


DEPARTMENT OF HUMAN RESOURCES
SOCIAL SERVICES ADMINISTRATION
311 WEST SARATOGA STREET
BALTIMORE, MARYLAND 21201

DATE: August 15, 2011

Policy Directive # SSA #12-1

TO: Directors, Local Departments of Social Services
Assistant Directors of Social Services
Local Department of Social Services

FROM: 
Carnitra White, Executive Director
Social Services Administration

RE: Foster Care Liability Insurance (This Policy Directive
replaces and supersedes Circular Letter SSA #90-10)

PROGRAMS AFFECTED: Out-of-Home Placement Services (Foster Care Services)

ORIGINATING OFFICE: Resource Development Placement and Support Services

ACTION REQUIRED OF: Out-of-Home Placement Services (Foster Care Services)

REQUIRED ACTION: The local department of social services will implement
procedures when responding to requests for
reimbursement due to bodily injury or property damage
caused by an act of a foster child.

ACTION DUE DATE: Immediately

CONTACT PERSON: Anita Wilkins, Program Manager
Resource Development, Placement and
Support Services
410 767-7119

I. PURPOSE

This policy directive is intended to provide guidelines and clarity regarding the liability insurance coverage provided to foster parents, describe the provisions of the policy, and explain the process of initiating and processing liability claims. This revised policy directive takes precedence over the previous circular letter dated April 6, 1990. This revised policy reintroduces foster care liability insurance and includes additions to the previous policy.

II. BACKGROUND

Family Law §5—529 and COMAR 07.02.11.37 requires that the Social Services Administration (SSA) provide liability insurance to foster parents who care for children under the direct supervision of the local departments. According to Family Law §5—529, the liability insurance shall provide coverage for:

1. Bodily injury and property damage that a foster child causes to a person or property of a person other than the foster parent; and
2. Actions against the foster parents by the natural parents for any accident to the foster child.

COMAR 07.02.11.37 (A) sets forth that:

- (1) The Department shall, under certain conditions, provide liability insurance premiums from State funds, for foster parents who care for children under the direct supervision of the local departments or under the direct supervision of licensed private child placement agencies....
- (2) Excluded from coverage are claims for:
 - (a) Alienation of affections;
 - (b) Accidents involving vehicles which are licensed or intended for road use; and
 - (c) Payment to the foster parents for injury or damage caused by the foster child to the foster parent which is otherwise covered by insurance.

Family Law §5-529 and COMAR 07.02.11.32 (B) state in pertinent part that:

- (1) The Secretary of Human Resources shall reimburse a foster parent for costs of bodily injury or property damage that the child causes to the foster parent.
- (2) Excluded from reimbursement to the foster parent are claims in which:
 - (a) The actions of the foster parent contributed substantially to the bodily injury or property damage sustained; or
 - (b) If available, the foster parent's insurance covers the bodily injury or property damage sustained.

Note

The above is not a complete summary of coverage or exclusions. Only close examination of the policy itself can determine whether a particular claim is, or is not covered.

The Insurance Division of the State Treasurer's Office has stated that our current policy covers damages done to the property of all foster parents. Please be advised that claims filed on behalf of treatment or private agency foster parents will be subject to expectations around supervision that exceed routine foster parent claim requirements because treatment foster parents are expected to provide a higher level of care and supervision to the children placed in their homes.

Nothing in this policy directive creates any rights or obligations beyond those established by statute or regulation. When in doubt, foster parents may file a claim. DHR/SSA and/or the insurance carrier will determine if the claim is covered by the policy.

The State's insurance carrier has the right and duty to defend any lawsuits seeking damages and has the authority to investigate and settle any claim or lawsuit against a foster parent.

III. PROCESS FOR FOSTER CARE LIABILITY INSURANCE CLAIMS AND REIMBURSEMENT

1. The foster parent should immediately report the incident to their LDSS caseworker and their insurance company (It is essential that reporting of claims be filed promptly as the insurance company may deny claims that did not occur or were not reported within one year of the date of the incident).
2. The caseworker shall investigate the claim by interviewing the claimant (who may be a foster parent or a third party), interviewing the child to determine if the child caused the damage, and inspecting and recording the alleged damage in order to complete the Foster Care Liability Insurance Program Report.
3. The caseworker shall send the report to the SSA Insurance Coordinator **within 30 days** of the incident. The report must include the following;
 - An original Foster Care Liability Insurance Program Report (DHR/SSA 875);
 - A written explanation of the circumstances leading to the damages as explained in the caseworker or claimant's statement;
 - A statement from the foster child when possible;
 - An original estimate of the damages written on a vendor's stationary or invoice;
 - All receipts for damaged or stolen goods;
 - A police incident report if theft has occurred;
 - A fire department report if a fire has occurred; and
 - The claimant's insurance company's disposition of the claim.
4. The SSA Coordinator shall review the material for appropriateness and completeness.
5. If, upon review, SSA determines that the claim as submitted is coverable and totals less than \$1,000, a Release Form shall be prepared by SSA and forwarded to the ldss caseworker to be signed and notarized by the claimant.

6. The executed Release Form Report (DHR/SSA 875) is returned to SSA where it will be combined with the supporting documentation and submitted to DHR's Budget Division for payment processing. The claimant should receive payment in the form of a check within six to eight weeks of SSA's Insurance Coordinator receiving the notarized Release Form.
7. If the claim exceeds \$1,000, the SSA Insurance Coordinator shall prepare a cover memo and a copy of all documents shall be sent to the State Treasurer's Office.
8. The State Treasurer's Office submits the documents to the State's insurance carrier who will assign an adjuster to investigate the claim. The adjuster's report is submitted to the insurance carrier to assess the claim's validity.
9. If the claim is covered, the insurance company issues a check to the claimant.
10. If a claim is not covered, the claimant and the State Treasurer's Office are notified by the insurance carrier.

Foster Care Liability Program Report

County: _____ DSS

Date: _____

Caseworker: _____

Telephone: _____

Foster Parent Information: Name: Address: Telephone #:	Third Party Information: Name: Address: Telephone #:
Foster Child: Case #:	Date of Birth:

Give an estimate of the amount of bodily injury and/or property damage involved in the incident. Attach written estimates if available at time of the report. If not, forward the estimates when available.

Date of Incident: _____

Bodily Injury involved : YES _____ NO _____

Property Damage: \$0-\$500 _____ \$500-\$1,000 _____ Over \$1,000 _____

Describe the incident for which reimbursement is being sought. Use additional space if necessary.

List in detail the extent of the injuries and/or damages done by the foster child:	
Was the Police or Fire Department called as a result of this incident: _____ YES _____ NO <i>If so, attach a copy of the report.</i>	
Does the Foster Parent have insurance that may cover this loss: YES _____ NO _____	
Company:	Policy Number:
If Yes, has a claim been filed via the claimant's policy to cover the loss from this incident? YES _____ NO _____ <i>Attach the Insurer's response</i>	
If their insurance did not cover this incident, please explain why:	

DHR/SSA 875 (06/11) previous editions are obsolete