



Department of Human Resources  
311 West Saratoga Street  
Baltimore MD 21201

## FIA ACTION TRANSMITTAL

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**TO: DIRECTORS, LOCAL DEPARTMENTS OF SOCIAL SERVICES  
DEPUTY/ASSISTANT DIRECTORS FOR FAMILY INVESTMENT  
FAMILY INVESTMENT SUPERVISORS**

**FROM: KEVIN MAHON, EXECUTIVE DIRECTOR, FIA**

**RE: WORK ACTIVITY LIABILITY ISSUES**

**PROGRAM AFFECTED: TEMPORARY CASH ASSISTANCE (TCA)**

**ORIGINATING OFFICE: OFFICE OF POLICY AND RESEARCH**

### SUMMARY

The Family Investment Program's primary goal is to assist TCA customers in achieving economic independence through employment. Local Departments have designed many different work activities to accomplish this goal. In any employment or training setting, there is a possibility that an accident will occur. When that happens, the State law provides guidelines for liability and worker compensation to protect the injured individual. This Action Transmittal discusses the State's worker compensation statute and how it is applied to ensure certain basic coverage for customers who are participating in work activities. Additionally, it will define and discuss different areas of liability and explain who is liable under various situations.

### OLD POLICY

Under the former Title IV-F JOBS Program, federal regulation mandated that the JOBS Program participants are covered under workers' compensation. The federal regulation ensured that each customer who was engaged in a JOBS Program activity would receive medical protection under the workers' compensation statute. The Personal Responsibility and Work Opportunity Act of 1996 (PRWORA) repealed the Title IV-F JOBS Program. Consequently, the requirement that work activity participants be covered by workers' compensation no longer exists in the federal law.

## NEW POLICY

Under Maryland's Labor and Employment Article § 9-224(a)(2), individuals that are in work activities are covered under the State Workers' Compensation Statute if they are assigned to a job under "a work experience program that the Department of Human Resources administers as part of its employment initiative project." Legal counsel in the Office of the Attorney General has advised that the TCA Program's work activities are covered by this provision.

Customers participating in TCA work activities are covered under the State Workers' Compensation statute for medical insurance. Any customer who is participating in a vendor sponsored work activity is considered an employee of the State for workers' compensation purposes only. A vendor sponsored work activity is defined as the placement of a customer in a work site for the purpose of receiving job skills training or internship. The State would provide medical insurance coverage in its statutory role as the "employer" of the individual who is participating in the work activity, through the use of the Medical Assistance benefit coverage.

Customers in vendor sponsored activities are receiving their TCA grant and not actual wages. The grant would continue unchanged by any injury. Therefore, the Workers' Compensation rules regarding monetary compensation insurance would not apply.

Maryland's Workers' Compensation statute does not include protection against civil suits (accident insurance). Businesses may be required to carry liability insurance that provides protection to them against civil suits. The liability insurance carried by the vendor who is sponsoring the employment initiative may serve to protect the customer.

Liability coverage would depend upon whether or not the customer's actions were performed under the direction and control of the vendor sponsoring the activity. However, since the vendor's liability insurance is primarily for the protection of the vendor, there is no guarantee that the customer will not be held liable if the injury or damages were due to negligence on the customer's part.

## CASE EXAMPLE:

A customer is placed in a work activity with a local community newspaper company. The vendor is providing an internship that teaches the customer how to operate the printing press. While the customer is performing a print job, the press jams up with paper. The customer attempts to un-jam the machine and accidentally gets her hand caught in the printing press and crushes her fingers.

A. Who is liable for the customer's injuries?

- Whether the customer is negligent or not, the State would cover the customer's medical expenses. Medical Assistance would be responsible for the medical bill.

B. Who is liable for monetary payment to the customer?

- Monetary payment from the State Workers' Compensation insurance would not apply. The customer would continue to receive their Temporary Cash Assistance (TCA) benefit.

C. What is the newspaper company's workers' compensation liability?

- None

**CASE EXAMPLE:**

A customer is engaged in a vendor sponsored work activity (internship) and as a part of his activity he must drive a courier van. The customer has an accident and hits someone's personal vehicle. Both the customer and the passenger in the personal vehicle are injured.

A. Who is liable for the customer's medical bills?

- Whether the customer is negligent or not, the State would cover the customer's medical expenses. Medical Assistance will be responsible for the customer's medical bill.
- If the driver of the personal vehicle is negligent, MA may recover from the driver of the personal vehicle.

B. Who is liable for the damages to the vehicle driven by the customer?

- Whether the customer is negligent or not, it is likely that the vendor's liability insurance will cover the damages.
- However, if the customer is negligent, there is no guarantee that the customer would not also be held liable.
- The State would be immune from civil suit for the negligence of the customer.
- The State could be liable if it could be proven that the Department was negligent in placing the customer with the vendor.

C. Who is liable for the medical bills of the passenger in the personal vehicle?

- Whether the customer is negligent or not, the vendor's liability insurance may apply to the extent that the customer was under the direction and control of the sponsoring vendor.
- However, if it could be proven that the customer is negligent, there is no guarantee that the customer will not be held liable.
- The State would be immune from civil suit as stated in question B.

D. Who is liable for the damages to the personal vehicle?

- Whether the customer is negligent or not, the vendor's liability insurance may apply to the extent that the customer was under the direction and control of the sponsoring vendor.
- If the customer were proven to be negligent he could possible be held liable.
- The State would again be immune from civil suit as stated in questions B and C.

### **ACTION REQUIRED**

Local Departments will use this Action Transmittal in their discussions of liability issues with current and potential work activity and internship vendors.

We are very interested in providing the best guidance and information possible in this expanding area of interest. Please address your questions and concerns on areas not covered here to the person listed below so that we may address them in future revisions of this transmittal.

### **ACTION DUE**

This policy clarification is effective upon receipt.

### **INQUIRIES**

Please direct questions to Patricia Jeffers at (410) 767-7143

cc: FIA Management Staff  
Constituent Services  
Help Desk

DHR Executive Staff  
CTF