

## **FOSTER CARE PARENTAL LIABILITY**

FOSTER CARE PARENTAL LIABILITY

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FOSTER CARE PARENTAL LIABILITY

Children in foster care and their parents have primary responsibility to pay the cost of foster care which is paid by the Department of Human Services. Although the Department initially pays the cost of foster care, it has the authority and responsibility to recover the cost of foster care from income the child or the child's parents may have.

Throughout this chapter, reference is made to the parental liability determination (PLD) specialist. Initially, positions were assigned to six of the eight Department districts. The plan for using the position in each district was tailored to meet the unique needs related to interaction with the juvenile courts in that district. The eight districts have since been converted into five regions. However, the counties covered by PLD specialists have not substantially changed.

Unless otherwise noted, the procedures listed in this chapter shall be used by any staff responsible for determining parental liability.

**LEGAL BASIS**

Pursuant to the Family Support Act of 1988, Public Law 100-485, the Seventy-Third General Assembly passed 1989 Acts, Chapter 166. This law authorized the Supreme Court to prescribe criteria for state-wide uniform child support guidelines under Iowa Section 598.21, Subsection 4. These guidelines first became effective October 12, 1989, and were revised on December 31, 1990.

The legal basis for foster care recovery is found in Iowa Code Chapter 234. Section 234.39 places the primary responsibility for paying the cost of foster care on the child and the child's parents.

Section 234.39 also directs the court to establish the amount of parental liability when ordering a child into foster care. The court sets the amount of parental liability, taking into consideration the Department's recommendation, in accordance with the uniform child support guidelines.

The guidelines and criteria for variations from the guidelines are mandatory and shall be used in the establishment of all support orders. Under the statute, the court shall not vary from the guidelines without a written finding that the guidelines would be unjust or inappropriate. In addition, the guidelines are used to determine the amount of support under a voluntary placement agreement.

Establishment of the support obligation in a legal order enables the Department to use the same collection procedures for foster care recovery as for child support recovery.

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**REFERRAL PROCESS**

**Policy**

The service worker shall make a referral on both parents to the PLD specialist no later than within two working days of the child's placement into foster care.

**Procedure**

The service worker shall forward a completed Exchange of Information (form 470-2708) to the PLD specialist within two working days of the child's placement into foster care. For those counties not served by a PLD specialist, the service worker shall send the form to the Foster Care Recovery Unit. See X-C-Appendix for a sample of the form and for instructions.

The PLD specialist or Foster Care Recovery Unit shall determine whether a case is to be active or inactive and shall review the ICAR system to determine whether a support obligation exists for the child in foster care. The PLD specialist (or the Foster Care Recovery Unit) shall establish a case on ICAR and set up a case file (if an active case) within ten days of receipt of the Exchange of Information.

**Service Worker Responsibilities for Referral**

**Policy**

The service worker shall communicate with the PLD specialist on issues related to determining parental liability for children in foster care.

**Comment**

For those counties not having a PLD specialist or in which the service worker continues to determine parental liability, the policy and procedure as set forth in the RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY shall be followed.

The Public Assistance Application (PA-2207-0) and Foster Care Medicaid Application (470-2779) include income information and documentation needed both for purposes of determining the child's eligibility for Medicaid funding and the parents' liability for the cost of foster care. The time frames prescribed below coincide with those set forth in VIII-H and XIII-J(3).

**Legal reference:** Iowa Code Section 234.39 (1991); 441 IAC 156.4(234)

## FOSTER CARE PARENTAL LIABILITY

**REFERRAL PROCESS** (Cont.)**Service Worker Responsibilities for Referral** (Cont.)**Procedure**

Within two working days of the child's placement into foster care, the service worker shall send the Exchange of Information (form 470-2708) to the PLD specialist. The form shall list the child's name, social security number, and date of birth, along with each parent's name, social security number, address, and telephone number. The service worker shall indicate in the comment section whether any of the criteria listed under Inactive Status apply.

Service workers shall report changes in circumstances to the PLD specialist using form 470-2708 within two working days. Examples of such changes are:

1. The foster care placement is terminated.
2. The child is placed into or is returned to a foster care placement from a state institution or psychiatric medical institution for children.

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REFERRAL PROCESS (Cont.)

Inactive Status

**Policy**

The PLD specialist shall review the referral to determine whether it meets the criteria for an inactive status for either parent referred.

A foster care recovery case for an individual parent may be closed or placed in an inactive status when at least one of the following criteria applies:

1. The parent is found to have no liability for the child's cost of foster care under the guidelines as applied pursuant to the recovery sequence instructions in this chapter.
2. The parent is currently receiving subsidized adoption benefits for the child.
3. The parent is currently receiving Aid to Dependent Children (ADC) or Supplemental Security Income (SSI) as the parent's own public assistance.
4. The child's unearned income equals or exceeds the cost of foster care, resulting in no liability to either parent.
5. The parent or putative father is deceased and no further action, including a levy against the estate, can be taken.
6. Paternity cannot be established; or the parental rights of the parent have been terminated, and no child support arrearage was owed to the state when parental rights were terminated.

## FOSTER CARE PARENTAL LIABILITY

**REFERRAL PROCESS** (Cont.)**Inactive Status** (Cont.)**Policy** (Cont.)

7. The parent's location is unknown, and the Department has made regular attempts using multiple sources to locate the parent over a three-year period, all of which have been unsuccessful.
8. The parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance of parole, or has a medically-verified total and permanent disability with no evidence of support potential. The Department must also determine that no income or assets are available to the absent parent which can be levied or attached for support.
9. The parent is a citizen of, and lives in, a foreign country, does not work for the federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and Iowa has been unable to establish reciprocity with the country.
10. The Department has determined that support enforcement may not proceed without risk or harm to the child or the caretaker relative because of a finding of good cause.
11. The child has been placed into a state institution (i.e., hospital, training school, juvenile facility) or into a psychiatric medical institution for children (PMIC) paid for by Medicaid.

