



Liability Insurance/Damage Claims for Foster Parents
Last Updated October 17, 2005

Foster parents are placed in a vulnerable position when they choose to foster if they do not have liability insurance to protect themselves financially from any harm or damage that children in their care may incur or inflict. Many studies identify liability insurance - subsidized or provided at no cost to foster parents - as a key to retaining qualified foster parents.

The National Foster Parent Association (NFPA) issues the following position statement:

NFPA supports implementation of a liability and property damage insurance package to protect foster parents from liability for acts of the child in care and for suits brought by the biological parent, the child, or others arising out of the foster parent/child relationship.

Foster parents are volunteers who open their doors to unknown liability each time they take a new foster child. NFPA believes that since the agency retains complete legal guardianship of these children, injuries damages and thefts against any person or property caused or committed by the agency's wards should be the agency's responsibility. NFPA strongly feels that state or local agencies should provide public and private liability coverage, including additional automobile insurance, for all foster parents.¹

The federal Child Welfare Policy Manual of the Department of Health and Human Services addresses liability insurance in the following questions:²

Q: Is foster parent insurance allowable as an administrative cost under title IV-B?

A: This cost may be claimed under title IV-B, but is included in the limitation on maintenance expenditures described in section 423 (c)(1) of the Act because "liability insurance" is not considered to be a service and is primarily related to foster care maintenance. However, States may select Insurance protection for foster parents as an activity to be funded under the Social Services Block Grant (amended title XX). The State chooses the title of the Social Security Act under which it will claim Federal financial participation (FFP) in the costs

¹ NFPA Position Statement on Liability Insurance for Foster Parents. Retrieved October 13, 2005 from: <http://www.nfpainc.org/aboutNFPA/positionStmnt.cfm?page=1#2-4r>

²U.S. Department of Health and Human Services. Child Welfare Policy Manual, Title IV-B, Use of Funds. Retrieved October 13, 2005 from: http://www.acf.hhs.gov/programs/cb/laws/cwpm/policy_dsp.jsp?citID=88#444

of insurance. Some States include payment for insurance coverage in the monthly foster care payment to foster parents; others provide the protection through a group insurance policy or through the State's self-insuring procedures. Using self-insurance, the State may be able to provide broad coverage at low cost.

Q: There appears to be no agreement between insurers on the meaning of "liability insurance". Is the interpretation to include coverage of damages to the home or property of the foster parents as well as coverage for harm done by the child to another party, or accidental harm done by the foster parents to the child?

A: The terminology may be misleading, because foster parents are interested in more than "liability insurance". The correct interpretation includes coverage of damages to the home or property of the foster parents, as well as liability for harm done by the child to another party. In addition, protection against suit for possible malpractice or situations such as alienation of affection are often realistic concerns of persons who care for the children of others. Several States have responded to these concerns by providing coverage for foster parents under a "pooled" liability program which provides in effect a self-insurance for departments of State government. Other States have legislated or otherwise defined foster parents as employees or as persons acting on behalf of the State, thus providing protection to those persons for claims made against them as agents of the State. Some States have purchased insurance coverage for foster parents, although the policies available often do not cover all of the risks incurred.

The following state-specific information describes arrangements under which various states are addressing the issue of liability and damage claims for foster parents. We have assembled those policies we were able to locate. Note that this is not a comprehensive list of all policies.

Alabama

The state's General Liability Trust Fund, which provides liability protection in lawsuits for state employees acting in the line and scope of their job requirements, covers foster parents. The Fund is not insurance, but is considered to be a fringe benefit for State employees.

<http://www.riskmgmt.state.al.us/empliab.htm>

Arizona

The Provider Indemnity Program (PIP), funded and administered by the state, provides liability coverage for individual providers caring for state clients. The following is part of a section of the Arizona statute regarding liability coverage:

To the extent it is determined necessary and in the best interests of the state, the department of administration shall obtain insurance or provide for state self-insurance against property damage caused by clients and liability coverage resulting from, the direct or incidental care of clients participating in programs of the state

and its departments, agencies, boards or commissions relating to custodial care. The insurable programs shall include foster care...(Arizona Revised Statutes 41-621(B)).

A brochure describing the program is available in English and Spanish online at <http://www.azrisk.state.az.us/Finance/index.htm>

Arkansas

Foster parents are required to carry homeowner's or renter's insurance and general liability insurance, which may be included in the homeowner's policy; Any claims for damages or destruction to family foster parent(s)' personal property that is not covered by homeowner's insurance or to the property of others due to the actions of a foster child placed in a foster home are filed with the Arkansas Claims commission. Foster parents approved by a child welfare agency licensed by the Department of Human Services are not liable for damages caused by their foster children, and are not liable for injuries to foster children caused by acts or omissions of the family foster parents unless by malicious, willful, wanton or grossly negligent conduct.

