



George E. Pataki
Governor

State of New York
Office of Children and Family Services

John A. Johnson
Commissioner

Capital View Office Park
52 Washington Street - Rensselaer, NY 12144

OCFS INFORMATIONAL LETTER

TRANSMITTAL: 98 INF-009

TO: Commissioners of
Social Services

DIVISION: Development
and Prevention
Services

DATE: June 19, 1998

SUBJECT: Family-Type Homes for Adults: Operators Required to Prove
Workers' Compensation and Disability Benefits Insurance Coverage
for Substitute Caretakers

SUGGESTED
DISTRIBUTION:

Directors of Services
Family Type Home for Adults Coordinators
Staff Development Coordinators

CONTACT PERSON:

Any questions concerning this release should be
directed to:
Janet Morrissey (518) 432-2987 or USER ID OPM100 or
Carole Fox (518) 432-2864 or USER ID AX5050

ATTACHMENTS:

(ATTACHMENTS ARE NOT AVAILABLE ON-LINE)
I. C-105.21 Statement That Applicant Does Not Require Workers'
Compensation Nor Disability Benefits Coverage
II. C-105.2 Application for Certificate of Workers' Compensation
Insurance
III. DB-120.1 Employer's Application for Certificate of Compliance
with Disability Benefits Law
IV. SI-12 Affidavit Certifying that Compensation Has Been Secured
V. DB-155 Compliance with Disability Benefits Law
VI. U-26.3 State Insurance Fund Certification
(Copies of the above forms may be obtained from NYS Workers'
Compensation Board Area Offices)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		Part 458 Part 485 Part 486 Part 489	Article 9B Sec.460-c.7 Article 9 MHL Article 28 DBL		

DSS-296EL (Rev. 9/89)

AN EQUAL OPPORTUNITY EMPLOYER

Background Information

The purpose of this release is to advise social services districts that in order to obtain Family Type Homes for Adults (FTHA) certification, applicants and operators of Family Type Homes for Adults must prove that they have obtained Workers' Compensation and disability benefits coverage, or that such coverage is not required under New York State Worker's Compensation Law.

Section 461-b(2)(a) of Social Service Law (SSL) allows approval to operate an adult care facility such as a FTHA only to an operator who satisfactorily demonstrates that any license or permit required by law for the operation of such facility has been issued to such operator. Section 460-e(1) permits the New York State Office of Children and Family Services (OCFS) to require an operator of a Family Type Home for Adults to provide such information and records in such form and at such times as this Office shall determine for the purpose of establishing and maintaining such facilities.

The New York State Workers' Compensation Law Section 57 and Section 220.8 of the Disability Benefits Law requires that prior to issuance of a certificate to operate a Family Type Home for Adults by the OCFS, the applicant/operator must submit proof that the operator has obtained the required workers' compensation and disability benefits insurance coverage for any substitute caretakers in the operator's employ, or that the operator is not required to provide such coverage. This law applies both to issuance of new certificates and renewal of such certificates.

The information in this release addresses the requirements necessary for operators and districts to comply with these laws and submit the required documentation to OCFS to obtain an operating certificate.

Workers' Compensation and Disability Benefits Coverage Requirements

a. Who Must be Covered

The New York State Workers' Compensation Board has determined that Workers' Compensation Law requires workers' compensation insurance coverage for any Family Type Home for Adults employing "substitute caretakers." Workers' Compensation Law requires that all workers in this industry must be covered by workers' compensation insurance coverage regardless of the number of hours worked, the workers' relationship to the owners, or whether workers are "volunteering" their services for the family business. Since under Social Services Law only natural persons may operate a Family Type Homes for Adults, the only exclusion that may be made for Workers' Compensation and Disability Benefits is a family type home owned by one individual with no employees.

b. Liability for Operators

Under Section 26-a of the Workers' Compensation Law, employers who do not obtain appropriate workers' compensation insurance coverage may be personally liable for the following:

- paying an assessment of \$250 for each claim incurred while uninsured, plus 15% of the amount awarded (minimum \$1,500 - maximum of \$5,000);
- paying the actual award, including both compensation and medical costs;
- any penalties the Workers' Compensation Board assesses for noncompliance. There is a series of penalties for noncompliance with the Workers' Compensation Law, including a \$250 penalty for every 10 days without the required coverage.

**Activities Required to Comply with
Workers' Compensation and Disability Benefits Law**

a. District Responsibilities

- 1) Family Type Home Coordinators or other local district staff who are involved in the FTHA program certification or renewal process must become knowledgeable about the provisions of this release to ensure that the required Workers' Compensation and Disability Benefit Insurance coverage certification accompanies each Family Type Home for Adults application which they submit to the OCFS.
- 2) Social service districts must inform FTHA applicants and operators of Workers' Compensation and Disability Benefit certification requirements prior to certification or renewal of Family Type Homes for Adults operating certificates.

