

## Risk Management Policies: Transportation of Migrant Patients

Note: these are general risk management guidelines. Health Centers should seek the advice of an attorney to adopt specific risk management policies and procedures that address their unique needs.

**BACKGROUND:** As part of their enabling services for farmworkers, Health Centers may provide transportation to and from appointments. In the event of an incident arising from providing this service, Health Centers can implement certain policies and practices to reduce their risk of liability.

### CONSIDERATIONS:

- There is a possibility that if a Health Center hires an *employee* to provide transportation for patients to access the Health Center, FTCA coverage may apply to any claims arising from that transportation. However, such coverage would not apply to *contractors*. Additionally, the issue of whether FTCA coverage would extend to transportation has not been settled as a matter of law, so it is wisest for Health Centers to obtain some other type of liability insurance to address claims arising from transportation. (See FTCA Coverage below for steps a Health Center could take to attempt to have transportation covered by the FTCA).
- Liability insurance would provide the Health Center with the resources to defend against a legal claim, and to pay damages that may result from a successful legal action against the Health Center. For claims arising from transportation, a Health Center may want to seek general liability and/or commercial vehicle insurance.
- General liability insurance protects against claims of property damage and bodily injury that occur as the result of the health center's operations. Commercial vehicle insurance protects against claims of property damage and bodily injury arising from a Health Center's use, ownership, or maintenance of vehicles.
- To ensure the Health Center is aware of the risks that need coverage, it should assess its needs prior to shopping for an insurance policy. This assessment should identify the risks, and corresponding insurance needs, the Health Center faces in providing transportation to farmworkers. Such risks might include, for example, being sued for injuries to patients sustained while being transported.
- When purchasing any insurance policy, a Health Center should thoroughly review the policy to ensure that it encompasses the situations that need coverage.
- For additional information on liability coverage, see *Beyond FTCA: Purchasing Insurance Coverage to Protect Your Health Center from Liabilities*, National Association of Community Health Centers, Risk Management Series, Information Bulletin #16 (2006) located at:  
[http://www.nachc.org/client/documents/publications-resources/RM\\_16\\_06.pdf](http://www.nachc.org/client/documents/publications-resources/RM_16_06.pdf).

## **FTCA Coverage**

- If a claim arising from transportation were made against a Health Center that did not have any liability insurance coverage for such claims, the FTCA *may* provide coverage, if the following conditions were met:
  - The Health Center must reapply yearly for “deemed” status under the Federally Supported Health Centers Assistance Act (FSHCAA) of 1992 and the FSHCAA of 1995, which extend FTCA coverage to eligible Health Centers.
  - To qualify for FTCA coverage, the provision of transportation must have been approved in the annual grant application.
  - For a Health Center to be eligible for FTCA coverage, the employee(s) involved in an incident must have been acting within the scope of their employment (e.g., their employment responsibilities).
    - Health Centers should ensure that each employee’s employment responsibilities are clear from their job description, which includes employment agreements and contracts for services. These written descriptions should detail the duties of the individual, including the type of services to be provided and the location where the services will be delivered. These written descriptions should be clear enough that, if needed, they could be used to determine whether an employee acted within his/her scope of employment.
    - Trainings for employees should remind them that they are not to engage in activities outside their scope of employment. Rather than performing an activity that they are not authorized to perform, they should seek out someone who is authorized to perform the activity.