Standards for Approval of Family Foster Homes, Section 13.0

<http://www.arkansas.gov/dhhs/chilnfam/PUB-22%20Promulgation%20.PDF>

Colorado

In Colorado, foster parents are responsible to have homeowner insurance for liability claims. In addition, private agencies must provide a certain level of insurance for liability purposes. For county certified foster parents, the state carries a Catastrophic Insurance Plan which is the last payor of resort. The coverage is applied in excess of any other insurance the foster parent may have, such as homeowner's and personal umbrella liability. There is a \$5,000 deductible per claim. For more information, see:

<http://www.cdhs.state.co.us/agency/CW0423I.pdf>

Delaware

Foster parents are required to purchase liability insurance when such a policy is available through a foster parent association, or may choose to purchase an individual insurance policy rather than the group liability insurance policy. Foster parents who choose not to purchase liability insurance must sign a Foster Parent Liability Insurance Waiver.

http://www.state.de.us/kids/pdfs/pol_fs_usermanual_2002.pdf

Hawaii

The Department of Human Services provides a General Liability Insurance for the foster parents. The insurance will cover damages outside of the foster parents' home. For damages within their home, the foster parents would utilize their homeowner's insurance. Exceptions could be handled administratively or through community resources.

Illinois

The Department of Children and Family Services (DCFS) provides coverage, but covers only losses which the caregiver's own insurance does not cover. Foster parents submit a claim form, receipts for losses, proof of having submitted a claim to their insurance company, and a copy of the disposition to the DCFS. The state has a foster care reimbursement

coordinator who assesses the feasibility of the requests and reimburses if deemed appropriate.

Indiana

Many foster parents in the state of Indiana have foster parent liability insurance provided for them by their county Department of Child Services or through the private agency for whom they foster. Approximately 70 counties in the state support their foster parents by purchasing this protection for them and many private agencies also provide this support. The Indiana Foster Care and Adoption Association offers liability insurance to foster parents in Indiana who are IFCAA members. The foster parent liability insurance does not cover any claims from the use, maintenance or ownership of a vehicle or watercraft, and does not cover injury or death of the foster parent, adopted or birth children. The insurance program through IFCAA also carries minimal coverage for property damage. The policy is designed to be supplemental to homeowner's or renter's insurance.
<http://www.ifcaa.org/Insurance.htm>

Iowa

By statute, the foster home insurance fund pays the following:

- Valid and approved claims of family foster care children, their parents, guardians or guardians ad litem.
- Compensation to licensed foster families for property damage, at replacement cost, or for bodily injury, as a result of the activities of the family foster care child.
- Reasonable and necessary legal fees incurred by licensed foster families in defense of civil claims and any judgments awarded as a result of these claims.
- Reasonable and necessary legal costs incurred by a guardian or conservator in defending against a suit filed by an eligible ward or the ward's representative and the damages awarded as a result of the suit

The state contracts this out with a risk management agency, which subcontracts out for underwriting and claim adjustments. See Administrative Rules, Service Contracting and Administration, Chapter 158.

<http://www.dhs.state.ia.us/policyanalysis/RulesPages/RulesChap.htm>

Kansas

In Kansas, foster homes are sponsored by private Child Placing Agencies. If foster parents incurs damage to their home or other possessions such as vehicles, they can consult with their home owner's or auto insurance to see what type of coverage is provided by their policy. They can request assistance from their sponsoring agency, but the agency is not required to provide assistance. The child who committed the damage may be court ordered to pay restitution to the foster parents, if charged with an offense. Another option, if there is no assistance through other sources, is for the foster parent to present a claim before a legislative committee that considers special claims.

Kentucky

The state contracts with a private insurance company to provide liability insurance for foster parents. Claims for property damage perpetrated by foster children are submitted to the insurance company for payment. Damages disallowed under the liability insurance

policy can be submitted to the Service Region Administrator for approval on a case by case basis. See https://apps.chfs.ky.gov/pandp_process/foster_care_per_diem.htm

Maine

The Risk Management Division serves as the State's own insurance company, insuring state vehicles for liability and state property for most unforeseen losses as well as most State agencies for general liability and employment practices. Maine provides coverage for damage foster parents incur to their property by a foster child through the coverage that is available to state employees. Foster parents must first submit the claim to their home owners insurance; if their insurance does not cover the damage they then submit the claim through the state's risk management process. They must be a licensed foster home to qualify. For more information see: <http://www.maine.gov/bgs/riskmanage/claims/>

Michigan

- The Michigan Department of Human Services does not pay foster parent damage claims. Payment of such costs may be arranged through other community resources, such as service clubs, courts, and other public or private social service agencies.
- Items damaged by a foster child can be considered when completing an assessment for determination of care rate.
- Reimbursement of costs of attorney fees may be made when legal action is taken against the foster parent for injury or damage which resulted from an action of the foster child

<http://www.mfia.state.mi.us/olmweb/ex/cff/903-9.pdf>

Minnesota

By statute (Minnesota Statutes 245.814), the state provides insurance to individuals licensed as foster home providers to cover their liability for injuries or property damage caused or sustained by persons in foster care in their home; and actions arising out of alienation of affections sustained by the birth parents of a foster child or birth parents or children of a foster adult.

<http://www.revisor.leg.state.mn.us/stats/245/814.html>

Montana

The Foster Care Children Self-Insurance Program provides, without a premium expense to the foster parent, a program of protection from the following damages or losses to property of foster parents caused by the intentional acts of foster children; and claims made by third parties against foster parents because of the intentional acts of foster children.

