

DATE: September 1, 2023

TO: Members of the General Assembly

FROM: Tania Culley, Esquire
Child Advocate

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Insurance Commissioner

SUBJECT: Annual Progress Report – Driver’s License and Insurance for Youth who have Experienced Foster Care

As required by 29 Del. C. § 9011A, passed as Senate Substitute 1 for Senate Bill 151 by the 151st General Assembly and signed into law on October 10, 2022, this is the joint report of the Office of the Child Advocate (OCA) and the Office of the Insurance Commissioner on progress made toward providing driver’s licenses and motor vehicle insurance to youth and young adults who experienced foster care under the Driver’s License and Insurance (DLI) Program.

Following the signing of SS 1 for SB 151 and OCA’s hiring of the Director of Services for Youth Advancement in January 2023, OCA convened a workgroup through the Child Protection Accountability Commission (CPAC) to begin development of the DLI Program, with the goal of identifying and removing barriers that minors and young adults who have experienced foster care face when obtaining a license and motor vehicle insurance in Delaware. Participants in the workgroup include representatives from OCA, the Department of Insurance, the Division of Family Services, the Division of Motor Vehicles, the Department of Education, the Department of Justice, Family Court, private agencies that provide foster care and independent living (IL) services to this population, insurance companies, and attorneys who represent the interests of insurance companies and parties to civil personal injury litigation.

In addition to the workgroup, two subgroups were convened to focus on specific issue areas. The Driver’s License Subgroup was charged with establishing processes and procedures for minors and young adults who have experienced foster care to obtain a learner’s permit or driver’s license. The Insurance Subgroup was charged with evaluating and developing options for motor vehicle insurance for this population.

On April 1, 2023, the DLI Program application opened. Two youth applied the first day. To date, 67 youth have applied to the program. The number of youth who have applied to the program shows the interest and need for the DLI services. Prior to implementation of the program, OCA staff provided outreach and education about the program to DFS workers, independent living services providers, and youth involved with Delaware’s foster youth advisory council.

Youth who are in DSCYF Custody as well as those who have exited under a variety of circumstances are eligible for the program. The DLI Program provides support not only to the youth, but also the youth’s team, including the foster family where applicable. Supports include

coordination of enrollment in driver education in school, referrals and payment for alternative driver education classes, and funding for driving practice through driving schools. In addition, in partnership with the Division of Motor Vehicles, the DLI program provides a waiver letter, which establishes a youth's right to have fees waived when applying for a license and functions as one of the two required address verification documents. For minors, the program reimburses foster parents the cost to add a youth as a driver to the foster parent's auto insurance policy, including any increases in premium should the youth cause an accident. For young adults who own a car and have an auto insurance policy, the program reimburses a portion of the premium; the amount the youth is responsible for paying will gradually increase each year that they participate in the program, to prepare them to accept full responsibility for the auto insurance bill once their eligibility for the program ends.

To date, 37 youth have received a waiver letter to take to the DMV. One youth has requested assistance paying for an alternative driver education class in the fall, at a cost of \$570. Multiple youth have expressed interest in a referral to a driving school to practice driving. The average cost for 50 hours of driving for one youth is \$5,200. Currently, 15 young adults are receiving a reimbursement for their personal auto insurance. With the current applicants, in auto insurance costs alone, the DLI Program is already projected to spend \$29,764 by December 2023.

One of the program's goals is to establish partnerships with insurance companies or brokers to help ensure program participants are getting the best possible rate on auto insurance. To the same end, another goal is to develop educational materials to help young adults understand how to shop for insurance. The Department of Insurance's auto insurance guide for the public will provide a good foundation for developing this youth resource.

On a larger scale, it has become apparent that financial readiness and support for youth once they are no longer eligible for the DLI Program is an area of concern. Once a youth turns 23, assuming the full cost of their auto insurance bill may create a significant financial burden. One potential solution the Office has identified is development of a structured matched-savings program, such as the Opportunity Passport program through the Annie E. Casey Foundation's Jim Casey Youth Opportunities Initiative, which helps young people increase their financial capability and independence. Youth are required to take a money management course that will help develop budgeting skills, and are able to access funds from the account at specific points in time (such as when they turn 23) and for specific asset purchases. To participate in the Opportunity Passport program, Delaware would need to contribute a minimum of \$20,000 to a matched-savings fund. This is an initiative the program will continue to explore as it would constitute a significant support for young adults who have experienced foster care, and specifically those youth who are taking advantage of the DLI program.

Although much progress has been made since the program's implementation in April 2023, the primary barrier that remains is access to auto insurance, particularly for minors. The easiest solution for a minor in DSCYF custody to access auto insurance is to be added as a driver to the foster parent's insurance policy. SS 1 for SB 151 attempted to relieve the biggest concern with this option – liability of the foster parent. The legislation limits a foster parent's liability to the maximum amount available under the foster parent's auto insurance policy, when a foster parent

adds a youth to the policy. Through workgroup discussions, a gap in this liability limitation was identified for youth in the first 6 months of a graduated driver's license. Those youth do not need to be, and in some cases cannot be, named on an insurance policy during those first 6 months. Therefore, there was a concern that the law as written would not adequately protect foster parents if they allowed a youth to drive the foster parent's car within the requirements of the graduated driver's license. For that reason, the workgroup advocated for an amendment to the law that would also limit a foster parent's liability during those initial 6 months. The result was Senate Substitute 1 for Senate Bill 95, which was swiftly passed by the 152nd General Assembly and signed into law in May of 2023 to close this gap. The workgroup developed fact sheets for both youth and foster parents to help them understand their responsibilities and liability under the new law, and organized a foster parent town hall meeting to educate foster parents and answer any questions.

Despite these measures, and the promise of reimbursement for the cost of adding a youth to a foster parent's insurance, there is still foster parent reluctance to add youth to their policy. To date, only one youth has applied for the program who has a foster parent willing to add them to the foster parent's insurance policy. For those youth who will still be minors after the initial 6 month period of the graduated driver's license, this poses a real dilemma. At that point, a foster parent will have a licensed but uninsured driver living in their home, potentially exposing the foster parent to liability. In these situations, the Division of Family Services will either not sign the youth's license application, or has taken the position that the youth must surrender the youth's license after the initial 6 month period.

Because minors cannot enter into contractual agreements, they are unable to purchase their own insurance policy. The workgroup has discussed implementing legislation allowing minors the limited ability to contract for auto insurance, as several other states have done. However, even with such a legislative solution, most minors in DSCYF custody still would not be able to purchase insurance because they do not own a car. In Delaware, auto insurance is linked to a vehicle. The workgroup has discussed and explored the possibility of a non-owner policy for these youth, but to date there has been little to no progress finding a product that would provide the minimum coverage and would not be prohibitively expensive. Other solutions being explored include a self-insurance program or commercial insurance policy through the state. Use of state-owned Fleet vehicles is also being discussed. The program's Insurance Subgroup will continue to discuss and explore options to solve this significant challenge.

In short, in a mere 9 months, OCA and its significant agency and community partners have accomplished much and opened the doors to several youth obtaining a driver's license, and to many more young adults getting the financial support they need to obtain and maintain auto insurance on their vehicles. Significant hurdles remain, and the workgroup hopes to propose solutions that will further strengthen the program and overcome barriers. Legislation removing the sunset for this program and recommending other statutory changes, as well as considering increased funding, should be forthcoming in early 2024. The Office of the Child Advocate and the Office of the Insurance Commissioner look forward to their continuing partnership on this most worthwhile and complicated endeavor.