

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

GUIDE FOR ADOPTIVE PARENTS IN RETAINING AN ADOPTION ATTORNEY

(4-20-2020)

You will need an attorney to represent you as you adopt your foster child who is in the care of DCFS or who is eligible for an adoption subsidy. As an adoptive parent, you will choose your own attorney. The following information outlines your rights and responsibilities and is provided so that you can make an informed decision regarding which adoption attorney to hire and what to expect from her or him.

Under what circumstances will DCFS pay for your legal fees and costs?

When the child is receiving an adoption subsidy, you are entitled to payment of non-recurring reasonable and necessary adoption fees, court costs and attorney fees directly related to the adoption of a child with special needs. DCFS can pay up to a maximum of \$1,500 for legal fees and court costs for each adopted child.

How do you choose an adoption attorney?

DCFS and private agency staff are not permitted to refer adoptive parents to specific attorneys. You are the client and you get to choose who your adoption attorney will be.

- If you don't already know who you want to hire, get the current list of lawyers who are on the **DCFS Statewide Adoption Attorney Panel (Panel)**. **DCFS will pay your Panel Adoption attorney directly.** The list is alphabetical and includes the county in which the attorney is based.
- **If you choose an Adoption Attorney who is not on the Panel, you will first need to pay your attorney yourself and then seek reimbursement.** *See pages 2 & 3 for further information*
- You can ask other adoptive parents who they used for their adoptions.
- To choose a Panel attorney, choose some names on the list and call them. Explain that you need an adoption attorney and that you have some questions before making a final decision.
- How many adoptions has the lawyer done in the last year? Ideally, the lawyer will have done at least a few.
- In which county does the attorney usually practice? If the attorney is in a different county than you, will she/he travel to your county or you to hers?
- Ask the lawyer to explain the adoption process.
- If the lawyer doesn't return your calls within a day or so, cross him or her off the list.
- The bottom line is that you want someone who is experienced and responsive to you.

You can get a Statewide Adoption Attorney Panel list by calling the DCFS Advocacy Office for Children and Families at (800) 232-3798 or by checking the DCFS web site at: www.state.il.us/dcfs. Click on 'Loving Homes' then 'Adoption', then 'Legal Resources' then "Adoption Attorney Panel List."

The DCFS Adoption Attorney Panel is comprised of attorneys who have experience in adoption cases and who meet the following criteria. They have:

- A license in good standing to practice law & licensed for at least 3 years in Illinois;
- Malpractice insurance coverage;
- Completed Department sponsored training on reviewing adoption subsidies;
- Not been disciplined by the Attorney Registration & Disciplinary Commission within the past 5 years.
- If the attorney is on the DCFS Adoption Attorney Panel, she or he cannot charge you any fees or court costs for completing the adoption. All the fees & costs will be paid by the adoption subsidy.

IDCFS Guide for Prospective Adoptive Parents

- If your attorney is on the Statewide Panel, she/he must review your adoption subsidy agreement with you before the adoption is finalized. Your attorney can also negotiate subsidy changes, if needed. All your questions about adoption and the subsidy should be answered.

What exactly should you expect an attorney to do for you in an adoption proceeding? Your attorney will:

- Gather and complete the necessary legal documents (the supporting material will be provided to your attorney by your caseworker and agency) so that your case can be filed in court.
- Draft your case pleadings. You and your attorney will agree on a date and time to file the Petition for Adoption and, in most counties, Interim Order.
- If you use a Panel attorney, she/he will review the adoption subsidy with you and negotiate any needed changes. This review must occur before DCFS approves your subsidy and before the Court enters the Final Judgment in your adoption. This conference can be conducted in person or by telephone conference. If you are adopting with a spouse or partner, both of you must review the subsidy with the attorney.
- Meet you at adoption court on the agreed upon date and time, and she/he will accompany you as you go through the process of making your court appearance.
- Move your case forward in a timely way. Once DCFS has consented to the adoption and your subsidy is approved, it should be possible to get into court and have the adoption finalized quickly.
- If you are not happy with how your attorney is representing you in your case, put your concerns in writing to your attorney.

What is the payment process for legal fees by DCFS if you use a Panel attorney?

If the attorney is on the DCFS Statewide Adoption Attorney Panel, the Department will act as a fiscal agent on your behalf and will pay the attorney directly for reasonable and necessary fees and costs for legal services to complete the adoption.

Adoptive parents who live outside of Illinois:

If you are adopting a subsidy-eligible child from Illinois and are completing the adoption in another state, generally you can finalize your adoption in Illinois or in the other state. If you decide to adopt in another state, DCFS will pay your adoption attorney directly if the attorney agrees to wait for payment until after the adoption is finalized.

FOR ADOPTIVE PARENTS WHO USE NON-PANEL ATTORNEYS

If you choose an adoption attorney who is not on the Panel, you will need to pay your attorney out-of-pocket first before the Department will reimburse you. Fees charged by non-panel attorneys often exceed \$1500.

- After you have paid your attorney, you can then submit proof of payment to DCFS with additional documentation (*see list on p. 3*) and your request for reimbursement
- The maximum amount of your reimbursement will be \$1500 per child, even if you spend more than that.
- The reimbursement process usually takes several months.

How to receive reimbursement from DCFS if you use a non-Panel Attorney:

If you select an attorney who is **not** on the DCFS Statewide Adoption Attorney Panel list, you must pay the attorney first. Submit your request for reimbursement to the DCFS Adoption Unit as soon as possible after the adoption is finalized.

If you use a non-panel attorney, to request reimbursement, you must submit the following documentation:

1. Itemized invoice from the adoption attorney.
2. Invoice from the guardian ad litem (GAL) for the adoption case, if you wish to be reimbursed.
3. Proof of your payments, such as copies of the fronts and backs of the cancelled checks or a copy of your credit card bills (redact your personal info first).
4. Copy of the completed DCFS 1800-D Payment to Attorney form, signed by you (adoptive parents) and the attorney.
5. Copy of the approved/signed 1800-C-A Adoption Assistance Agreement/subsidy form.
6. Copy of the Petition for Adoption that was filed in court.
7. Copy of the final Judgment Order of Adoption, court stamped/signed by the judge.
8. Copy of the new birth certificate; or the application for the new birth certificate,

Send the above-listed documentation and your request for reimbursement to:

DCFS Adoption Unit
4th Floor
1921 S. Indiana Blvd.
Chicago, IL 60616

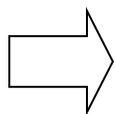
Follow up questions -

Email: DCFS.attorneyproviderdocuments@illinois.gov

Phone: 866-538-8892

Fiscal Year Payments

Each year, the State of Illinois fiscal year starts on July 1 and ends the following June 30. For ex: FY2020 started on July 1, 2019 and ends on June 30, 2020. At the beginning of each fiscal year, funding for the prior year lapses.



For all adoptions finalized during FY2020 (between July 1, 2019 – June 30, 2020), the deadline to submit your request for reimbursement is July 15, 2020.

If you miss the deadline, you can still get your reimbursement, but you will have to go through an administrative law process called Court of Claims. No actual court appearance is required, but there is paperwork to fill out and the process takes several months.

What is the payment process for legal fees/non-recurring expenses if a Panel attorney is used?

- If the attorney is on the DCFS Statewide Adoption Attorney Panel, the Department will act as a fiscal agent on your behalf and will pay the attorney directly for reasonable and necessary fees and costs for legal services provided to you.
- You will have no out of pocket expenses.
- Your attorney will submit all the paperwork to the Department with her invoice, so there is no need for adoptive parents to submit any documentation.