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## **INSURING YOUR PROGRAM: VEHICLE AND PROPERTY INSURANCE**

**By the Staff of the Child Care Law Center**

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## **INSURING YOUR PROGRAM: VEHICLE AND PROPERTY INSURANCE**

*A parent volunteer at the child care home is driving children to the pool when the car is struck by another driver. A child is injured, and her parents threaten suit against the volunteer driver and you, the provider. The volunteer driver is very upset because his insurance rate will go up due to this accident.*

*There was a fire at your house last night. Old wiring apparently started a fire in your office -- and while the fire was fairly contained, all your administrative files have been badly damaged. Smoke and water damage to the rest of the house requires you to stop providing care in your house for several weeks. Over the next 2 hours, you will be answering the same question for 5 different parents: "What's going to happen to your family child care business?"*

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Automobile and property insurance are essential elements of all child care programs. The purpose of having these types of insurance is to cover the cost of unexpected, unaffordable damages: serious injuries to children, destruction of your home, equipment, or vital documents, and resulting financial losses if the program is forced to close for repairs.

This article discusses the different types of auto and property insurance coverage: what coverage is recommended, who should be covered, and what are appropriate amounts of coverage.

### **AUTOMOBILE INSURANCE**

#### **IS AUTO INSURANCE NECESSARY? WHAT DOES IT DO?**

Automobile insurance is required by law for all drivers in California. If your program transports children by car, such as on field trips, auto insurance is essential. The frequency of auto accidents and their potential for serious injury are risks that must be prepared for.

Even if a provider uses public transportation, or has a volunteer or assistant drive the children for field trips, the risk is not borne by the driver alone. If an accident occurs, and a lawsuit follows, it is very likely that the program itself will be named as a defendant along with the driver. If the program is found even partially responsible for the injury or damage, its only protection against paying a large injury award would come from its insurance policies.

A good auto insurance policy will cover most of the costs following an auto-related child injury. If you were driving your vehicle at the time of the accident, a good policy will pay for your defense in the event of a lawsuit, and will pay any settlement or money judgment (up to the policy limit) that you would otherwise have to pay.

A family child care provider should read her or his policy carefully to make certain that the use of the vehicle in her or his program is covered. The frequency and/or regularity of transporting children may make a difference in the type of vehicle insurance that you need. If you transport the children under your care frequently, you may be required to up-grade your auto insurance from a family use policy to one for commercial use.

Often, insurance companies will include a "deductible" in the policy: an amount the insured (you, the person purchasing insurance) must pay out of his/her own pocket before the coverage takes over. Usually, a policy with a higher deductible is the least expensive. A wise provider will use this deductible liberally, to keep the program's insurance record clean and its rates as low as possible. Insurance should be considered a large "rainy day fund," to be dipped into only in the event of a large damage claim "downpour."

### **WHAT TYPES OF COVERAGE ARE AVAILABLE FOR AUTOS OWNED OR USED BY A PROGRAM?**

The following is an overview of some of the more common types of coverage for program-owned autos. These different types of insurance usually are written with a deductible of \$100-\$500. Often an agent will offer a package of several different types of coverage at a rate less than the separate purchase price.

In California, there are two basic types of auto insurance coverage that are mandatory:

- Bodily Injury Liability, which covers physical injury to others, usually people outside of the insured's auto;
- Property Damage Liability, which covers damage to property outside of the insured's auto;

Some states now require No Fault coverage as mandatory coverage, which replaces the two types of coverage listed above. In addition to mandatory forms of coverage, optional forms of coverage can include:

- Collision, which covers damage to the insured's car;
- Medical Payments, which covers the medical costs of the driver and passengers in the insured vehicle, but usually with a limit (e.g., \$1000 per person)
- Uninsured Motorist Protection, which covers the passengers in the car for the cost of injuries from an accident caused by an uninsured motorist or hit-and-run driver.
- Under-insured motorist protection, which covers injuries sustained by the insured or passengers in the car caused by an under-insured motorist;
- Comprehensive, which covers most physical damage to your car other than by collision (e.g., vandalism, storm damage);
- Fire, Theft, and Combined Additional Coverage for Physical Damage, which covers specific causes of physical damage, usually written in place of the comprehensive coverage (e.g., separate policies for damage from earthquake, hail, vandalism).

