

2. Dependent Child Covered Under More Than One Plan

Unless there is a court decree stating otherwise, plans covering a dependent child shall determine the order of benefits as follows:

a. For a dependent child whose parents are married or are living together, whether or not they have been married:

- (1) The plan of the parent whose birthday falls earlier in the calendar year is the primary plan; or
- (2) If both parents have the same birthday, the plan that has covered the parent the longest is the primary plan.

b. For a dependent child whose parents are divorced or separated or are not living together, whether or not they have ever been married:

(1) If the court decree states that one of the parents is responsible for the dependent child's health care expenses or health care coverage, and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with financial responsibility has no health care coverage for the dependent child's health care, but that parent's spouse does, the spouse's plan is primary. This item shall not apply with respect to a plan year during which benefits are paid or provided before the entity has actual knowledge of the court decree provision;

(2) If the court decree states that both parents are responsible for the dependent child's health care expenses or health care coverage, the provisions of Section 6.D.2.a. shall determine the order of benefits.

(3) If the divorce decree states that the parents have joint custody without specifying that one parent has responsibility for the health care expenses or health care coverage of the dependent child, the provisions of Section 6.D.2.a. shall determine the order of benefits; or

(4) If there is no court decree allocating responsibility for the child's health care expenses or health care coverage, the order of benefits for the child are as follows:

- (a) The plan of the custodial parent;
- (b) The plan of the spouse of the custodial parent;
- (c) The plan of the noncustodial parent; and then
- (d) The plan of the spouse of the noncustodial parent.

c. For a dependent child covered under more than one plan of individuals who are not parents of the child, the order of benefits shall be determined, as applicable, under Section 6.D.2.a. or b. as if those individuals were the parents of the child.

d. For a dependent child who has coverage under either or both parents' plans and also has his or her own coverage as a dependent under a spouse's plan, the rule in Section 6.D.5. applies.