

RESOLUTION 07-06-2017

DIGEST

Foster Children: Address Difficulty in Obtaining Automobile Insurance

Amends Welfare and Institutions Code section 11460 to clarify the responsibility of the Department of Social Services to provide accessible means of obtaining car insurance for foster care children.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Welfare and Institutions Code section 11460 to clarify the responsibility of the Department of Social Services to provide accessible means of obtaining car insurance for foster care children. This resolution should be approved in principle because it would assist foster children in obtaining a driver’s license.

The ability of foster children to obtain a driver’s license and auto insurance is vital to their independence and, in some cases, the child’s ability to earn valuable work experience and income. Foster parents are reimbursed for many of their foster children’s expenses but costs for insurance coverage are not included, and therefore are often not provided for the child. A child cannot get a driver’s license if they are not insured to drive at least one vehicle. To the extent that this resolution would help foster children obtain a license and insurance, this resolution is helpful and it does not appear to require a foster parent to pay these costs.

This resolution may, however, require a foster parent to assume some liability for damages caused by the foster child in excess of the insurance coverage, which the foster parent may still be unwilling to do. So, while this resolution offers an opportunity for foster parents to cover these costs for the foster child, the risks for the foster parent may still be prohibitive.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Welfare and Institutions code section 11460 to read as follows:

- 1 § 11460
- 2 (a) (1) Foster care providers shall be paid a per child per month rate in return for the care
- 3 and supervision of the AFDC-FC child placed with them. The department is designated the
- 4 single organizational unit whose duty it shall be to administer a state system for establishing
- 5 rates in the AFDC-FC program. State functions shall be performed by the department or by
- 6 delegation of the department to county welfare departments or Indian tribes, consortia of tribes,
- 7 or tribal organizations that have entered into an agreement pursuant to Section 10553.1.

8 (2) (A) Foster care providers that care for a child in a home-based setting described in
9 paragraph (1) of subdivision (g) of Section 11461, or in a certified home or an approved resource
10 family of a foster family agency, shall be paid the per child per month rate as set forth in
11 subdivision (g) of Section 11461.

12 (B) The basic rate paid to either a certified family home or an approved resource family
13 of a foster family agency shall be paid by the agency to the certified family home or approved
14 resource family from the rate that is paid to the agency pursuant to Section 11463.

15 (b) "Care and supervision" includes food, clothing, shelter, daily supervision, school
16 supplies, a child's personal incidentals, liability insurance, including liability insurance with
17 respect to a child, automobile insurance for a child who is licensed to drive by the Department of
18 Motor Vehicles, either by addition of the child as an insured to an existing policy or by a policy
19 in the child's name only, with respect to a child, reasonable travel to the child's home for
20 visitation, and reasonable travel or the child to remain in the school in which he or she is enrolled
21 at the time of placement. Reimbursement for the costs of educational travel, as provided for in
22 this subdivision, shall be made pursuant to procedures determined by the department, in
23 consultation with representatives of county welfare and probation directors, and additional
24 stakeholders, as appropriate.

25 (1) For a child or youth placed in a short-term residential therapeutic program or a group
26 home, care and supervision shall also include reasonable administration and operational activities
27 necessary to provide the items listed in this subdivision.

28 (2) For a child or youth placed in a short-term residential therapeutic program or a group
29 home, care and supervision may also include reasonable activities performed by social workers
30 employed by the program provider that are not otherwise considered daily supervision or
31 administration activities.

32 (3) The department, in consultation with the California State Foster Parent Association,
33 and other interested stakeholders, shall provide information to the Legislature, no later than
34 January 1, 2017, regarding the availability and cost for liability and property insurance covering
35 acts committed by children in care, and shall make recommendations for any needed program
36 development in this area.

37 (c) It is the intent of the Legislature to establish the maximum level of financial
38 participation in out-of-state foster care group home program rates for placements in facilities
39 described in subdivision (h) of Section 11402.

40 (1) The department shall develop regulations that establish the method for determining
41 the level of financial participation in the rate paid for out-of-state placements in facilities
42 described in subdivision (h) of Section 11402. The department shall consider all of the following
43 methods:

44 (A) Until December 31, 2016, a standardized system based on the rate classification level
45 of care and services per child per month.

46 (B) The rate developed for a short-term residential therapeutic program pursuant to
47 Section 11462.

48 (C) A system that considers the actual allowable and reasonable costs of care and
49 supervision incurred by the out-of-state program.

50 (D) A system that considers the rate established by the host state.

51 (E) Any other appropriate methods as determined by the department.

