

Appleseed is pleased to present an update to our 2012

“PROTECTING ASSETS AND CHILD CUSTODY IN THE FACE OF DEPORTATION.”



March 2017

As millions of immigrant families face fear and uncertainty, Appleseed is updating its 2012 manual, “Protecting Assets and Child Custody in the Face of Deportation.”

This one-of-a-kind resource is designed for immigrants and those who work with them: the host of attorneys, nurses, social workers, religious workers who are stepping up in challenging times. Appleseed’s Manual will help families develop plans *in advance* to deal with critical financial and family issues in the event of deportation, arrest and other emergencies.

Because the times are so uncertain, and the demand for these updates is growing, we are publishing each chapter as we draft it.

We are grateful for your interest, and for everything you can do to help immigrants and refugees. Please let us know of other topics you’d like to see covered.

To explore new chapters, further updates and additional resources, please visit us at www.appleseednetwork.org/deportationmanual.

A handwritten signature in black ink that reads "Bert Brandenburg". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Bert Brandenburg
President, Appleseed



APPLESEED

Appleseed wishes to express our gratitude to Cooley LLP and its individual attorneys for their expertise: Maureen Alger, Anna Chase, Tanisha James and Monique Sherman.

CHAPTER 9: INSURANCE

This chapter describes how to approach issues related to an immigrant's insurance policies in the event of detention or deportation, including the options for handling current policies, factors to consider when choosing a path and how to plan ahead.

This chapter targets preparing immigrants, but contains useful information for detained and supervised immigrants as well.

☹☹ **What Types of Insurance Policies Do You Have?** ☹☹ **What Information Should You Gather About Each Insurance Policy?** ☹☹ **What Happens to Your Insurance Policies if You are Detained or Deported?** ☹☹ **What Should You Consider When Deciding the Fate of Your Insurance Policy?** ☹☹

The information in this chapter should be used only as a starting reference and cannot take the place of legal representation. Because the specific details and processes for insurance vary from state to state, always refer to state-specific resources.

What Types of Insurance Policies Do You Have?

If an immigrant has an insurance policy of any kind, it is important to decide how the policy will be handled if they are detained or deported. The first step in this process is to determine what types of insurance policies the immigrant or their family has.

Common kinds of insurance policies:

- Health insurance, which may be covered by an employer or purchased individually
- Car insurance, if they own, lease, or operate a car
- Homeowner's insurance, if they own a residence
- Renter's insurance, if they rent their residence
- Insurance on your business, if they own one
- Life insurance, which may be covered by an employer or purchased individually

The immigrant should familiarize themselves with the benefits received under their insurance policies, and what they would forgo in the event of change in status or cancellation of the policy.

Keep in mind that each type of insurance and each insurance carrier is different. The factors to consider and the strategy for handling each policy should depend on the insurance company's rules and protocols.

If the Individual Has Health Insurance Through the Affordable Care Act

Lawfully present immigrants are eligible to use the Health Insurance Marketplace, but undocumented immigrants are not. If a change in immigration status means the person is no longer lawfully present in the U.S., they are also no longer eligible for coverage under Obamacare or for any other premium tax credits or savings on Marketplace plans that they receive.¹ Marketplace recommends reporting any change in citizenship or immigration status to the insurance provider as soon as possible, however each insurer will have different reporting requirements, policies on grace periods and consequences for failure to report. For more information, contact the Marketplace at 1-800-318-2596.

What Information Should You Gather About Each Insurance Policy?

The best way for an immigrant to manage their insurance policies is simply to plan ahead.

Create a Master List

Immigrants should identify their insurance carriers and brokers and make a list containing contact information (phone number, address, email address) for each. For example, if the immigrant has car insurance through Geico, they should include the Geico customer service number as well as the contact information for the specific individual that they work with, if any.

The immigrant should distribute this list to their family or household members and keep a copy in an accessible location. They should also keep this contact information on their person (e.g., cell phone, wallet, or in a secure email account); that way they will have the information if they are required to leave the U.S. on short notice.

Gather Information and Review Insurance Plans

The immigrant should locate and review all insurance plan documents, whether in hard copy or online. They should also contact their insurance company to gather any missing information or ask any outstanding questions.

Immigrants Should Obtain, At Minimum, the Following Information

- Method and requirements for termination or transfer of the insurance policy.
- Policy on reimbursement for coverage not used.
- Consequences of early termination, or termination generally.
- Consequences of non-payment of premiums.
- Necessity of reporting a change in immigration status.
- Ability to revive plan upon return to U.S.
- Consequences of transfer or cancellation to other individuals covered under the policy.

Answers to the above questions will allow the immigrant to make an educated decision about whether to cancel, continue, or transfer their plan in the event of detention or deportation.

What Happens to Your Insurance Policies if You Are Detained or Deported?

Once the immigrant has gathered the requisite information, help them devise a plan to handle a detention or deportation scenario. Generally, the immigrant has three options: (1) cancel the policy, (2) continue the policy, or (3) transfer the policy to another individual. Keep in mind that depending on the insurer's rules, one or more of these options may not be available for an insurance policy.

Cancellation

If the immigrant decides to terminate the policy, they may do so by following their carrier's procedure for cancellation. Certain carriers require notice in advance of termination, and may have a waiting period before termination will take effect. Carriers may also specify the format for providing such notice (by email, in writing, by phone). If the provider does not specify format, it is best to give notice in all three ways.