### **WHAT TYPES OF COVERAGE ARE AVAILABLE WHEN RENTAL, OR EMPLOYEE OR VOLUNTEER-OWNED AUTOS ARE USED?**

There is coverage available for programs that use others' cars to transport children. It is most important to know that the drivers of the other cars are themselves adequately insured.

- Non-owned Auto Liability covers injuries arising from an accident if the program was using a parent's, volunteer's, or assistant's vehicle to transport the children. Even if the owner of the vehicle is insured, her or his insurance may not cover, or may only minimally cover, your child care program's liability. This coverage gives protection to the program, itself, although it will not cover the injuries of the driver. This coverage is usually not available alone; it is purchased as an addition to the program's general liability or program-owned auto insurance policy.
- Volunteer's and Employee's Excess Auto Liability covers injuries to the driver if the vehicle transporting the children is owned by a parent, volunteer, or assistant. This coverage may not be necessary if the driver owns the vehicle and the vehicle is insured.
- Hired Auto Liability Insurance is sold as an addition to the program's general liability policy and offers coverage over and above the (usually minimal) limits provided with rental car agreements. It is usually inexpensive, and its coverage is limited to short-term rental vehicles used by the program to transport children.

### HOW MUCH COVERAGE IS ENOUGH?

Experts suggest purchasing the highest limits of auto liability insurance your program can afford. A bare minimum amount of coverage should be no less than \$300,000 bodily injury per person, and the same amount for property damage.<sup>1</sup> While some insurers may not offer many choices on policy limits, many do. If there is a choice, it is usually possible to increase coverage significantly, particularly at the higher levels, without a great increase in the premium price. For example, \$1 million worth of coverage will probably cost only about 25% more than does \$300,000 worth of coverage.

Auto insurance may be written on a "split-limit" basis, a "single-limit" basis, or a combined single-limit basis. In a policy with split limits, the bodily injury limits are stated on a "per person" and "per occurrence" basis. The property damage limit in such policies is usually separately stated. In a single limit policy, there is no "per person" limitation. Rather, the only limit is the total amount the insurer will pay for a single occurrence. In a combined single limit policy, the total amount the insurer will pay for bodily injury and property damage is stated as a single amount. Almost all policies offer the combined single-limit policy, and it is recommended because of its flexibility. For example, if the program were sued and found liable for \$750,000 bodily injury and \$250,000 property damage, a \$1,000,000 single-limit policy would provide complete coverage. Conversely, with the same suit, a split-limit policy of \$500,000 personal injury and \$500,000 property damage would leave the program having to pay \$250,000 out of its own funds to cover the bodily injury award.

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<sup>1</sup> Most states have minimum requirements for auto liability coverage, and the minimum required amounts may be much lower than the amounts used in the example in the text of this article. For instance, in California, the minimum policy limits for liability for personal injury are \$15,000/\$30,000 (depending on the number of injured parties), and \$5,000 for property damage. These amounts are extremely low, and should be viewed strictly as bare minimum amounts.

To the extent your program is able, though, it is a good practice to carry policy limits that reflect the amounts you may realistically be held liable for in the event of an accident that involves your program. The amounts we use in the text of this article are reflective of this practice.

## **WHAT ELSE CAN BE DONE TO DIMINISH THE RISKS INVOLVED IN TRANSPORTING CHILDREN BY AUTO?**

Regardless of the type of insurance purchased by the program, there are several ways that transportation risks can be diminished.

