

**TO:** All Local District Commissioners, Medicaid Directors, Care at Home Coordinators

**FROM:** Gregory Allen, Director  
Division of Program Development and Management

**SUBJECT:** NYS Medical Indemnity Fund and the Care at Home III, IV and VI Waivers

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** OPWDD – Lynda Baum-Jakubiak – Statewide CAH Coordinator  
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The purpose of this GIS is to clarify and inform local districts and Care at Home (CAH) agencies and care coordinators that a child enrolled in the Care at Home III, IV and VI Waiver Programs can also be enrolled in the Medical Indemnity Fund at the same time.

The Medical Indemnity Fund ("Fund") was established by Part H of Chapter 59 of the Laws of 2011 which added Title 4 to Article 29-D of the Public Health Law. The Fund is designed to pay all future costs necessary to meet the health care needs of plaintiffs in medical malpractice actions who have received either court-approved settlements or judgments deeming the plaintiffs' neurological impairments to be birth-related. These plaintiffs are called "qualified plaintiffs."

The New York State Department of Financial Services (DFS) is designated by law as the administrator of the Fund. Regulations governing the proper administration of the Fund are the responsibility of the Commissioner of Health in consultation with DFS. The regulations are set forth in 10 NYCRR Subpart 69-10. The Fund was statutorily required to be operational by October 1, 2011. DFS has created a Fund website which can be accessed at [www.mif.dfs.ny.gov](http://www.mif.dfs.ny.gov).

The Fund will cover or reimburse the cost of health care services, supplies, equipment and medications that the Fund enrollee's physician, physician assistant or nurse practitioner has determined are necessary to meet the Fund enrollee's health care needs. In general such costs include:

- Medical treatment
- Nursing care
- Prescription and non-prescription medication
- Assistive Technology
- Rehabilitation
- Other health care costs related to services and supplies utilized by Fund enrollees.
- Hospital-based care, including surgical care
- Dental care
- Durable Medical Equipment
- Home and Vehicle Modifications
- Custodial and Respite care

When a "qualified plaintiff" enrolls in the Fund, the family will receive an enrollment package that includes an identification card to present to healthcare providers. Any health insurance available to the Fund enrollee, excluding Medicare and Medicaid, must be utilized for each claim before the Fund will become a payer.

DFS has contracted with Alicare to administer the day-to-day operations of the Fund. Alicare has a toll free customer service phone line for the Fund. Alicare can be reached at 855-696-4333. At the time of enrollment into the Fund, a Fund case manager is assigned to the case. The CAH case manager and the Fund case manager must work closely together to coordinate care and ensure continuity of care for all CAH participants.

The NYS Department of Health will enter the Medical Indemnity Fund carrier code "MIF" to the eMedNY Third Party subsystem for each qualified CAH participant. This will ensure that Medicaid is the payer of last resort.

The NYS Department of Health has determined that a child can remain in the Care at Home III, IV and VI Waiver programs at the same time as enrollment in the Fund, but the Fund is the primary payer for Fund covered services. **Please note**, CAH case management services are **not** covered by the Fund and will continue to be billed directly to Medicaid.

Questions can be directed to Lynda Baum-Jakubiak, Statewide CAH Coordinator at 518-474-6466.