



Governor's Advisory Council for Exceptional Citizens (GACEC)
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January 30, 2023

Office of Child Advocate
400 Court Street
Dover, DE 19901

RE: 26 DE Reg. 544 Office of Child Advocate (OCA) Proposed Driver Education, Driver's License and Motor Vehicle Insurance Program for Individuals who have Experienced Foster Care regulation (January 1, 2023)

Greetings:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Office of Child Advocate (OCA) proposal to enact regulations implementing new statutory provisions providing for funding to support youth in foster care who are learning to drive, seeking driver's licenses, or needing car insurance coverage to safely drive. Substitute 1 to Senate Bill No. 151, which passed at the end of the previous legislative session in June 2022 and was signed into law by the Governor in October 2022, requires the creation of a program to disperse funds to youth in the custody of the Department of Services for Children Youth and Families (DSCYF) for these purposes. In passing this legislation, the General Assembly concluded that the costs associated with obtaining a driver's license and vehicle insurance "serve as an additional barrier to gaining independence and engaging in normal, age-appropriate activities" and "limit opportunities for obtaining employment and completing educational goals" for youth who are in DSCYF custody. See 29 Del. C. § 9011A(a)(1). Council **endorses** the proposed amendment with one addition: that the cost of vehicle modifications be included in the driving-related expenses eligible for coverage.

While the statute appears to contemplate the program covering "costs incidental to licensure," the regulations do not appear to include most costs related to licensure as eligible expenses. The listed eligible expenses are costs related to driver education classes, costs related to driving lessons if necessary to meet required number of hours for licensure or if extra practice is needed, costs for motor vehicle insurance, and at OCA's discretion, costs related to motor vehicle, and costs related to vehicle purchase, maintenance, and repair.

The proposed regulations do not provide further details about the application process other than that “[a]pplications must be submitted online via the Office’s website” and “[a]pplications will be accepted on a continuous basis.” It would be helpful for OCA to further clarify what type of information and documentation would be required in the application and under what circumstances the consent or input of any party other than the youth would be necessary. While there is no fixed funding amount available to an individual youth, the proposed regulations state that OCA may set a maximum funding amount per individual at its discretion. Funds may be issued to directly pay a qualifying expense or may be reimbursed. As indicated in the statute, the regulations also state that the program may only cover costs attributable to the youth; for example, if the youth is added to an existing insurance policy held by another person, the program can only cover the additional cost attributable to the addition of the youth.

In subsection 6.6 of the proposed regulations, there is language providing for the termination of an individual’s participation in the program “if the individual demonstrates unsafe driving practices resulting in increased insurance premiums,” and that the Office will maintain and distribute a policy which outlines “safe driving expectations and the consequences of a failure to meet these expectations.” This provision requires further elaboration, either in the regulations or in the policy to be issued by OCA, to ensure that youth are not being unfairly punished for unavoidable accidents or for incidents that occur while driving that may in some way be attributable to the youth’s disability. Further, it would somewhat defeat the stated purpose of the program to allow youth no room for mistakes. OCA should allow for the consideration of all facts and individual circumstances in deciding to terminate a youth’s participation in the program. Council would like to encourage OCA to provide further clarification as to when an individual’s participation in the program may be terminated due to “unsafe driving” to ensure this is an individualized decision to the extent possible.

While the program would provide a value and needed benefit to youth in the child welfare system, Council would like to encourage OCA to reconsider what is included in eligible expenses and to take a broader view of expenses “incidental to licensure.” While the cost of a driver’s license currently appears to be \$40.00, which is a small expense, compared to what driver education courses and motor vehicle insurance cost, it may still be difficult for a youth in DSCYF custody to pay that amount, especially when not having a license may otherwise prevent them from seeking employment. Additionally, to apply for a driver’s license an individual needs to produce proof of identity, such as a birth certificate, Social Security card, or passport (see https://www.dmv.de.gov/DriverServices/drivers_license/index.shtml?dc=dr_lic_gen_req). Youth in DSCYF custody may not always have immediate access to these documents for a variety of reasons, and there may be cost associated with obtaining duplicates. Finally, there may be additional costs associated with obtaining a driver’s license for individuals with disabilities, such as adaptive driving assessments or instruction. The Division of Motor Vehicles (DMV) also has discretion to require additional medical examination or testing if a mental or physical impairment is identified that may affect an individual’s ability to safely operate a vehicle and there may be costs associated with this testing that are not covered by insurance. OCA should consider covering these costs to ensure equal access for youth with disabilities.

Thank you for allowing us the opportunity to share our support of this regulation and our observations with you. Please contact Pam Weir or me at the GACEC office if you have any questions on our comments.

Sincerely,

Ann C Fisher

Ann C. Fisher
Chairperson

ACF: kpc