

# Insurance May Cover Medical Expenses in Adoption Cases

**Q: We are planning to adopt a child. Might the baby's or birth mother's prenatal or hospital expenses be covered by insurance?**

**A:** Possibly. You should consider the following sources in determining whether or not the baby and/or birth mother will be covered by some form of insurance, including:

- the birth mother's insurance if she is employed;
- the birth mother's parents' insurance if the birth mother is a minor or a student;
- the birth mother's Aid to Dependent Children (ADC) coverage, if the birth mother is indigent;
- the child's ADC coverage, if applicable (if the child is the ward of an agency and adoption is "targeted");
- the birth mother's Healthy Start coverage, if the birth mother's income is low;
- your own health insurance, if your employer is covered by the Section 609 of the Employee Retirement Income Security Act (ERISA);
- your employer's benefit programs, if they have adoption benefits;
- your 401K plan.

**Q: We think our insurance policy covers adopted children, but what about coverage for medical expenses before the adoption is finalized?**

**A:** Most insurance policies provide coverage that goes into effect as of the date of the child's legal placement with the adoptive parents. However, you should ask your insurance company whether coverage begins at birth or at placement. Insurance coverage for adopted children should cover all pre-existing conditions as of the date of legal placement. You should obtain verification of coverage in writing.

**Q: I understand the birth parent may be covered by Medicaid. Is that possible?**

**A:** Yes. However, in some cases, the Department of Job and Family Services has denied or refused to cover expenses for a child placed for adoption. Also, hospitals and some doctors have, in some cases, declined to accept Medicaid payment for adoption expenses. The theory behind these denials is that it is unfair to obligate Ohio taxpayers to pay for medical expenses associated with adoption. The reality, however, is that the hospital only gets paid at Medicaid rates.

**Q: How does coverage under ERISA work?**

**A:** Any group health insurance plan that provides coverage for the dependent children of plan participants must also provide benefits to adopted children under the same terms and conditions that would apply to biological children. Coverage begins at the time of placement, which is defined as the time the prospective adoptive parents become financially responsible for the child. According to Ohio law, financial responsibility may begin at birth if an agreement to adopt the child exists. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) amended ERISA so that coverage no longer excludes government employees, but is now available to all adoptive families covered by group health plans as soon as those families assume financial responsibility for their adopted children. Group plans also must give employees the option of enrolling adopted children in

the plans immediately, instead of waiting for an open enrollment period.

**Q: Might the birth parent be stuck with medical costs even though the baby is being placed for adoption?**

**A:** On rare occasions, such as when an adoption opportunity comes up suddenly or unexpectedly, adoptive parents may receive a child before they have arranged for coverage of medical or legal costs by signing a fee agreement or posting a retainer (deposit) with their attorney. If, after receiving the child, the adoptive couple fails to pay these costs, creditors may begin trying to collect from the birth mother. If such a situation occurs, the birth parent's attorney may advise her to consider other options, such as keeping the child or looking for another couple, if things cannot be worked out with the adoptive couple. Most probate courts will require the adoptive parents to pay for and be responsible for all of the adoptive child's medical bills as well as those of the birth mother out of their own pockets because the birth mother is not a dependent of the adoptive parents and would not, therefore, be covered by their insurance.

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*Law You Can Use is a weekly consumer legal information column provided by the Ohio State Bar Association. This article was prepared by Columbus attorney Thomas Taneff, who concentrates on probate and adoption law and has served on the Ohio Adoption Commission.*

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