Some insurance policies may terminate automatically upon failure to pay the premium. Others may remain in place but accrue large balances from missed payments and late fees. It is crucial that the immigrant takes these factors into account when deciding on a path forward. In certain cases, automatic termination may be the simplest option; in others, default on payment can have serious consequences.

Transfer

If it is an option, the immigrant may decide to transfer their plan to another family member or beneficiary. Again, they should look to their carrier's procedure for guidance and associated cost.

Continuation

If the immigrant wants to keep their insurance policy in the face of detention or deportation, and such continuation is not prohibited by their insurance carrier, they can do so in several ways.

If already deported, the immigrant may continue to operate the plan remotely. Having a copy of all policy documents and complete contact information is key. Alternatively, the immigrant may appoint another individual or grant an individual power of attorney to operate the plan on their behalf. The immigrant should prepare and provide in advance to the appointed individual explicit instructions on how the insurance policy should be managed.

If this feature is available and they are set on continuation, the immigrant may have the option of setting up automatic payment for the amounts due on the policy, or paying amounts owed on the policy in advance. Counsel the immigrant to consider the irreversible nature of these decisions.

Most importantly, the immigrant should find out whether they are still eligible to receive the benefits of their insurance policy during detention or following deportation. Most likely, benefits will not be available to an individual who is no longer living in the U.S., and may not be available to the person even upon their return.

What Else Should You Consider When Deciding the Fate of Your Insurance Policy?

Deciding how to handle insurance policies in the event of detention or deportation is a decision that cannot be made without careful consideration of an immigrant's personal circumstance. Attention to personal factors is just as important as the dictates of an insurance policy. Below are the sorts of things that every immigrant should consider:

Practicality

If considering continuation of an insurance policy, the immigrant should consider whether it is practical for them to maintain that policy remotely. If their home country lacks reliable internet or cell service, and they do not anticipate regular access to these features, it may make more sense to cancel or appoint another individual in the U.S. to take control.

Liability

Immigrants should compare the cost of cancelling the policy with the potential liability associated with continuation. Cost of cancellation should be relatively straightforward once details of the policy have been gathered and reviewed. On the other hand, liability associated with continuation of an insurance policy can be more uncertain. For example, if the immigrant keeps their car insurance plan despite detention or deportation and there is an accident involving their vehicle, they may be subject to liability.

Impact on Others

Immigrants should consider the impact on individuals covered by an insurance policy, other than themselves, when deciding whether to continue, transfer, or cancel the policy. For instance, if a relative or dependent covered by an insurance policy would be unable to obtain such a policy on their own (due to immigration status or otherwise), continuing the policy despite the added risk or cost to the immigrant may be worthwhile.

Similarly, an immigrant should consider whether failure to pay insurance premiums or erroneous continuation of an insurance policy would create liability for or cause harm to family members that remain in the U.S. Careful review of the insurance policy documents and conversations with the immigrant's insurance broker should provide clarity on consequences of this nature.

Impact on Immigration Status

If removal proceedings are pending or anticipated, an immigrant should consider how their handling of insurance policies will affect such proceedings. Likewise, if the immigrant plans to return to the U.S., this weighs in favor of complying strictly with all regulations and procedures outlined by their insurance company. It also may provide an incentive to maintain an insurance policy, if permitted.

CHECKLIST FOR INSURANCE

KEY TAKEAWAY

Deciding how to manage your insurance policies is an important and complex process. Rules and procedures specific to your insurance carriers will provide the steps required to properly cancel, continue, or transfer a policy. Consult with your insurance companies in advance so that you are fully aware of your options, and create a detailed plan that can be implemented if you are detained or deported.

- ❑ Figure out what types of insurance policies you have, and make a list of the contact information of all insurance providers.
 - Include telephone numbers, email addresses, and mailing addresses. Consider keeping this information with you or in an accessible place. Give the information to a relative or close friend.
 - Consider granting powers of attorney in case of deportation.
 - Common types of policies include: health insurance, car insurance, homeowner's insurance, renter's insurance, business insurance and life insurance.

- ❑ Gather and review your insurance policy documents. If you do not have all the information you need, contact your insurance provider and ask them questions.
 - Be sure you know: the method and requirements for cancelling or transferring your policy; the consequences of cancellation; the consequences of failure to pay on time or at all; whether you can be reimbursed for benefits not used; whether you are required to report a change in your immigration status; and the consequences to other people covered by your policy.

- ❑ Consider how your choice (to cancel, continue, or transfer your insurance policy) will impact you and the people you care about.
 - Factors to keep in mind: liability associated with continuing your policy; ability to maintain your policy remotely; impact on other beneficiaries of policy; potential negative impact on your removal proceedings; impact on family members remaining in the U.S.; and whether you intend to return to the U.S., if deported.
 - Talk to your relatives and, if possible, your attorney about these issues.

- ❑ Decide how you plan to handle your insurance policies if you are detained or deported. Generally, your options will be to cancel, continue, or transfer your policy.
 - The pros and cons of each option will depend on the policies and procedures of your insurance carrier, as well as your personal priorities and circumstances.
 - Familiarize yourself with the basic process for each, and the consequences that may result.