<http://www.discoveringmontana.com/da/rmtd/insurance/files/fostagmt.pdf>

Nebraska

Nebraska Statute Section 43-1320 provides for the Foster Parent Liability and Property Damage Fund, which is administered by the Department of Health and Human Services Finance and Support. It is used to purchase liability and property damage and to reimburse foster parents for unreimbursed liability and property damage incurred or caused by a foster child as the result of acts covered by the insurance policy.

<http://srvwww.unicam.state.ne.us/Laws2005.html>

New Hampshire

Foster parents must carry homeowners or renter's insurance coverage. They must also have automobile insurance coverage, if they provide transportation services to children in care. The Division of Children, Youth and Families provides liability insurance as a secondary insurer. The policy is intended to cover malicious and/or unusual acts resulting in damages which are not seen as common occurrences within the typical child rearing experience.

New Jersey

The Division of Youth & Family Services offers a Foster Parent Liability Program that consists of two distinct components involving property damage/loss and legal representation. The program is intended to provide protection against certain damages or losses to the foster parent's property caused by a foster child; claims made by third parties against foster parents because of the acts of a foster child; and claims made against foster parents by third parties, including foster children or persons acting on their behalf, alleging negligence in the course of foster parenting activities.

<http://www.njfostercare.org/FosterHand3.htm>

New York

New York State regulations (18NYCRR Part 427) provide for reimbursement as a special payment to foster families, for those expenses not covered by insurance. In this state-supervised, locally administered child welfare system the local departments of social services decide whether to pay and what amounts to pay, within state-specified limits (\$1000 per child over a two-year period).

North Dakota

North Dakota's Foster Parent damage claims are handled through the Department of Human Service "Family Foster Care Home Property Damage Policy." Claims are submitted to the Department, reviewed, and paid directly from Department Funding.

<http://www.state.nd.us/eforms/Doc/sfn00327.pdf>

Oregon

Under Oregon Law, the state is liable for its torts and those of its officers, employees and agents acting within the scope of their employment or duties. The Risk Management Division, Department of Administrative Services, administers the liability fund insurance program to cover this liability. When a foster parent or others believe that they have a claim resulting from willful, malicious, or intentional damage caused by a foster child, the foster parents or service worker submits a "Notice of Claim and Statement of Loss." When foster parents believe that they have a claim resulting from damage caused by a foster care child which was not willful, malicious, or intentional, they may file a claim. If it is determined by the Claims Section that the claim is valid, a foster parent is entitled to reimbursement up to \$5,000 for each occurrence.

http://www.dhs.state.or.us/policy/childwelfare/manual_3/iii-a22.htm

Tennessee

In its Foster Parent Handbook, Tennessee Department of Children's Services advises its foster parents to obtain their own property damage (homeowners) and liability insurance. Damage claims can also be filed with the State Division of Claims, but that entity does not routinely pay off claims, except in situations where negligence can be proven.
http://www.tennessee.gov/youth/foster/foster_handbook/handbook.pdf

Washington

Washington State has legislatively mandated Foster Parent Liability program fund for financial relief to foster parents who incur liability from third party personal injury and property damages caused by the foster parent in their role as foster parent or their foster/respite care children. Legal representation by the state for foster parents is allowed for actions against foster parents if it is determined that their acts or omissions were while in good faith performing, or in good faith purporting to perform, provision of foster care services. See Children's Administration Operations Manual 91000, Foster Parent Liability Plan
<http://www1.dshs.wa.gov/pdf/ca/ops/Chapter9.pdf>

West Virginia

The Department of Health and Human Resources and the State Insurance Board have developed an agreement to provide general liability and property insurance protection for all approved foster homes in West Virginia.

- **General Liability Insurance:** This insurance protects the Department including its employees and the foster/adoptive parents for negligent acts of the foster child that causes injury or damage to persons other than the foster/adoptive parent.
- **Property Insurance:** This insurance protects the foster/adoptive parent for property damage caused by the foster child to the foster/adoptive parents' own property. Losses are adjusted on an actual cash value basis (replacement cost less physical depreciation.) Each loss is subject to a \$2,000.00 deductible with the foster/adoptive parent responsible for the first \$300.00 of the loss.

See Foster Care Policy Section 14, 14.16, Liability Insurance
http://www.wvdhhr.org/bcf/children_adult/foster/policy.asp

Wisconsin

The Wisconsin Department of Health and Family Services administers the Foster/Treatment Foster and Family-Operated Group Home Insurance Program. This program was created by the Wisconsin Legislature to assure that foster, treatment foster and family-operated group home parents and their families are reimbursed for damages or loss they might experience that are caused by acts or omissions of children placed in their care and that are not covered by private insurance policies. Foster parents are required to have liability insurance coverage. Except as provided in the state statutes for the use of fireworks and automobile insurance coverage, licensed foster parents are immune from civil liability for an act or omission of the foster parent while acting in the capacity of a foster parent or an act or omission of a foster child while in the foster parent's care.
http://oci.wi.gov/pub_list/pi-048.htm