addition, the third bulleted instruction references an incorrect field. NYS OTDA recommends “field **7o**” be changed to “field **7n**.”

Comment 36, Page 3, Employer Responsibilities, Item 11

The second bulleted instruction Item 11 of the *Employer Responsibilities* section indicates that “item 4” in Section 1 of the “Employer Response” be completed to provide notification that enrollment is not possible due to prioritization or limitation. However, Item 4 relates to the situation where the employee is no longer employed. NYS OTDA recommends “Item **4**” be changed to “Item **5**,” which concerns withholding limitations and/or prioritization.

Comment 37, Page 3, Employer Responsibilities, Item 12

Item 12 of the *Employer Responsibilities* section includes two references to the NMSN – Part B form. NYS OTDA recommends the proper title of the form be used; that is “Medical Support Notice **to Plan** Administrator.”

In addition, the final sentence of Item 12 references an incorrect field. NYS OTDA recommends “indicate in field **7m** the date” be replaced with “complete Item 9, field **7n**, to indicate the date.”

Comment 38, Page 3, Employer Responsibilities, Item 13

In Item 13 of the *Employer Responsibilities* section, NYS OTDA recommends “Qualified Medical Child Support Order (QMCSO)” be replaced with “QMCSO” since this term was defined with its first occurrence.

Comment 39, Page 3, Footer

NYS OTDA recommends the formatting of the Page 3 footer be modified to increase the space between the last line of text on the page and the footer.

Comment 40, Page 4, Employer Responsibilities, Item 16, Notice of Termination of Employment

The second sentence of Item 16 of the *Employer Responsibilities* section directs the employer to check Item 5 in Section 1 of the “Employer Response” and complete fields 7f through 7i in any case in which the employee’s employment terminates. However, Item 5 relates to state or federal withholding limitations and/or prioritization. NYS OTDA recommends “Item **5**” be changed to “Item **4**” and “fields **7f** thorough **7i**” be changed to “fields **7e** through **7h**” to reference situations where the employer is no longer employed.

Comment 41, Page 5, Instructions for Fields of the National Medical Support Notice – Part A, First Paragraph

The first paragraph of the *Instructions for Fields of the National Medical Support Notice – Part A* directs the reader to the accompanying document, “Sample Form: NMSN-Part A.” The title of the associated document, however, is titled “Sample Form, National Medical Support Notice – Part A, Notice to Withhold for Health Care Coverage.” For purposes of accuracy and consistency, NYS OTDA recommends directing the reader to “Sample Form: NMSN – Part A, Notice to Withhold for Health Care Coverage (Sample Form).”

Comment 42, Page 5, Instructions for Fields of the National Medical Support Notice – Part A, Item 2b, Issuing Agency

NYS OTDA recommends the citation at the end of the first sentence of Item 2b be changed from “29 CFR 2590.609 2(e)” to “29 CFR §2590.609-2(e).”

NYS OTDA further recommends the citation at the end of the second sentence of Item 2b be changed from “20 CFR §2590.609-2(b)” to “29 CFR §2590.609-2(b).”

Comment 43, Page 5, Instructions for Fields of the National Medical Support Notice – Part A, Item 2h, Court or Administrative Authority

NYS OTDA recommends the citation “20 CFR §2590.609-2(b)” at the end of Item 2h be changed to “29 CFR §2590.609-2(b).”

Comment 44, Page 5, Instructions for Fields of the National Medical Support Notice – Part A, Item 2i, Order Date

NYS OTDA recommends the citation “20 CFR §2590.609-2(b)” at the end of Item 2i be changed to “29 CFR §2590.609-2(b).”

Comment 45, Page 6, Instructions for Fields of the National Medical Support Notice – Part A, Item 3h, Child(ren)’s Name(s)

The second sentence of Item 3h indicates that there are six lines available in the Child(ren)’s information section, but the sample form provides only four lines. NYS OTDA recommends the instruction on the sample form be changed to reference the same number of lines.

In addition, NYS OTDA recommends the citation “20 CFR §2590.609-2(b)” at the end of Item 3h be changed to “29 CFR §2590.609-2(b).”

Comment 46, Page 6, Instructions for Fields of the National Medical Support Notice – Part A, Item 3l, Employee’s Name (Last, First, MI)

NYS OTDA recommends the citation “20 CFR §2590.609-2(b)” at the end of item 3l be changed to “29 CFR §2590.609-2(b).”

Comment 47, Page 6, Instructions for Fields of the National Medical Support Notice – Part A, Item 3n, Employee’s Mailing Address

NYS OTDA recommends the citation “20 CFR §2590.609-2(b)” at the end of Item 3n be changed to “29 CFR §2590.609-2(b).”

Comment 48, Page 6, Instructions for Fields of the National Medical Support Notice – Part A, Item 4, The Types of Coverage Ordered

NYS OTDA recommends the title of this line be changed from “The Types of Coverage Ordered” to “Types of Coverage Ordered.”

Comment 49, Page 7, Instructions for Fields of the National Medical Support Notice – Part A, Item 4, The Types of Coverage Ordered

NYS OTDA recommends the citation “29 CFR 2590.609 2(c)(3)” at the end of Item 4 be changed to “29 CFR §2590.609-2(c)(3).”

Comment 50, Page 9, Instructions for Fields of the National Medical Support Notice – Part A, Priority of Withholding, Second Paragraph

The second paragraph of the *Priority of Withholding* section directs the employer to complete Section 1, Item 4 of the “Employer Response” to notify the Issuing Agency that enrollment cannot be completed

because of prioritization or limitations on withholdings. However, Item 4 relates to the situation where the employee is no longer employed. NYS OTDA recommends “Item 4” be changed to “Item 5,” which concerns withholding limitations and/or prioritization.

Comment 51, Page 9, Instructions for Fields of the National Medical Support Notice – Part A, Additional Information for Termination Order/Notice (Filled Out by Issuing Agency), Item 6c, Children for Whom the Order/Notice is Terminated

The second sentence of Item 6c indicates there are six lines available, but the sample form provides only four lines. NYS OTDA recommends the instruction on the form be changed to reference the same number of lines.

Comment 52, Page 9, Instructions for Fields of the National Medical Support Notice – Part A, Employer Response, Section 1 – No Enrollment Possible, First Paragraph

The first sentence of the first paragraph of Section 1 of the Employer Response provides that “options 1-6 are allowable ALLOWABLE REASONS why the employer could not enroll the child(ren) in health care coverage.” NYS OTDA recommends the removal of one “allowable” from this sentence.

Comment 53, Page 10, Instructions for Fields of the National Medical Support Notice – Part A, Employer Response, Section 3 – Dependent Coverage Available, Item 7n

Item 7n references the NMSN – Part B form. NYS OTDA recommends the proper title of the form be used; that is “Medical Support Notice **to Plan Administrator**.”

Comment 54, Page 10, Instructions for Fields of the National Medical Support Notice – Part A, Footer

NYS OTDA recommends the formatting of the footer be modified to increase the space between the last line of text on the page and the footer

Comment 55, Page 11, Instructions for Fields of the National Medical Support Notice – Part A, Item 8i, Plan Administrator/Union Contact Name

NYS OTDA recommends the insertion of a period at the end of the sentence in Item 8i.

Thank you for the opportunity to comment.

Very Truly Yours,

A handwritten signature in black ink that reads "Eileen M. Stack". The signature is written in a cursive style with a large, stylized 'E' and 'S'.

Eileen M. Stack
Deputy Commissioner
Child Support Services
Office of Temporary and Disability Assistance