No operating certificate will be issued without proof of Workers' Compensation Insurance as required by the Workers' Compensation Board being forwarded to the social services district.

b. Operator Responsibilities

- 1) To comply with coverage provisions of the Workers' Compensation Law Disability Benefits Law requirements, Family Type Home operators must:
 - be legally exempt from having to obtain worker's compensation insurance coverage;
 - obtain such coverage from insurance carriers; or,
 - be self insured.

b. Operator's Responsibilities, Continued

2) Family Type Home applicants requesting certification or certified operators requesting renewal of their certificates must provide one of the following forms to the local district with their application. The Workers' Compensation form must accompany the districts' submission of the application to the New York State Office of Children and Family Services:

- C-105.21 Statement that Applicant Does not Require Workers' Compensation Nor Disability Benefits Coverage; (see Attachment I to this release)

OR

- C-105.2 Certificate of Workers' Compensation Insurance (Attachment II) - AND - DB 120.1 Certificate of Disability Benefits Insurance (Attachment III);

OR

- SI-12 Certificate of Workers' Compensation Self-Insurance (Attachment IV) or GSI-12 Certificate of Group Workers' Compensation Self-Insurance - AND - DB-155 Certificate of Disability Benefits Self Insurance (Attachment V)

For those operators insured by the State Insurance Fund, it is acceptable for districts to receive a computer generated form, U26.3, in the place of prescribed form C-105.2 (sample attached, see Attachment VI).

3) Operators may obtain forms from the New York State Workers' Compensation Board District Offices:

Albany	(518) 486-3349
Binghamton	(607) 721-8333
New York City	(718) 802-6890
Buffalo	(716) 847-6890
Hempstead	(516) 560-7742
Rochester	(716) 238-8335
Syracuse	(315) 428-4455

4) Applicants for Approval or Operators of Family Type Home for Adults who have any questions regarding Section 57 of Workers' Compensation Law or Section 220.8 of the Disability Benefits Law should call the New York State Workers' Compensation Board, Bureau of Compliance at (518) 486-6307.

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The requirement to submit a certificate of Workers' Compensation and Disability Benefits Insurance coverage with all new and renewal applications is effective immediately.

In the future, the Application for Approval FTTHA (DSS-2865) will be revised to indicate that certification of Workers' Compensation and Disability Benefits insurance coverage is a required document for all new and renewal applications.

No Family Type Home for Adults operating certificate will be issued without proof of Workers' Compensation and Disability Benefits Insurance coverage effective immediately.

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100 Broadway
Menands
ALBANY 12241State Office Building
44 Hawley Street
BINGHAMTON 13901180 Livingston Street
BROOKLYN 11248State Office Building
125 Main Street
BUFFALO 14203175 Fulton Avenue
HEMPSTEAD 11550130 Main Street W.
ROCHESTER 14614State Office Building
East Washington Street
SYRACUSE 13202ROBERT R. SNASHALL
CHAIRMANSTATE OF NEW YORK
WORKERS' COMPENSATION BOARDSTATEMENT THAT APPLICANT DOES NOT REQUIRE
WORKERS' COMPENSATION OR DISABILITY BENEFITS COVERAGETHIS AGENCY EMPLOYS AND SERVES
PEOPLE WITH DISABILITIES WITHOUT
DISCRIMINATION.

OFFICE AT:

APPLICANT'S NAME	APPLICANT'S HOME ADDRESS
BUSINESS OR TRADE NAME, IF DIFFERENT FROM ABOVE	BUSINESS ADDRESS
NEW YORK STATE UNEMPLOYMENT INSURANCE EMPLOYERS REGISTRATION NUMBER	

The above named applicant for permit, subject to restriction under Section 57 of the Workers' Compensation Law, and Section 220, subd. 8 of the Disability Benefits Law, makes the following statement for the purpose of establishing that he/she does not require coverage under these laws.

1. Location of work _____
2. Exact work to be performed _____
3. Number of workers _____
4. Date work is to be (a) commenced _____ (b) completed _____

- I have workers' compensation insurance (certificate attached).
 I do not need workers' compensation insurance because status is Individual owner or partner with no employees and not a corporation.
 I do not need workers' compensation because:

- I have disability benefits insurance (certificate attached).
 I do not need disability benefits insurance because status is Individual owner or partner with no employees and not a corporation.
 I do not need disability benefits insurance because:

Date Signed _____ By _____

(Signature of applicant)

Telephone No. _____ Title _____

To State or Municipal Department, Board, Commission or Office Requiring Certificate of Workers' Compensation Insurance Under Section 57 of the Workers' Compensation Law and Under Section 220, subd. 8 of the Disability Benefits Law.