**Comment**

For more information concerning claiming good cause, refer to IV-B(6), GOOD CAUSE FOR REFUSAL TO COOPERATE.

No parental liability shall be determined if the referral meets any of the above criteria. See X-B, CLOSED/INACTIVE STATUS FOR PUBLIC ASSISTANCE CASES (CAR ACCOUNT TYPE II), for more information.

**Legal reference:** 45 CFR 303.11 and 302.40 - 302.49

**Procedure**

After a case is established on the Iowa Collection and Reporting (ICAR) system, the PLD specialist shall indicate a closed or inactive status and record the reason for the status in the case narrative.

FOSTER CARE PARENTAL LIABILITY

**REFERRAL PROCESS** (Cont.)

**Inactive Status** (Cont.)

**Procedure** (Cont.)

The PLD specialist shall send the parent a Zero Liability Notice, form 470-2159, if no liability is being recommended.

The PLD specialist or the FCRU shall place the case in an active status if conditions of the inactive status change to allow support recovery efforts to take place. The service worker shall report the change in case status to the PLD specialist or FCRU in a memorandum listing the reason for the change.

**RECOVERY SEQUENCE**

**Policy**

Funds shall be applied to the cost of foster care in the following order and each source exhausted before utilizing the next funding source:

- A. Unearned income of the child.
- B. Parental liability of the noncustodial parent.
- C. Parental liability of the custodial parent.
- D. For a child in an independent living arrangement, or a child who is not in school, the child's earned income in excess of the foster care maintenance cost.

**Comment**

The "cost of foster care" is defined as the total of the service and maintenance costs of foster care. For family foster care or independent living, the cost of service, whether supervision and other services are purchased or provided directly, is \$250.00 per month. The cost of foster group care and group shelter is the sum of the actual service and maintenance costs.

The unearned income of the child and the liability of the noncustodial parent are amounts intended to meet the current needs of the child. The amount of unearned income is established by the agency providing the benefits.



FOSTER CARE PARENTAL LIABILITY

**RECOVERY SEQUENCE** (Cont.)

**Comment** (Cont.)

"Custodial parent" is defined as the parent who has legal custody of the child before placement. For purposes of parental liability when no custody order exists, the parent (or parents) with whom the child was living before placement is considered the custodial parent.

"Noncustodial parent" is defined as the parent who does not have legal custody of the child before placement.

**Legal reference:** 441 IAC 156.1(234), 156.2(1), and 156.15(234)

**Procedure**

If support has previously been ordered by the court, the liability of a non-custodial parent shall be equal to that parent's child support obligation; any excess over the cost of foster care shall be applied to the child's escrow account. The liability of the custodial parent shall be determined in accordance with the uniform child support guidelines.

An exception to the recovery sequence is made for the parents of a child with mental retardation. The maximum amount of parental liability to be applied to the cost of foster care for children with mental retardation is \$164.15 per month. Refer to Parental Liability for Child With Mental Retardation for additional information on this topic.

The amount of the child's earned income which is applied to the cost of foster care shall not exceed the combined foster care maintenance and service costs, after deducting amounts which have been applied from unearned income and parental liability.

## FOSTER CARE PARENTAL LIABILITY

RECOVERY SEQUENCE (Cont.)Children's Unearned Income**Policy**

Unearned income of a child in foster care shall be applied to the cost of foster care. Unearned income in excess of the cost of foster care shall be deposited in an escrow account.

**Comment**

**Legal reference:** 441 IAC 156.2(234)

**Procedure**

If the child is receiving Social Security or SSI benefits at the time of entry into foster care and the child is expected to be out of the home more than 90 days, the service worker shall complete a Request To Be Selected As Payee (form SSA-11BK) within 30 days of the child's entry into foster care, (if the child's parent or guardian is unwilling to do so). The service worker shall contact the parent or guardian in writing and instruct the parent or guardian to forward the benefits to the Bureau of Finance, Foster Care Accounting Unit, Hoover Building (1st Floor), Des Moines, Iowa 50319-0114 until the Department becomes payee.

If the child is receiving Social Security or SSI benefits at the time of entry into foster care and the child is expected to be out of the home less than 90 days, no Request To Be Selected As Payee (form SSA-11BK) need be completed. However, the service worker shall instruct the parent or guardian in writing to forward the benefits to the Department at the address listed above while the child remains in foster care.

If the child is not receiving Social Security or SSI benefits but may be eligible for such benefits, the service worker shall encourage the parents to apply. If the parents are unavailable or unwilling to apply, the service worker shall apply for any benefits to which the child may be entitled within 30 days of the child's entry into foster care. The Department shall request to be named payee.

If a child receives unearned income which exceeds the cost of foster care, the service worker shall provide the Foster Care Accounting Unit of the Bureau of Finance with the child's social security number. This notice may be provided by memorandum listing the child's name, social security number, and the reason for needing the escrow account. The service worker shall provide a copy of this notice to the PLD specialist.

## FOSTER CARE PARENTAL LIABILITY

**RECOVERY SEQUENCE** (Cont.)**Children's Unearned Income** (Cont.)**Procedure** (Cont.)

When a child leaves foster care, the service worker shall make arrangements to change the payee from the Department to the parent or guardian and to pay the funds in escrow to the child's parent or guardian or to the child when the child has attained the age of majority, unless a guardian has been appointed.

**RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY AMOUNT****Policy**

The liability of parents to a child in foster care shall be based on the parent's income. Either the service worker or the service worker in cooperation with a PLD specialist is responsible for determining the parental liability. The Department shall adhere to the procedures outlined in this chapter and the uniform child support guidelines to determine parental liability.

**Comment**

In counties served by PLD specialists, the PLD specialist shall serve as liaison with Department service workers, income maintenance staff, county attorneys, and the juvenile court on issues related to determining parental liability for children in foster care.

Liaison activity shall include informing Department staff, members of the juvenile justice system, and the family of the child in foster care about the procedures being used to determine parental liability.

The PLD specialist shall encourage the courts to order the amount of support required by the uniform support guidelines, to modify orders only prospectively, and to enter orders only in the absence of a district court order concerning the respective parent.

Refer to ESTABLISHMENT OF PARENTAL LIABILITY for procedures for determining parental liability.

**Legal reference:** Iowa Code Section 234.39 (1991); Child Support Guidelines by order of the Supreme Court of Iowa, October 16, 1990;  
441 IAC 156.3(252C)

FOSTER CARE PARENTAL LIABILITY

**RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY AMOUNT** (Cont.)

**Identifying Income Subject to Liability Determination**

**Policy**

The following shall be included as sources of income in determining parental liability:

1. Earned income including wages, salaries, and tips.
2. Income earned from self-employment.
3. Unearned income, including social security benefits, veteran's benefits, unemployment benefits, workers' compensation, pensions, annuities, dividends, interest payments, alimony, and unassigned child support for the children in foster care.

The following shall be **excluded** as sources of income in determining parental liability:

1. Income from federally financed public assistance programs (e.g., ADC, SSI).
2. Stepparent's income.
3. Income of a guardian who is not the child's parent.
4. Income of the child's siblings (includes natural, step-, and adopted).
5. Child support being received by the custodial parent for the child's siblings.

Parents are responsible for reporting changes in family income and family size to the Department.

**Comment**

**Legal reference:** Child Support Guidelines by order of the Supreme Court of Iowa, October 16, 1990; Iowa Code Section 234.39 (1991); 441 IAC 156.3(252C)

## FOSTER CARE PARENTAL LIABILITY

**RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY AMOUNT** (Cont.)**Identifying Income Subject to Liability Determination** (Cont.)**Procedure**

Within two working days after receipt of the Exchange of Information, form 470-2708, from the service worker, the PLD specialist shall send an informational letter to each parent explaining the parental liability determination process. If the parent already has a court-ordered support obligation for the child in foster care, the PLD specialist shall send the Request to Complete Financial Statement, form 470-2154. If the parent does not have a court-ordered obligation, the PLD specialist shall send the Parental Liability Contract, form 470-2157, Information About Income Withholding, form 470-2871, and the Foster Care Financial Statement, form 470-2870.

The parent shall complete and return the financial statement to the PLD specialist within 30 days of the request. If the financial statement is not returned within ten days, the PLD specialist shall send the parent form 470-2155, Parental Liability Reminder.

The PLD specialist shall review the income sources of the parents of the child in foster care to determine which income is subject to parental liability determination.

Should additional information be needed from either the noncustodial or custodial parent, the PLD specialist shall contact that parent and request documentation not previously provided, such as pay stubs sufficient to calculate an annual income or the preceding year's federal income tax return. Annual income shall be converted to a net monthly income as defined in the uniform child support guidelines.

**Self-Employed Parents****Policy**

For parents who are self-employed, use the preceding year's U.S. Individual Income Tax Return (Form 1040 or 1040A) to determine the amount of income subject to liability determination. Determine each parent's liability separately using the taxable income line applicable to each parent (adding any IRA deduction or deferred compensation payment), less the following deductions from those listed in the uniform child support guidelines to determine net monthly income:

- a. Federal income tax (properly calculated withholding or estimated payments).

FOSTER CARE PARENTAL LIABILITY

**RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY AMOUNT** (Cont.)

**Identifying Income Subject to Liability Determination** (Cont.)

**Self-Employed Parents** (Cont.)

**Policy** (Cont.)

- b. State income tax (properly calculated withholding or estimated payments).
- c. Social security deductions and union dues.
- d. Dependent health insurance coverage either deducted from wages or paid for dependent medical insurance pursuant to court order.
- e. Actual medical support paid pursuant to court order or administrative order.
- f. Unreimbursed individual health or hospitalization coverage or medical expense deductions not to exceed \$25.00 a month.
- g. Prior obligation of child support and spousal support actually paid pursuant to court or administrative order.
- h. Actual child care expenses while custodial parent is employed, less the appropriate income tax credit.

**Procedure**

If the previous year's U.S. Individual Income Tax Return (Form 1040 or 1040A) is used, the PLD specialist shall use information available from Schedule C "Profit or Loss From Business," Schedule F, "Farm Income and Expenses," or Schedule SE, "Social Security Self-Employment Tax," to determine the net profit or loss from self-employment.

A net loss from self-employment shall not be subtracted from any other source of income a person may have in determining that person's total net income for the purpose of applying the uniform child support guidelines.

The PLD specialist may want to use either the Work Sheet Determining Income of Farm Operators (form FP-2209-0) or Work Sheet Determining Income of Self-Employed Business (form FP-2210-0) in calculating net income from self-employment. These forms are found in 6-Appendix.

## FOSTER CARE PARENTAL LIABILITY

**RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY AMOUNT** (Cont.)**Identifying Income Subject to Liability Determination** (Cont.)**Self-Employed Parents** (Cont.)**Procedure** (Cont.)

