

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

**Proposing rule making related to foster home insurance fund
and providing an opportunity for public comment**

The Human Services Department hereby proposes to amend Chapter 158, “Foster Home Insurance Fund,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 237.13.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 237.13 as amended by 2021 Iowa Acts, House File 891, section 54.

Purpose and Summary

The Foster Home Insurance Fund (Fund) was established to provide liability coverage to licensed foster parents who have a child placed in their home. Pursuant to Iowa Code section 237.13, the Fund is created within the Office of the Treasurer of State to be administered by the Department of Human Services. The Fund consists of all moneys appropriated by the General Assembly for deposit into the Fund. Iowa Code section 237.13 was updated in the 2020 Legislative Session to state that the Department shall use moneys in the Fund to reimburse foster parents for the cost of purchasing foster care liability insurance and to perform the administrative functions necessary to carry out the Iowa Code section.

The initial plan was for the Department to offer financial assistance for licensed foster parents to purchase or offset liability insurance. Following extensive research, it was determined that this was not an existing coverage offered by insurance companies. Therefore, the Department worked with the Legislature to update Iowa Code section 237.13 during the 2021 Legislative Session to add language to the Iowa Code to reflect that moneys in the Fund shall be used to provide home and property coverage for foster parents to cover damages resulting from the actions of a child residing in a foster home. In addition, language was added to the Iowa Code to allow the Department to establish limitations of liability for individual claims as deemed reasonable by the Department.

The Department has contracted with a private organization to perform the administrative functions required of the Fund and sign up all licensed foster parents to ensure that there is coverage in the event foster parents need to submit a claim.

Fiscal Impact

The annual amount budgeted for the Foster Home Insurance Fund is \$675,000. Changes to the annual limit and an increased deductible could reduce costs, so it is possible the full amount will not be utilized.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 6, 2021. Comments should be directed to:

Nancy Freudenberg
Iowa Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: appeals@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Renumber rules **441—158.1(237)** to **441—158.5(237)** as **441—158.3(237)** to **441—158.7(237)**.

ITEM 2. Adopt the following **new** rule 441—158.1(237):

441—158.1(237) Applicability. This chapter specifically relates to the foster home insurance fund established by Iowa Code section 237.13. A foster home insurance fund shall be developed by the department. The fund shall provide reimbursement for any property damages caused by the acts of a foster child residing in a foster home. The department may contract with another state agency or private organization to perform the administrative functions necessary to carry out this rule.

ITEM 3. Adopt the following **new** rule 441—158.2(237):

441—158.2(237) Definitions.

“*Department*” means the Iowa department of human services.

“*Foster family home*” or “*licensed foster home*” means an individual, as defined in Iowa Code section 237.1(7), who is licensed to provide child foster care.

“*Personal property*” means any movable thing of value which is owned, rented, or leased by a person and not recognized as real property.

“*Real property*” means anything owned, leased, or rented which is permanently affixed to, or built upon, a piece of land. Real property is best characterized as property that does not move or that is attached to the land.

“*Third-party property*” means property belonging to any person or entity other than the foster family or foster child.

ITEM 4. Amend renumbered subrule 158.3(1) as follows:

158.3(1) Eligible foster family claims. The foster home insurance fund shall pay the following within the limits defined in Iowa Code section 237.13, ~~subsections 3 and 4~~ 237.13(2):

a. Valid and approved claims of ~~family foster care children, their parents, guardians or guardians ad litem~~ a licensed foster family home.

b. Compensation to licensed foster families for personal or real property damage, at replacement cost, or for bodily injury, as a result of the activities of the family foster care child. Coverage also extends to third-party property damages caused by actions of the foster child.

c. ~~Reasonable and necessary legal fees incurred by licensed foster families in defense of civil claims filed pursuant to Iowa Code section 237.13, subsection 7, paragraph “d,” and any judgments awarded as a result of these claims. The reasonableness and necessity of legal fees shall be determined by the department or its contract agent.~~ Non-property-based liability, bodily injury, sexual abuse or molestation, auto liability, and professional liability are not covered.

ITEM 5. Amend renumbered rule 441—158.4(237) as follows:

441—158.4(237) Payment limits. The fund is not liable for the first \$100 ~~for all claims arising out of one or more occurrences during a fiscal year related to a single foster home~~ \$150 per claim deductible per family. Each claim shall be limited to one incident/occurrence. The fund is not liable for damages in excess of ~~\$300,000~~ \$5,000 for all claims arising out of one or more occurrences during a fiscal year related to a single home. Claims for losses related to bedbugs or other insect infestations will have an annual sublimit set by the department.

ITEM 6. Amend renumbered rule 441—158.5(237) as follows:

441—158.5(237) Claim procedures. Claims against the fund shall be filed with the department’s contractor. ~~If the department does not have a contractor, claims shall be filed on Form 470-2470, Foster Home Insurance Fund Claim.~~ Claims shall be filed on Form 470-5659, Foster Home Property Fund Notice of Loss Form. The decision to approve or deny the claim shall be made ~~by the department or its contractor~~ and the notice mailed or given to the claimant within 180 days of the date the claim is received.

ITEM 7. Amend renumbered rule 441—158.6(237) as follows:

441—158.6(237) Time frames for filing claims.

~~**158.6(1)** Claims by children who were under the age of 18 at the time of the occurrence shall be submitted within two years six months of the date of the occurrence ~~or after the child’s eighteenth birthday, but before the child’s nineteenth birthday.~~~~

~~**158.6(2)** Claims by persons who were aged 18 or older at the time of the occurrence shall be submitted within two years of the occurrence.~~

~~**158.6(3)** Claims by foster parents pursuant to paragraph 158.1(1) “c” for legal fees or court ordered judgments shall be submitted within two years of the date of the judgment.~~

ITEM 8. Amend **441—Chapter 158**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 237.13 as amended by ~~2011 Iowa Acts, Senate File 482, division II~~ 2021 Iowa Acts, House File 891.