

## Chapter 4

## STATE INSTITUTIONAL CLAIMS FOR DAMAGES CAUSED BY SHELTER OR FOSTER CHILD

4-1. Purpose. This chapter outlines the procedure to follow when an individual wants to request restitution for direct medical expenses and/or property damage caused by a shelter or foster child.

4-2. Definitions.

a. State Institutions Claim Fund. A program established by the Legislature pursuant to s. 402.181(1), F.S., for the purpose of making restitution for property damages and direct medical expenses related to injuries caused by shelter or foster children.

b. Claimant. The person who suffered personal injury or property damage.

4-3. Authority.

a. Section [402.181](#), F.S.

b. Chapter [2-6](#), Florida Administrative Code (F.A.C.).

4-4. General Requirements.

a. At the time the injury or damage occurred, if the child responsible was:

(1) In shelter legal status (pursuant to a court's shelter order), restitution up to \$1,000.00 may be claimed.

(2) In foster care legal status (pursuant to a court order granting custody to the department for placement in foster care), restitution up to \$1,500.00 may be claimed.

b. The child's placement, such as shelter, foster home, or group care has no bearing on the above distinction; it is based solely on the child's legal status at the time the injury or damage occurred.

4-5. Responsibilities of the Child Welfare Professional.

a. When a shelter parent, foster parent, or other individual advises the Child Welfare Professional of expenses they have incurred as a result of personal injury or property damage caused by a shelter or foster child, the Child Welfare Professional shall:

(1) Assist the claimant in completion of the Restitution Claim Form (form [BVC 402 IS](#), available in DCF Forms).

(2) Ensure that the form is completed in its entirety and that legible receipts (or estimates) from a licensed vendor are attached.

(3) Confirm the damage described on the application. This can be completed through observation of the home or by reviewing validated documentation provided by the claimant (i.e., pictures).

(4) Confirm that the claimant has provided pictures of the damage, two written estimates for repair, or receipt(s) if the repair has been paid for.

(5) Review the circumstances of the claim and have the claimant sign the form.

(6) The form will be processed and sent to the Office of the Attorney General no later than 10 business days after receipt of the completed form with receipts and estimates attached.

b. The Child Welfare Professional will review the application and complete “Section Three: State Agency Delegate Information” on the [form](#), complete the State Institutional Claims for Damages Recommendation (form CF-FSP [5453](#), available in DCF Forms), and submit the completed and signed application form and recommendation form to the Office of the Attorney General.

c. Examples of personal injury or damages that may be submitted for processing include, but are not limited to:

- (1) Child intentionally breaks furniture;
- (2) Child punches holes in the wall;
- (3) Child hits the foster parent causing bodily harm and medical treatment is required; or,
- (4) Child destroys personal property of another foster child.

d. Examples of damages that cannot be claimed include, but are not limited to:

- (1) Child purchases movies on the foster parent’s internet account;
- (2) Child purchases items online with the foster parent’s credit card; or,
- (3) Damages resulting from circumstances where the biological/adoptive child and foster child are equally responsible.

e. In the event a claim is denied by the Office of the Attorney General and the claimant requests a 120 hearing, the Child Welfare Professional must attend the hearing.

#### 4-6. Responsibilities of the Claimant.

a. The claim must be written and filed by the claimant with the Child Welfare Professional within 120 days of the occurrence of the incident upon which the claim is based. The form is available in DCF Forms (form BVC 402 IS). The form is also available at <http://myfloridalegal.com> under the “Programs” heading.

b. The claimant must provide pictures of the damage, two written estimates for repair, or receipt(s) if the repair has been paid for.

c. The claimant is not required to submit a claim to his or her homeowner’s insurance company for primary coverage of the expenses.

d. If the claimant’s homeowner’s insurance coverage is used, the Institutional Claims Fund may be used only to request restitution for any deductible amount and/or repair of damage the homeowner’s insurance coverage did not pay. Paperwork from the homeowner’s insurance must be included with the form and receipts. For example, if the damage cost \$600 to repair and homeowner’s insurance paid \$100 due to a \$500 deductible, the \$500 deductible could be claimed through Institutional Claims.

e. If the claim is denied by the Office of the Attorney General, the claimant has a right to appeal pursuant to Chapter 120, F.S. The claimant must request a hearing in writing within 21 days following notification of the adverse decision pursuant to s. [120.57](#), F.S. The request for a hearing must be sent to the Office of the Attorney General.