The PLD specialist may need to request additional documentation to that provided by the tax return to determine the amount of deductions to which the parent may be entitled based upon the uniform child support guidelines, or to determine the individual income of parents who have filed jointly.

Parents who are "married filing joint return" with only one income shall be assessed a liability separately based upon one-half of the total taxable income, IRA, and deferred compensation.

**Adjustments to Income Based on Case Permanency Plan****Policy**

The PLD specialist shall include needs listed in the case permanency plan when determining parental liability.

Needs under the case permanency plan shall be limited to the following costs for participation in a treatment plan for the child or to maintain the visit schedule within the treatment plan.

1. Reimbursement for use of a private vehicle at the state rate or the actual cost of public transportation.
2. Reimbursement for lodging and meals according to the state daily allowances.
3. Child care for children left at home while the parents are participating in required family counseling or visitation.
4. The cost of telephone calls with the child made according to the visit plan within the case permanency plan.

Expenses which are related to the goals and objectives of the case permanency plan shall be deducted from the net monthly income before setting the recommended monthly amount of parental liability.

FOSTER CARE PARENTAL LIABILITY

RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY AMOUNT (Cont.)

Adjustments to Income Based on Case Permanency Plan (Cont.)

**Comment**

The parent's expenses under the case permanency plan are requested on the Foster Care Financial Statement, form 470-2870. These adjustments constitute a deviation from the uniform support guidelines.

**Legal reference:** Iowa Code Section 234.39 (1991)

Adjustments to Income Based on Financial Hardship

**Policy**

When determining the income upon which the parental liability amount is to be computed, the PLD specialist shall deduct the following amounts:

1. Medical expenses in excess of 3 percent of the net monthly income not covered by health insurance.
2. Shelter costs in excess of 30 percent of the net monthly income.
3. Utility costs, not including the cost of a telephone, in excess of 15 percent of net monthly income.
4. The cost of court-ordered day care for a child outside the home and not in foster care.
5. Other documented expenses which are determined to be:
  - a. Necessary to maintain the family or family dwelling.
  - b. Beyond the usual expenses involved in maintaining a family or dwelling.
  - c. A financial hardship for the family preventing them from meeting these expenses, maintaining the family and family dwelling, and paying the full amount of parental liability.

**Comment**

Information about the parent's special financial circumstances is requested on the Foster Care Financial Statement, form 470-2870. The basis for these hardship allowances has been established in the foster care rules. When these deductions are made, both the percentage of parental income to be applied as parental liability and the amount of income to



FOSTER CARE PARENTAL LIABILITY

**RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY AMOUNT** (Cont.)

**Adjustments to Income Based on Financial Hardship** (Cont.)

**Comment** (Cont.)

which the percentage is applied are likely to be less than strict adherence to the guidelines would permit. Therefore, the recommendation to the court for parental liability shall include a recommendation for variance from the guidelines based upon the applicable circumstances.

**Legal reference:** Iowa Code Section 234.39 (1991); Child Support Guidelines by order of the Supreme Court of Iowa, October 16, 1990; 441 IAC 156.1(234)

**Procedure**

Based upon documented evidence presented by the parent, the PLD specialist shall deduct the "special circumstances" amount prescribed above from the parent's income in the format listed under Completing the Recommendation.

The remaining income shall be used to compute the parental liability and shall be the income amount to which the percentage from the uniform child support guidelines is applied.

**Parental Liability for Child With Mental Retardation**

**Policy**

For the noncustodial parent of a child with mental retardation, the maximum amount of parental liability to be applied to the cost of foster care shall be \$164.15. Although the noncustodial parent's liability shall be established pursuant to the uniform child support guidelines, any parental liability in excess of this amount shall be placed in the child's escrow account.

The custodial parent's liability shall be limited to the difference between the noncustodial parent's liability and the maximum amount of \$164.15, if any.

**Comment**

**Legal reference:** Iowa Code Section 234.39 (1991) and 441 IAC 156.3(1)"h"

FOSTER CARE PARENTAL LIABILITY

RESPONSIBILITIES FOR DETERMINING PARENTAL LIABILITY AMOUNT (Cont.)

Parental Liability for Child With Mental Retardation (Cont.)

**Procedure**

The PLD specialist shall notify the Foster Care Recovery Unit when a child with mental retardation needs an escrow account based upon payment of a parental liability in excess of \$164.15.

This notice may be provided by memorandum listing the child's name, social security number, and amount of parental liability which is in excess of \$164.15. A copy shall be sent to the service worker. The Foster Care Recovery Unit shall forward a copy of the memorandum to the Foster Care Accounting Unit of the Bureau of Finance upon receipt.

ESTABLISHMENT OF PARENTAL LIABILITY

**Policy**

For children entering foster care through a transfer of legal custody or approval for emergency placement, a dispositional order of the juvenile court shall establish the amount of the parent's or guardian's support obligator for the cost of foster care. (However, if support obligation has previously been established under an order of the district court or a court of comparable jurisdiction in another state, a juvenile order is not required).

The juvenile court must provide the parent or guardian notice and a reasonable opportunity to be heard before establishing the order. The court shall establish the amount of the support obligation in accordance with the child support guidelines. However, the court may adjust the prescribed obligation after considering a recommendation by the Department for expenses related to goals and objectives of a case permanency plan.

For a child entering foster care through a voluntary placement agreement, the Department shall determine the obligation of the parent or guardian in accordance with the child support guidelines. The Department may adjust the obligation for expenses related to the case permanency plan.