- Utilize safe automobiles. Vehicles used should be in good condition, and all children should be in car safety seats, or seat belts, depending on their size and age.
- Utilize safe drivers. The program should check to see that each driver has a current license and has adequate car insurance that covers injuries to the driver. Additionally, the program should make inquiries about each driver's driving history.
- Require safe driving habits. Drivers should be told to take no unnecessary risks while driving (e.g., stop on the yellow light), and to closely observe the posted speed limit. Also, the driver should be directed never to move the car until all children in the immediate area are accounted for.
- Arrange adequate supervision for the children. If a child passenger is injured in an accident which occurred because the driver was distracted by the child care children, the program could be sued for negligent supervision. Therefore, it is important to have adequate supervision and to enforce rules forbidding children from shouting or wrestling in the car.
- Require adequate insurance coverage by the auto owner. To make sure the auto is currently insured, you could ask the owner for either a photocopy of the policy or a certificate of insurance from the insurer. Be sure to check the dates of the coverage, and check for exclusions on the policy (e.g., the driver is limited to driving the car within a 50 mile radius).
- Utilize child safety seats. Use only approved safety seats that meet the legal requirements, and always secure the children before driving them anywhere -- even a block away. You should have a safety seat for each child you transport who is either under four years of age, regardless of the child's weight, or who weighs less than forty pounds, regardless of age.

## **PROPERTY INSURANCE**

### **IS PROPERTY INSURANCE NECESSARY? WHAT DOES IT DO?**

If you own the residence where you provide child care, it should be insured against fire and other perils. Usually the bank that holds your mortgage will require you to purchase some form of building or homeowner's insurance. This is because if your building were to burn down uninsured, the bank would immediately try to collect the remaining amount owed on the mortgage from you. This would be true even though by paying the balance you would only gain full rights to a mound of ashes, and you would still need to finance the construction of a new building. Obviously, most child care providers do not have this kind of financial flexibility. In this example, adequate property insurance would not only pay off the bank, but it would also pay to replace the building, your

equipment, supplies, and records, and it would cover your expenses while the program is closed for rebuilding.

If you rent or lease space, your landlord will usually carry insurance on the building. However, some leases require that tenants purchase their own or additional insurance on the building. Check your lease to see if this is required.<sup>2</sup> If you do purchase renters or property insurance, you are not required to name the landlord in your policy. The landlord should carry her or his own property insurance on the building.

Property insurance will protect your property from damage, but will not protect you from liability for injuries to people or to the personal property of others that may occur as a result of your operating a child care program, even if the program is operated out of your home. A policy separate from homeowner's, renters, or other forms of property insurance will need to be purchased if you wish to be protected from liability.<sup>3</sup>

### **WHAT TYPES OF PROPERTY INSURANCE ARE AVAILABLE? WHAT DO THEY COVER?**

Property insurance can be purchased to protect you for three different kinds of damage:

- Damage to your home ("real property" or "realty" in legalese);
- Damage to your equipment, supplies, or records ("personal property");
- Consequential damage to you or your program (e.g., the cost of your salary while the program is closed for repairs).

Coverage for both realty and personal property can be purchased on either a "listed causes of loss" or a "special physical loss" basis. Insurance written on a "listed causes of loss" basis will cover your property only for damages caused by a peril specifically named in the policy (e.g., only damage from fire, lightning, vandalism or other peril listed on the coverage page). In contrast, "special physical loss" insurance will cover your property for damages from all perils that are not specifically excluded in the policy. The type of policy you purchase will general dictate the perils covered by your policy.

Listed causes of loss: There are generally two types of policies available under this category.

Basic causes of loss policy, is the most limited "listed causes of loss" policy. It will protect against fire and lightning, windstorm or hail, smoke, damage caused by aircraft or vehicles, riot and civil commotion, vandalism, malicious mischief, and sinkhole collapse, sprinkler leakage, and volcanic action.

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<sup>2</sup> Tenants should consider the purchase of fire legal liability insurance that covers a tenant who causes a fire. If you, as a tenant, cause a fire, your landlord's insurance company will first pay off the landlord's claim, and then will try to collect that amount from you. If you had fire legal liability insurance, it would pay this amount for you.

<sup>3</sup> For a detailed discussion on liability coverage, see CCLC's article *Insuring Your Program: Liability Insurance*, 1999 Revised Edition of this Handbook.

Broad causes of loss policy, will insure against all those covered by the basic causes of loss policy, plus breakage of glass, falling objects, weight of snow or ice, water damage, and the additional coverage of collapse.