Based on the foregoing statements made by the above applicant:

- The Board has no objections, at this time, to the issuance of the permit requested.
 The applicant will be required to have a disability benefits insurance policy effective not later than four (4) weeks after the employment of one or more employees on each of at least 30 days in any calendar year.

It is understood, however, that the Board reserves the right to request revocation of the permit if, after investigation, it is found that the applicant is required to have workers' compensation and/or disability benefits coverage for the work referred to in the above application.

WORKERS' COMPENSATION BOARD

Date _____ By _____

Telephone No. _____ Title _____

WORKERS' COMPENSATION LAW

Section 57 Restriction on Issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

DISABILITY BENEFITS LAW

Section 220 Penalties

3. (a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article, and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided by this article.

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

APPLICATION FOR CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

The undersigned Employer desires to obtain a Certificate of Workers' Compensation Insurance from the
Insurance Carrier: _____

as satisfactory proof required under the provisions of Section 57 of the Workers' Compensation Law, to be filed with

Name: _____
(Name of Bureau, Department, Corporation, Firm or Individual)

Address: _____

Locations of operations: _____

Date operations to begin: _____

Telephone No. _____ Signature _____
(Name of Employer) (Date)

NOTE: This application must be signed by the Employer if an individual, or if a copartnership by a member of the copartnership, or by an officer if a corporation.

CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

This is to certify that _____

is insured with the _____

under Policy No. _____ covering the entire obligation of this employer for workers' compensation

under the New York Workers' Compensation Law with respect to the locations named in the foregoing application. The policy

term covers the period from _____ to _____

If said policy is changed or cancelled during its term in such manner as to affect this Certificate, thirty (30) days written notice of such change or cancellation [ten (10) days written notice in the event of cancellation for non-payment of premiums] will be given to

(Name of Bureau, Department, Corporation, Firm or Individual)

(Address)

in accordance with whose requirements, this Certificate has been issued. Notice by registered or certified mail, return receipt requested, so addressed shall be sufficient compliance with this provision.

Carrier _____ By _____
(Signature) (Date)

Telephone No. _____ Title _____

WORKERS' COMPENSATION LAW

Section 57 Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.

2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

EMPLOYER'S APPLICATION FOR CERTIFICATE OF COMPLIANCE WITH DISABILITY BENEFITS LAW

INSTRUCTIONS TO EMPLOYER: Complete PART I ONLY and have your Disability Benefits Insurance Carrier complete PART II.

PART I. TO BE COMPLETED BY EMPLOYER

EMPLOYER'S NAME AND ADDRESS (Home or Main Office)	LOCATION OF OPERATIONS
NAME UNDER WHICH BUSINESS IS CONDUCTED, IF DIFFERENT FROM ABOVE	OPERATIONS TO BEGIN ON OR ABOUT:
DISABILITY BENEFITS CARRIER (If More Than One, List All)	NYS UNEMPLOYMENT INSURANCE EMPLOYER'S REGISTRATION NUMBER

Application is hereby made to the CARRIER for a Certificate of Compliance with the Disability Benefits Law.

Date Signed _____ By _____
(Signature of Owner, Partner, or Authorized Officer)

Telephone No. _____ Title _____

PART II. TO BE COMPLETED BY DISABILITY BENEFITS CARRIER

CERTIFICATE OF COMPLIANCE WITH DISABILITY BENEFITS LAW

This is to certify that the above-named employer is insured with _____
and that the policy covers: *(Name of Carrier)*

- *a. ALL of the EMPLOYER'S employees eligible under the New York Disability Benefits Law.
*b. ONLY the following class or classes of the EMPLOYER'S employees:

Date Signed _____ By _____
Signature of Carrier's Authorized Representative (Currently on File With D.B. Bureau)

Telephone No. _____ Title _____

***IMPORTANT:** If BOX "a" is CHECKED, this certificate is COMPLETE. Mail it directly to the employer.
If BOX "b" is CHECKED, this certificate is NOT COMPLETE for purposes of Section 220, subd. 8 of the Disability Benefits Law. It must be mailed for completion to the Workers' Compensation Board, Disability Benefits Bureau, 180 Livingston Street, Brooklyn, New York 11248-0005.