**Comment**

A person who has been appointed guardian for a child but has not adopted the child shall not be assessed parental liability for the child.

**Legal reference:** Iowa Code section 234.39(1991)

FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)

**Procedure**

The parental liability recommendation shall be filed with the juvenile court before the dispositional hearing if financial information is available from the parent. If not, the PLD specialist shall request that parental liability be established at a separate hearing.

The PLD specialist shall submit a request for variance from the uniform child support guidelines, the documentary evidence in support of the variance, and when necessary, an explanatory justification to the court along with the parental liability recommendation.

Existing Order for Support

**Policy**

The amount of support which the payor parent (i.e., a parent having a court-ordered or administratively ordered support obligation) has been ordered to pay for the child before the child's placement into foster care shall be that parent's liability for the cost of foster care.

**Comment**

"Medical support" is defined as either the provision of a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to Iowa Code Chapter 252E to meet the medical needs of a dependent and the cost of any premium required by the health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid. Medical support is not alimony.

If a parent has a health benefit plan which provided coverage for the child before the child's placement into foster care, the parent shall continue to provide the health benefit plan for the child while the child remains in foster care.

**Legal reference:** Iowa Code Section 234.39 (1991) Iowa Code Section 252A.3; 441 IAC 98.1(73GA,Ch1234)

**Procedure**

When a child support obligation and a medical support obligation have already been established by divorce decree, paternity order, uniform support order, or administrative order, no further action to establish a support order concerning the payor parent is needed.

## FOSTER CARE PARENTAL LIABILITY

**ESTABLISHMENT OF PARENTAL LIABILITY** (Cont.)**Existing Order for Support** (Cont.)**Procedure** (Cont.)

However, this support is assigned to the Department and the payee parent (i.e., a parent to whom child support is owed) remains subject to a separate determination of parental liability for the child's cost of foster care. See No Existing Order for Support.

If the payor parent does not respond within 30 days of the request for a financial statement and income information is not available from another source, use the estimated state median income for a one-person household as the parent's income for the purposes of applying the child support guidelines. Deduct 20% from the median income to determine net monthly income. Procedures for using estimated state median income are set forth in further detail in X-C(2), Determining Parents' Income and Children in Nonparental Homes.

If the payor parent later provides verification of actual income and expenses before entry of the order for parental liability, use this information in applying the guidelines.

**Assignment of Support****Policy**

The placement of a child in foster care on or after July 1, 1992, creates an automatic assignment of support payments that come due during the placement period, to the extent of foster care funds expended.

The Department shall notify the clerk of the district court when a child entitled to support payments is placed in foster care and when the child's foster care placement ends.

**Comment**

Upon notice from the Department, the clerk of court notes the automatic assignment in the judgment docket and lien indexes. The clerk shall furnish the Department with copies of all orders and decrees awarding support while the child is receiving foster care. When the child leaves foster care, the assignment shall automatically be terminated.

**Legal reference:** Iowa Code Section 234.39, as amended by the 1992 Iowa Acts, SF 2316, section 304.

FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)

Existing Order for Support (Cont.)

Assignment of Support (Cont.)

**Procedure**

Complete form 470-2946, Foster Care Assignment of Support Payments. This form is available from the FORMLIST screen on the ICAR system or can be photocopied from X-C-Appendix.

Send the original assignment to the clerk of court for the county in which the support order is filed. Send a copy to the parent to whom the court-ordered support is owed. Notify FCRU of the assignment by sending a copy to the FCRU.

Also assess the custodial (payee) parent's liability in accordance with the uniform child support guidelines.

When a child's placement in foster care terminates, complete form 470-2945, Foster Care Termination of Assignment. This form is available through the FORMLIST screen on the ICAR system or can be photocopied from X-C-Appendix.

Send the original of the termination of assignment to the appropriate clerk of court. Notify FCRU of the termination by sending a copy to the FCRU.

Assignment for Placement Before July 1, 1992

**Policy**

For children who entered foster care before July 1, 1992, the custodial parent shall assign child support payments to the Department on form CS-3104-0, Assignment of Support Payments: Foster Care. When the child leaves foster care, the Department shall terminate the assignment.

**Comment**

**Legal reference:** 441 IAC 156.2(3) and 156.3(4)"c"(2)

## FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)Existing Order for Support (Cont.)Assignment for Placement Before July 1, 1992 (Cont.)**Procedure**

Obtain the payee parent's signature upon the Assignment of Support: Foster Care (CS-3104-0). If the payee parent agrees to sign form CS-3104-0, assess this parent a liability in accordance with the uniform child support guidelines.

Send the original assignment form to the clerk of the district court along with form 470-2164, Notice of Assignment. Send a file-stamped copy to the FCRU upon receipt from the clerk of the district court.

When the child leaves foster care, complete form CS-3201-5, Notice of Partial Termination of Assignment: Foster Care, and submit it to the clerk of court with form 470-2156, Notice of Termination.

If the payee parent refuses to sign form CS-3104-0 within 30 days of the request, assess this parent's liability equal to the cost of the child's foster care placement before July 1, 1992, less the amount of the child's unearned income. Communicate this recommendation to the parent using form 470-2167, Foster Care Noncooperation Notice.

If the payee parent refuses to sign form CS-3104-0 and the child continues to be in foster care on or after July 1, 1992, support rights for the placement are automatically assigned effective July 1, 1992. Assign the support due effective July 1, 1992, to the Department on form 470-2946, Foster Care Assignment of Support Payments, without the payee parent's signature. Any support due for the placement that came due before July 1, 1992, will not be assigned, unless form CS-3104-0 is later signed and returned by the payee parent.