Special physical loss policy, is the most comprehensive policy available. It covers losses caused by almost anything. Typical exclusions on special physical loss policies are earthquake, landslide, the earth rising, sinking or shifting, war, nuclear radiation, flood, and property damage by insects such as termites.

Whichever type of policy you decide on, be sure to check which perils are included -- and which are excluded. Coverage on a special physical loss basis is usually recommended, since it is frequently the unexpected (unnamed) peril that causes damage to your building or equipment.

Other kinds of coverage can be purchased separately to supplement a listed causes of loss policy or to cover a peril specifically excluded in a special physical loss policy. Typical types of coverage include:

- Earthquake damage;
- Overhead sprinkler leakage;
- Plate glass breakage;
- Valuable papers damage;
- Damage to records: accounts receivable;
- Damage to special equipment (e.g., video equipment, computers).

An important exception to realty and personal property insurance is flood insurance, which can only be purchased from the federally administered National Flood Insurance Program. If you live in an area where flooding is a risk, contact your local office of the Federal Emergency Management Agency (FEMA) for information on how to purchase flood insurance.

In addition to realty and personal property insurance, you can purchase "Extra Expense" insurance to cover the cost of continuing your business after damage or destruction by an insured peril. This kind of coverage can pay for loss of earnings, moving expenses, and set up costs to continue operating in another space.

### **HOW MUCH COVERAGE IS ENOUGH?**

Insurance policies are written based on either the "actual cash value" or the "replacement cost" of the property. The actual cash value is the depreciated value of the property after use or wear. The replacement cost is the value of replacing the exact same piece of property, for example, the same square footage of the building or the same piece of equipment at current market rates.

Both actual cash value and replacement cost policies may be purchased on the basis of the "agreed value" of the building or on a "co-insurance" basis. To obtain insurance on the agreed value basis,

you need to obtain a formal appraisal of your home. The policy will then be written at the amount fixed by the appraisal.

If insurance is purchased on a co-insurance basis, the insurance company will usually require that you insure the home for a minimum of 80% of its value at the time of loss (either replacement or stated-value, depending on the policy) in order for the insurance company to cover the full amount. If the property is insured for less than 80% of its value, then the insurance company only pays a percentage of any loss.

To be fully insured in inflationary times requires regular reappraisal of the property's value. It is the responsibility of the insured to make sure the amount of insurance meets the 80% minimum. Consequently, you may wish to arrange for a regular escalation of the value (accompanied by an increase in your premium) or you may wish to "over-insure" your home initially in order to anticipate future inflation. Alternatively, you may wish to purchase a one-year policy and undertake an annual review of the value of the building. In determining the value of your building, you should deduct the cost of the land, landscaping, and any other items that the insurance will not cover anyway.

A policy may also be obtained with a "value protection clause" which automatically protects increased property values and enables the insurer to increase premiums accordingly.

#### **WHAT ELSE CAN BE DONE TO DIMINISH THE RISK OF PROPERTY DAMAGE?**

Several things are recommended to diminish risks to your property and your program:

- Comply with licensing standards and inspect for hazards. Your program must have working smoke detectors, fire extinguishers, and an evacuation plan in case of fire or other calamity. You must conduct practice fire and disaster drills at least once every six months and must maintain documentation of these drills, including the date and time of each drill, at the child care facility.

You must also post an Earthquake Preparedness Checklist in place within your child care facility that is accessible to the public.

- Store important documents and equipment safely. Always keep vital papers (e.g., accounts receivable, deeds) in a metal or otherwise fireproof cabinet. Another method is to keep copies of these papers in a separate location. Expensive equipment such as computers and typewriters should be covered or kept away from display through windows at night.
- Make contingency plans in the event of a major loss. If the program is unexpectedly forced to close temporarily, you should have a plan set up beforehand to head off an otherwise crazed situation. This plan should include:
  - A procedure for notifying parents and staff;
  - If applicable, an alternative site where the program will continue operating;
  - A phone number for parents and staff to call for updates on the situation;

- Some financial planning (e.g., what are the program's continuing costs, regardless of whether it is operating or not);
- Volunteers who can be called when needed to help with clean-up tasks after damage has occurred.