PART III. TO BE COMPLETED BY WORKERS' COMPENSATION BOARD (Only if Box "b" of Part II has been checked)

State of New York
WORKERS' COMPENSATION BOARD

There is on file with the Workers' Compensation Board, Certificates of Insurance indicating that the above-named employer has complied with the Disability Benefits Law with respect to all of his/ her employees.

DISABILITY BENEFITS BUREAU

Date _____ By _____

Telephone No. _____ Title _____

DISABILITY BENEFITS LAW

Section 220 Penalties

8. (a) The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in employment as defined in this article, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided by this article. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any disability benefits to any such employee if so employed.

(b) The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in employment as defined in this article, and notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that the payment of disability benefits for all employees has been secured as provided by this article.



STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
180 LIVINGSTON STREET
BROOKLYN, NY 11248

THIS AGENCY EMPLOYS AND SERVES
PEOPLE WITH DISABILITIES WITHOUT
DISCRIMINATION.

ROBERT R. SNASHALL
CHAIRMAN

Office of the Secretary

I,, Secretary to the Workers' Compensation
Board of the State of New York

DO HEREBY CERTIFY, that

has secured compensation to its employees as a self-insurer in the following manner:

- _____ Pursuant to Section 50, subdivision 3 of the Workers' Compensation Law.
- _____ Pursuant to Section 50, subdivisions 3 and 4 of the Workers' Compensation Law.
(County, city, village, town, school district, fire district or other political subdivision)
- _____ Pursuant to Article 5 of the Workers' Compensation Law. (County Self-Insurance Plan)

The status of self-insurer was effective as of
and such status still remains in full force.

IN WITNESS WHEREOF, I have hereunto set my
hand and affixed the seal of the Workers' Compensation
Board thisday of19.....

STATUS CONFIRMED

by.....

.....

Secretary to the Board

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STATE OF NEW YORK
WORKERS' COMPENSATION BOARD
 180 LIVINGSTON STREET
 BROOKLYN, N. Y. 11248

COMPLIANCE WITH DISABILITY BENEFITS LAW
 (Pursuant to Section 220, subd. 8 of the Disability Benefits Law)

EMPLOYER	EMPLOYER'S U. I. REGISTRATION NUMBER
	LOCATION OF OPERATIONS
ADDRESS (HOME OR MAIN OFFICE)	OPERATIONS TO BEGIN ON OR ABOUT:

There are on file with the Workers' Compensation Board, documents indicating that the above-named employer has complied with the Disability Benefits Law with respect to all of his or her employees, in the following manner:

- By approved self-insurance pursuant to Sec. 211, subd. 3 of the Disability Benefits Law.
- By a combination of approved self-insurance pursuant to Sec. 211, subd. 3 of the Disability Benefits Law and insurance with authorized insurance carrier(s).

Date _____

By _____

Title _____

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THE STATE INSURANCE FUND
169 CHURCH STREET NEW YORK, N.Y. 10007
(212) 312-7276
CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

POLICY NUMBER
DATE
CERTIFICATE NUMBER

PERIOD COVERED BY THIS CERTIFICATE
3/31/93 TO 3/31/94

POLICYHOLDER

CERTIFICATE HOLDER
NYS EXEC DEPT OGS
RE PROJ 38361H/TER EYCK OB
CORNING TOWER EMPIRE STATE PLZ
ALBANY NY 12242

THIS IS TO CERTIFY, THAT THE POLICYHOLDER NAMED ABOVE IS INSURED WITH THE STATE INSURANCE FUND UNDER POLICY NO. UNTIL COVERING THE ENTIRE OBLIGATION OF THIS POLICYHOLDER FOR WORKERS' COMPENSATION UNDER THE NEW YORK WORKERS' COMPENSATION LAW WITH RESPECT TO ALL OPERATIONS IN THE STATE OF NEW YORK, EXCEPT AS INDICATED BELOW.

IF SAID POLICY IS CANCELLED, OR CHANGED PRIOR TO 3/31/94 IN SUCH MANNER AS TO AFFECT THIS CERTIFICATE, 30 DAYS WRITTEN NOTICE OF SUCH CANCELLATION WILL BE GIVEN TO THE CERTIFICATE HOLDER ABOVE. NOTICE BY REGULAR MAIL SO ADDRESSED SHALL BE SUFFICIENT COMPLIANCE WITH THIS PROVISION.

THIS CERTIFICATE DOES NOT APPLY TO BUILDING DEMOLITION.

THE STATE INSURANCE FUND

H. Jacobs

HERBERT JACOBS

DIRECTOR, INSURANCE FUND UNDERWRITERS