No Existing Order for Support**Policy**

If a parent has not been previously ordered to pay child support and provide medical support for the child in foster care, an order for support shall be requested from the juvenile court.

The liability for the cost of foster care shall be computed by applying the uniform child support guidelines to the parent's net monthly income.

## FOSTER CARE PARENTAL LIABILITY

**ESTABLISHMENT OF PARENTAL LIABILITY** (Cont.)**No Existing Order for Support** (Cont.)**Policy** (Cont.)

When the parents are divorced and the district court has addressed the issue of child support in the order, the juvenile court lacks jurisdiction to enter an order for parental liability.

**Comment**

When no child support order exists before a child is placed into foster care, the Department shall assist the court in the establishment of parental liability.

Determine liability separately for each parent who has a legal duty to support a child for whom no support order exists, based upon the parent's individual income. This ensures that each parent's legal responsibility to support the child is clearly defined and each parent's liability is proportioned according to the parent's ability to pay.

Each parent has the legal duty to provide medical support for the child in foster care. When one parent is ordered to provide medical support, reserve the issue of medical support in the other parent's order. The parent providing medical support shall continue to do so for so long as the health benefit plan continues to be available.

**Legal reference:** Iowa Code Section 234.39 (1991); 441 IAC 98.2(73GA, Ch. 1224) and 156.3(4)

**Procedure**

If there is no existing order for support and the parent has failed to return a completed financial statement within 30 days of the written request, attempt to secure complete financial information from other readily available sources. If complete financial information is not found, determine the parent's income by using the estimated state median income for a one-person household for the purposes of applying the child support guidelines and assessing an amount of parental liability.

Procedures for using estimated state median income are set forth in detail in X-C(2), Determining Parents' Income and Children in Nonparental Homes.

FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)

No Existing Order for Support (Cont.)

Applying the Child Support Guidelines

**Policy**

The Department shall use the uniform child support guidelines for establishing the amount of parental liability.

**Comment**

The Supreme Court's order In The Matter Of Child Support Guidelines states, "The court shall not vary from the amount of child support which would result from application of the guidelines without a written finding that the guidelines would be unjust or inappropriate as determined under the following criteria:

- a. Substantial injustice would result to the payor, the payee, or the child;
- b. Adjustments are necessary to provide for the needs of the child and to do justice between the parties, payor, or payee under the special circumstances of the case; and,
- c. Circumstances contemplated in Iowa Code Section 234.39 (1989)."

Adjustment to parents' income based on the case permanency plan or on financial hardship are deviations from the uniform support guidelines. Document the basis and effect of these adjustments in the recommendation to the court.

**Legal reference:** Iowa Code Section 234.39 (1991); 441 IAC 98.2(73GA, Ch. 1224) and 156.3(4); and Iowa Code Section 598.21, subsection 4, Code 1991 as amended by Senate File 2316, section 509.

**Procedure**

Select the Iowa child support guidelines for the total number of children at home and in foster care (not including any child for whom the parent has a court-ordered support obligation) to find the appropriate income percentage. Use the guidelines for five children when there are five or more children.



## FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)No Existing Order for Support (Cont.)Applying the Child Support Guidelines (Cont.)**Procedure** (Cont.)

Apply the net monthly income of the parent for whom the support obligation is being calculated to the appropriate child support guidelines chart as the non-custodial parent income, regardless of the legal or physical custody of the child.

When income is \$500 or under, use the guideline percentage corresponding to the next lowest income range and the number of children for whom support is due.

Once the amount of support that would be due under the guidelines for all of the children whom the parent has a legal responsibility to support has been determined, divide this amount equally among the number of children entitled to support. This divided amount of support shall be applied to each child in foster care.

a. One Parent

When one parent already has an order, but the other does not, use the information provided by the payor parent on the Financial Statement (470-0204) as the "custodial parent's" net monthly income for purposes of applying the uniform child support guidelines to determine the payee parent's liability.

When the location of only one of the parents is known, consider the parent whose location is known as the "noncustodial parent" for purposes of applying the guidelines. Consider the income of the "custodial parent" as zero. For further information on applying the child support guidelines when the location of only one parent is known, see X-C(2), Children in Nonparental Homes: Location of One Parent Known.

This method also applies when only one parent is obligated to provide support because the other parent is deceased or has had parental rights terminated.

## FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)No Existing Order for Support (Cont.)Applying the Child Support Guidelines (Cont.)Procedure (Cont.)a. One Parent (Cont.)

Mr. C and Mrs. B are divorced. The ex-Mrs. C has custody of the couple's two children and is now married to Mr. B. Mr. C has been ordered by the court to pay child support in the amount of \$205.00 per month per child. One of the children has entered foster care.

Mrs. B assigns the portion of the child support judgment for the child who is in foster care to the Department. No further action concerning Mr. C's parental liability is needed.

Although Mrs. B has remarried, her present husband's income is excluded from parental liability determination because he is the children's stepparent.

Mrs. B has part-time employment earning a net monthly income of \$500.00. The completed Financial Statement received from Mr. C shows he has a net monthly income of \$1,200.00.

For the purpose of determining Mrs. B's parental liability, her income is located upon the Iowa Child Support Guidelines Chart as the "noncustodial parent's net monthly income" column for two children. Mr. C's income is located upon the "custodial parent's net monthly income" row of this chart.

Mr. C's income is within the "1101 - 1200" net monthly income; Mrs. B's is within the "\$500.00 & Under" column, which has no specific percentage designation.

In this situation, the percentage for the next lowest income range is 27.9% (i.e., the minimum percentage which corresponds to Mr. C's income on the guidelines).

## FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)No Existing Order for Support (Cont.)Applying the Child Support Guidelines (Cont.)Procedure (Cont.)a. One Parent (Cont.)

Multiplying Mrs. B's net monthly income of \$500.00 by 27.9% yields \$139.50 per month for two children. Dividing this amount by two (because only one of the children is in foster care) yields a monthly parental liability amount of \$69.75 for the child in foster care.

b. Both Parents Married and Living Together

For parents of a child in foster care who are married and living together, determine the net monthly income of the father, less one-half of the adjustment based upon the case permanency plan and "special circumstances," and select the appropriate column for the noncustodial parent's net monthly income on the Iowa Child Support Guidelines.

Then, determine the mother's net monthly income, less one-half of the adjustment based upon the case permanency plan and "special circumstances" and select the appropriate row on the custodial parent's net monthly income on the Iowa Child Support Guidelines. The percentage where the column and row intersect is the percent by which the father's income is multiplied to determine his parental liability.

To determine the mother's parental liability, reverse the roles of the "custodial" and "noncustodial" parent in using the guidelines, but follow the same procedure. The percentage where the row and column intersect is the percentage by which the mother's income is multiplied to determine her parental liability.

Mr. and Mrs. D have two children, one of whom is in foster care. Mr. D has a net monthly income of \$1,500.00; Mrs. D's net monthly income is \$975.00.

## FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)No Existing Order for Support (Cont.)Applying the Child Support Guidelines (Cont.)Procedure (Cont.)b. Both Parents Married and Living Together

To determine Mr. D's parental liability, consider him as the "noncustodial parent" and Mrs. D as the "custodial parent" in using the chart for two children.

The appropriate column is the "1001-3000" column; the row is "\$901 - 1000". These axes intersect at 30.7%. Mr. D's net income is multiplied by this percent and the result is divided by two to determine his monthly parental liability for the one child in foster care.

To determine Mrs. D's parental liability, reverse the "noncustodial parent" and "custodial parent" roles.

The appropriate column is the "\$901 - 1000" column; the appropriate row is "1401-1500." Because the axes intersect at 30.0%, Mrs. D's net income is multiplied by this percent and then divided by two to determine her monthly parental liability for the one child in foster care.

c. Parents Separated

When parents are separated and neither has been ordered to pay child support, calculate the liability separately for each parent as instructed above. Using the respective chart for each parent allows the parent to be given appropriate credit for the responsibility to support the child in foster care.

Mr. and Mrs. C are separated. Mr. C has two children living with him from a previous marriage; Mrs. C has one child living with her from a previous marriage. The child born of their marriage had been living with Mrs. C, but is now in foster care.

FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)

No Existing Order for Support (Cont.)

Applying the Child Support Guidelines (Cont.)

**Procedure** (Cont.)

c. Parents Separated (Cont.)

Mr. C's net monthly income is determined to be \$2,000.00;  
Mrs. C's is \$1,300.00.

Use the procedure as outlined in the example, except use the chart for three children when determining Mr. C's monthly parental liability (i.e., divide the total by three to arrive at the amount for the child in foster care) and use the chart for two children when determining Mrs. C's parental liability (i.e., divide the total by two to arrive at the amount for the child in foster care).

Completing the Recommendation

**Policy**

Based upon information provided by the parents, service worker, and income maintenance staff, the PLD specialist shall complete the Parental Liability Recommendation, form 470-2872.

**Comment**

Instructions for preparation of the parental liability recommendation are contained in X-C-Appendix.

**Legal reference:** Iowa Code Section 234.39 (1991)

**Procedure**

Forward the parental liability recommendation to the service worker, parent, and juvenile court.

FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)

No Existing Order for Support (Cont.)

Completing the Recommendation (Cont.)

**Procedure** (Cont.)

Send the recommendation to the parent along with form 470-2217, Parental Liability Notice, and a Dispositional Order for Parental Liability and Medical Support, form 470-2186. Send form 470-2159, Zero Liability Notice, if no liability is being recommended.

File a copy of the Parental Liability Recommendation (470-2872) in the juvenile court file.

Provisions Requested in Juvenile Court Order

**Policy**

In addition to forwarding the parental liability recommendation to the service worker, parent, and juvenile court, the PLD specialist shall also include a request for the juvenile court order to contain the provisions required under Iowa law.

**Procedure**

Submit this list separately so that it may be attached to the service worker's request for a petition. Request the court to:

- a. Specify the monthly amount of parental liability in the court order.
- b. Specify the commencing date of the parental liability in the court order.
- c. Provide that payments be made in accordance with Section 252B.14.
- d. Specify that the parental liability obligation accrues only during the child's placement in foster care.
- e. Inform the parents the obligation to pay the parental liability shall be enforced until it is paid in full (including offset of federal and state tax refunds) and is a judgment against real property.

## FOSTER CARE PARENTAL LIABILITY

**ESTABLISHMENT OF PARENTAL LIABILITY** (Cont.)**No Existing Order for Support** (Cont.)**Provisions Requested in Juvenile Court Order** (Cont.)**Procedure** (Cont.)

- f. Provide notice of immediate income withholding and mandatory income withholding as required in Iowa Code Iowa Chapter 252D.
- g. Require medical support for the dependent child as set forth in Iowa Code Chapter 252E.
- h. Require the custodial parent to sign the Assignment of Support: Foster Care (CS-3104-0), if applicable.

**Service Worker Responsibilities for Filing Petition****Policy**

The service worker shall request that a petition to the juvenile court include provisions for parental liability and medical support. Because the information pertaining to the obligation of the parent to provide financial and medical support for the child in foster care may need to be shared with the parent's employer, the service worker shall request that the court issue a separate order which addresses these issues.