52 (2) Reimbursement for the Aid to Families with Dependent Children-Foster Care rate to
53 be paid to an out-of-state program described in subdivision (h) of Section 11402 shall only be
54 paid to programs that have done all of the following:

55 (A) Submitted a rate application to the department, which shall include, but not be limited
56 to, both of the following:

57 (i) Commencing January 1, 2017, unless granted an extension from the department
58 pursuant to subdivision (d) of Section 11462.04, the equivalent of the mental health program
59 approval required in Section 4096.5.

60 (ii) Commencing January 1, 2017, unless granted an extension from the department
61 pursuant to subdivision (d) of Section 11462.04, the national accreditation required in paragraph
62 (6) of subdivision (b) of Section 11462.

63 (B) Maintained a level of financial participation that shall not exceed any of the
64 following:

65 (i) The current fiscal year's standard rate for rate classification level 14 for a group home.

66 (ii) Commencing January 1, 2017, the current fiscal year's rate for a short-term
67 residential therapeutic program.

68 (iii) The rate determined by the ratesetting authority of the state in which the facility is
69 located.

70 (C) Agreed to comply with information requests, and program and fiscal audits as
71 determined necessary by the department.

72 (3) Except as specifically provided for in statute, reimbursement for an AFDC-FC rate
73 shall only be paid to a group home or short-term residential therapeutic program organized and
74 operated on a nonprofit basis.

75 (d) A foster care provider that accepts payments, following the effective date of this
76 section, based on a rate established under this section, shall not receive rate increases or
77 retroactive payments as the result of litigation challenging rates established prior to the effective
78 date of this section. This shall apply regardless of whether a provider is a party to the litigation or
79 a member of a class covered by the litigation.

80 (e) Nothing shall preclude a county from using a portion of its county funds to increase
81 rates paid to family homes, foster family agencies, group homes, and short-term residential
82 therapeutic programs within that county, and to make payments for specialized care increments,
83 clothing allowances, or infant supplements to homes within that county, solely at that county's
84 expense.

85 (f) Nothing shall preclude a county from providing a supplemental rate to serve
86 commercially sexually exploited foster children to provide for the additional care and
87 supervision needs of these children. To the extent that federal financial participation is available,
88 it is the intent of the Legislature that the federal funding shall be utilized.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: San Diego County Bar Association

STATEMENT OF REASONS

The Problem: Currently, foster children under the age of 18, especially those in group homes rather than in the care of a foster parent, face an impediment in receiving vehicle insurance and a driver's license. To obtain a driver's license, a foster child must have a foster parent or guardian verify that they will provide insurance payment and/or include the child under their insurance plan. The Department of Social Services (DSS) does not cover the cost of a foster teen's vehicle and registration, and few guardians are willing to take on the expenses. This hampers the ability of foster children to successfully obtain a driver's license along with non-foster children, limiting their access to an opportunity that is more readily available to teenagers not in foster care.

Some guardians simply cannot afford to cover the cost of automobile insurance, and some foster children reside in group homes through which they are unable to find a guardian to take on such a responsibility. Thus, a significantly lower percentage of children in foster care (as compared to children not in foster care) are able to obtain a driver's license while still a minor, preventing them from accessing certain career and/or educational opportunities.

The Solution: This resolution would require the Department of Social Services to finance automobile insurance for foster kids under Welfare and Institutions Code section 11460, which provides that "foster care providers shall be paid a per child per month rate in return for the care and supervision of [each foster child] placed with them" and would expand the current definition of "care and supervision." Specifically, the portion of the definition of "care and supervision" that includes "liability insurance with respect to a child" would be expanded to include automobile insurance with respect to the child. This would allow reimbursement to foster parents or direct payment of car insurance for the foster child by the DSS.

Foster children would be able to help the DSS cover the cost of their automobile insurance by applying for the California Chafee Grant for Foster Youth, which would contribute a sum of up to 5,000 dollars per year to individuals who are currently in (or previously were) in foster care. The grant is sponsored by the California Student Aid Commission, and states that a foster youth "may also be able to use [his/her] grant to help pay for child care, transportation and rent while [he/she is] in school." To avoid delegating financial responsibility solely to the Department of Social Services, foster children could apply to have the Chafee Grant help cover the cost of their automobile insurance.

This resolution would give foster children an equal opportunity to obtain a driver's license without financially burdening a guardian to pay for insurance, thus increasing the amount of foster kids with driver's licenses and transportation opportunities for jobs or other educational goals that necessitate driving.

IMPACT STATEMENT

The resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION

None known.

AUTHOR AND/OR PERMANENT CONTACT: Karen R. Frostrom, 2550 Fifth Ave, San Diego, CA 92103; (619) 236-9363, e-mail FROSTROM@tbmlawyers.com

RESPONSIBLE FLOOR DELEGATE: Karen R. Frostrom