



DEPARTMENT OF

Professional &  
Financial Regulation

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF PROF. AND OCC. REGULATION

## A Consumer Guide to – CHILD CARE LIABILITY INSURANCE

### DO I NEED CHILD CARE INSURANCE?

If you've been thinking about providing day care in your home for other people's children, you've probably also wondered whether you need some kind of insurance. A child care center or nursery school **must have** liability insurance to become licensed by the Department of Health and Human Services (DHHS). Anyone who provides child care in his or her own home is not required by DHHS to have liability insurance to become licensed. Although DHHS does not require liability insurance, a family child care provider may be required by his or her homeowners insurance company to have business liability insurance in order to avoid cancellation or nonrenewal of the homeowners policy.



DHHS defines a *family child care provider* as a person who receives some type of payment to provide child care in his or her own home on a regular basis for 3 to 12 children under 13 years old, who are not the provider's own children. If you are receiving payment for providing child care on a regular basis, you should consider obtaining separate liability insurance to cover the child care activity.

### WHY DO I NEED A SPECIAL POLICY IF I ALREADY HAVE RENTERS OR HOMEOWNERS INSURANCE?

Your homeowners policy probably excludes any loss arising out of any business conducted in your home, including child care. Therefore, to protect yourself and ensure that the children in your care are covered for injuries and incidents that may occur while in your care, you should buy a liability insurance policy to cover the daycare business. Having appropriate business liability insurance will also help you keep your home insured. This is because, historically, an insurer could refuse to issue or renew a homeowners policy if a child care business was in the home.

#### IMPORTANT NOTE:



As of September 12, 2009, Maine law prohibits an insurer from denying an application for a new homeowners policy or cancelling or refusing to renew an existing policy on the basis of the daycare exposure under certain circumstances. This law applies only to a DHHS-certified family child care that is in the insured's primary residence. The property must have four or fewer units, and the

**homeowner/child care provider must have liability insurance for the child care business.**

Consulting with one or more insurance producers, other daycare providers, and/or an attorney can provide you with different perspectives and the knowledge you need to make an informed decision about what you need for coverage. The following guidelines are general and will help you understand some key points. However, your individual needs may be different.

If you plan to provide care in a home you own or rent, you may already have a homeowners policy. This is a basic policy that covers your property in case of fire or a number of other perils. It also gives you some protection against claims for injuries to others while they are on the property you own or rent. This type of policy **will not cover your day care activities** if you receive payment for them.

You may be able to get an endorsement, or supplemental coverage, added to your homeowners policy to provide liability coverage for a *limited* number of children while they are under your paid care. This extension is usually limited to three children, not including your own, though some insurers will provide coverage for more children. While the endorsement will add to the cost of your insurance, it will be the least expensive coverage you can buy, as long as you plan to care for only the number of children it allows.

If you plan to care for more children than your homeowners insurer allows, you may have to buy another type of insurance policy.

For example:

1. A separate day care liability policy,

**-Or-**

2. A "commercial package" policy that provides day care liability coverage combined with coverage for damage or theft of your property.

In each case, the number of children in your care will be a factor in the amount of premium charged by the insurer. Be aware that if you plan to become a licensed provider, your premium will be based on the number of children for which your facility is licensed, not the number actually receiving care. You can save money on your premium if you make sure that you are not licensed for more children than you have under active care.



## **HOW MUCH COVERAGE DO I NEED?**

The other major factor that will affect the amount of your premium is the dollar amount of coverage, or the "limit," you decide to buy. DHHS requires minimum limits for a licensed child care facility, including a nursery school, of \$100,000 per person and \$300,000 per occurrence for bodily injury. If you provide transportation, Maine's motor vehicle financial responsibility law requires you to have vehicle liability insurance. The minimum requirement for all vehicle liability insurance is \$50,000 per person/\$100,000 per occurrence for bodily injury and \$25,000 for property damage.

**Please note:** increasing your insurance limits above the minimum requirements does not add much to the premium. Added protection might be worth the difference in cost. Again, you should talk to several insurance producers before you decide how much coverage to

buy. It might also help to find out what a few experienced family child care providers do for insurance coverage.

### SHOULD I WORRY ABOUT LEAD PAINT?

Lead paint may become an issue with insurers if you provide day care for children other than your own. Most buildings constructed in the United States before 1978 have some lead-based paint. Lead-based paint is considered a major environmental health hazard, especially to children. Therefore, many insurers will not cover older properties without a lead-safe certification from a licensed inspector.

You may also obtain liability insurance from “surplus lines” or “excess” insurers. Coverage obtained through the surplus lines market will likely be expensive. However, this coverage may have non-standard exclusions for lead and other liability exposures as well as restrictions not found in a standard policy.

The Department of Health and Human Services Child Care Licensing Unit has rules concerning lead paint. Contact them at (207) 287-5060 for more information.



### WHAT CAN I DO TO GET AFFORDABLE LIABILITY INSURANCE?

So far we have assumed that you will have little or no difficulty finding an insurer willing to provide you with the coverage you need. However, you can't be sure that an insurer will always agree to provide day care liability at a price you think you can afford. Insurers are becoming less willing to provide day care liability and some may require that you insure **both** your home and the day care with them.

There are several things you can do to increase your chances of obtaining liability insurance. The most important is to know an insurer's minimum requirements regarding the physical environment, staff training and experience, and child-to-provider ratios of day care facilities. While general information is available from DHHS, its main interest is in establishing minimum requirements for certification. Insurers may have stricter requirements.



Don't hesitate to ask insurance producers if the insurers they represent have specific requirements before they will issue a day care liability policy. Try to bring your facility in line with these requirements. It might mean putting off the swimming pool for a few years, fencing in a play area (and fencing out the family dog), hiring an experienced helper, installing some fire extinguishers and smoke alarms, or filling in a drainage ditch in the back yard. These steps will not only make it easier to get insurance, they will also reduce your premium.

You can help to keep your child care insurance affordable by continuing to provide safe and responsible care in a clean and healthy risk-free environment. Quality day care is good for the children and good for your insurance budget.

If you ever have problems with your policy, such as cancellation or nonrenewal, or with a claim, the Maine Bureau of Insurance is available to help you. We can be reached at

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