**Procedure**

Attach a copy of the Department's recommendation as outlined in Completing the Recommendation and a copy of the Provisions Requested In Juvenile Court Order to the request for a petition.

The point at which a petition (or the format taking the place of the petition) is filed during the adjudicatory process may vary according to local court practices.

The county attorney shall serve the parents with a copy of the petition to inform them of the requests being made of the court.

The service worker shall present the parental liability assessment or the signed "consent order," if the parent has agreed to the amount of parental liability which is being recommended to the juvenile court. The basis for the recommendation shall be explained to the court, including providing testimony, if needed.

FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)

No Existing Order for Support (Cont.)

Service Worker Responsibilities for Filing Petition (Cont.)

**Procedure** (Cont.)

The PLD specialist shall be available to testify in contested cases.

The service worker shall send a file-stamped copy of the juvenile court order to the PLD specialist or to the Foster Care Recovery Unit immediately upon receipt.

Voluntary Placements

**Policy**

Unless the parent or guardian has an existing order to pay child support and to provide medical support for the child in foster care, the Department shall determine the liability obligation of the child's parent in accordance with the child support guidelines when the child is placed into foster care under auspices of a Voluntary Foster Care Placement Agreement (form 470-0715).

Parental liability shall be determined after the parent signs the voluntary placement agreement. The parent's liability shall be retroactive to the date of entry into foster care.

**Comment**

**Legal reference:** Iowa Code Section 234.39 (1991)

**Procedure**

Upon receipt of the referral from the service worker, determine parental liability according to the procedures as set forth under No Existing Order for Support.

Include the same provisions of the juvenile court order as listed under Provisions Requested in Juvenile Court Order.

Unless extended by the juvenile court, all voluntary placements for children under the age of 18 shall terminate after 30 days. The service worker shall notify the PLD specialist by use of the Exchange of Information, when the voluntary placement terminates or becomes court-ordered.



FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)

Voluntary Placements (Cont.)

Failure to Comply With Placement Agreement

**Policy**

Required provisions of compliance with the Voluntary Foster Care Placement Agreement (470-0715) include providing information necessary to compute parental liability, assigning the child support payments for the child in foster care, forwarding the child's unearned income to the Department, and agreeing to the amount of parental liability recommended by the Department.

When the parent fails to comply with the provisions of the voluntary placement agreement, the FCRU or PLD specialist shall inform the service worker by memorandum of the parent's lack of cooperation.

**Comment**

Allow the parent 30 days from the date of the request to provide information necessary to compute parental liability, or to forward the child's unearned income to the Department before being considered as having failed to comply with the provisions of the voluntary placement agreement.

Allow the parent 30 days from the effective date of the parental liability obligation to pay the amount agreed to in voluntary placement agreements executed before July 1, 1992, before being considered as having failed to comply with the payment provision of the agreement.

**Legal reference:** 441 IAC 156.3(4)

**Procedure**

The Foster Care Recovery Unit shall notify the service worker and PLD Specialist by memorandum of the parent's failure to pay the parental liability amount agreed to within voluntary placement agreements executed before July 1, 1992, after 30 days have expired from the effective date of the obligation.

## FOSTER CARE PARENTAL LIABILITY

**ESTABLISHMENT OF PARENTAL LIABILITY** (Cont.)**Transfer of Custody to Another Person or Agency****Policy**

When a child is placed in foster care by a court pursuant to a finding that the child is in need of assistance or has committed a delinquent act, and legal custody of the child is transferred to a person or agency other than the Department of Human Services, the Department is responsible for foster care payment only. Responsibilities for authorizations, planning, placement, and providing services to the child, parents, and foster parents do not apply to the Department.

However, the juvenile court officer is expected to notify the Department when the child in foster care receives, or is eligible to receive, unearned income. Upon notification, the service worker shall complete a Request To Be Selected As Payee (form SS-11BK). Refer to the Children's Unearned Income for additional information.

For "payment only" cases, juvenile court staff may

1. Determine liability in accordance with the uniform child support guidelines and recommend an amount of parental liability to the juvenile court for a finding pursuant to Iowa Code Section 234.39; or
2. Refer the "payment only" case to the PLD specialist for determination of the parental liability using the policies and procedures found in this chapter.

**Comment**

In "payment only" cases, the juvenile court orders custody of the child to be placed with the court or another responsible person.

Although the Department has no casework responsibility concerning these children, it does pay the cost of the foster care placement. Juvenile court services' staff supervise the child's placement.

The Department has no legal authority over the child and should not enter the case except as necessary to carry out payment and recovery requirements.

**Legal reference:** Iowa Code Sections 232.52, 232.102, and 234.39(1)

FOSTER CARE PARENTAL LIABILITY

ESTABLISHMENT OF PARENTAL LIABILITY (Cont.)

Transfer of Custody to Another Person or Agency (Cont.)

**Procedure**

If the juvenile court staff determine the parental liability and make a recommendation to the Juvenile Court, they may use the forms and procedures prescribed in this chapter. The juvenile court officer shall send a copy of the court order containing the parental liability obligation to the PLD specialist or Foster Care Recovery Unit, as needed.

If the Department determines the parental liability, the PLD specialist shall send a completed copy of the Child Support Guidelines Worksheet (470-2640) and any supportive documentation to the juvenile court officer for inclusion within the materials filed with the court before the dispositional hearing.

Whenever possible, the juvenile court order for parental liability in "payment only" cases should include reference to the notice requirements listed under the Provisions Requested in Juvenile Court Order.