

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER c: FISCAL ADMINISTRATION

PART 352

**FINANCIAL RESPONSIBILITY OF PARENTS OR GUARDIANS OF THE ESTATES
OF CHILDREN**

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AUTHORITY: Implementing and authorized by Sections 4 and 9.1 through 9.9 of the Children and Family Services Act [20 ILCS 505/4 and 9.1 through 9.9] and Section 6-9 of the Juvenile Court Act of 1987 [705 ILCS 405/6-9]

SOURCE: Adopted and codified at 5 Ill. Reg. 8654, effective September 1, 1981; amended at 7 Ill. Reg. 3175, effective April 1, 1983; emergency amendment at 7 Ill. Reg. 14534, effective October 19, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 1802, effective February 3, 1984; amended at 9 Ill. Reg. 2247, effective February 15, 1985; amended at 10 Ill. Reg. 17120, effective October 15, 1986; amended at 15 Ill. Reg. 11111, effective July 19, 1991; emergency amendment at 15 Ill. Reg. 13554, effective September 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3924, effective February 28, 1992; emergency amendments at 21 Ill. Reg. 9139, effective July 1, 1997 for a maximum of 150 days; amended at 22 Ill. Reg. , effective April 15, 1998.

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Section 352.1 Purpose

The purpose of these rules is to explain services for which the Department will assess financial liability, the method for determining such liability and the rights of appeal concerning the decision.

Section 352.2 Definitions

"Custodial parent", as used in this Part, means the natural or adoptive parent who has been designated by the court to take custody of a child when the parents are legally separated or divorced.

"Dispositional hearing" means the Juvenile Court hearing at which the judge, following adjudication, determines the subsequent care, custody and supervision of the child and what obligations are incumbent upon the parents.

"Exparte correction", as used in this Part, means a change made on behalf of the parent or guardian of the estate concerning their liability based on additional information provided by them to support a request for a redetermination or temporary reduction in charge.

"Liability" means the determination of monthly charges due the Department based on annual gross income and family size and the cost of services provided by the Department.

"Parents or guardian of estate" means both parents of a child for whom the Department is providing substitute care services, even if separated or divorced or the court appointed guardian of the estate of a child whose parents are deceased or disabled. As used, this also includes unmarried mothers over age 18 who are provided substitute care services.

"Prime Commercial Rate" means that such prime interest rate from time to time is publicly announced by the largest commercial banking institution located in this State measured in terms of total assets. [20 ILCS 505/9.7]

"Request for redetermination or temporary reduction in charge" means a petition by the parent, guardian of the estate or unmarried mother over 18 years of age requesting that the Department adjust the liability assessed by the Department.

(Source: Amended at 22 Ill. Reg., effective April 15, 1998)

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Section 352.3 Services for Which Assessments Will Be Made

- a) Parents or guardians of the estates of children placed by or with the Department away from their parents in substitute care living arrangements for child protective or child welfare reasons are liable for payment to the Department (in accordance with Appendix B) for the substitute care services provided. No parental liability will be assessed for services to refugee unaccompanied minors. Parents or guardians of the estates shall not be assessed an amount which exceeds the cost that the Department has expended for the child's care. Liability for continuing substitute care services shall cease if parental rights are terminated either through court action or adoptive surrender.
- b) Pregnant females over 18 years of age and the parents of pregnant females under 18 years of age are liable for payment to the Department for substitute care services provided to the unmarried mother in accordance with [Appendix B](#).
- c) Charges shall not exceed the actual cost of the services provided and may be less than the cost of services provided.

(Source: Amended at 22 Ill. Reg. effective April 15, 1998)

Section 352.4 Notification of and Determination of Responsibility

- a) Parents or guardians of the estates of children shall be notified of their rights and responsibilities concerning parental liability for charges when the child has been placed in substitute care and the Parental Determinations Unit has received the required information, reviewed all appropriate documents (submitted pursuant to subsection (e) below) and made an assessment of liability.
- b) When parents are legally separated or divorced, both are liable for care and training charges based upon their individual income and family size but the amount of liability cannot exceed the child's cost of care. Child support payments which are received by custodial parent are considered income to the recipient in determining the proper assessment upon the custodial parent. A noncustodial parent who is paying child support pursuant to a court decree will be liable for the difference, if any, between the Department's monthly assessment upon the noncustodial parent and the amount of the monthly court ordered child support payment.

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- c) When parents are living apart, legally separated or divorced, and child support was not ordered, both parents shall be liable for the assessed amount. When the assessment exceeds the cost of care, both parents shall be liable for a share of the cost of care by determining the amount of assessment for each parent (in accordance with [Appendix B](#)), then dividing each amount by the total of both assessments and multiplying each of those calculations by the cost of care paid by the Department.
- d) At the time of the Juvenile Court dispositional hearing the court is required to order the parent or guardian of the child's estate to make payment to the Department in accordance with [Appendix B](#) when substitute care services are to be provided.
- e) Any financial information which is requested from parents or guardians shall be submitted on forms and questionnaires prescribed by the Department and shall contain a written declaration under penalties of perjury, signed by the parent or guardian and provided to Department staff. *False, incorrect or incomplete information in respect to any material statement or representation bearing upon one's status as a parent or guardian or upon income, resources, or other matters concerning liability to provide parental payment, shall be subject to the penalties for perjury in accordance with 720 ILCS 5/32-2. [20 ILCS 505/9.3]*
- f) Gross annual income and family size shall be keyed to the appropriate fee schedule to determine liability for substitute care. The parent or guardian of the child's estate shall be notified in writing of the monthly liability.
- g) Upon the request of the Department, the parent or guardian of the child's estate shall provide information concerning gross annual income. The Department shall subpoena income information when it is not provided after three written requests, and shall impose liability for the full cost of substitute care until the parent(s) or guardian(s) provides the requested information.
- h) The Department shall request updated financial information from the parent or guardian of the child's estate on a semiannual basis. Redeterminations of the parent's or guardian's financial liability will then be made. *Any redeterminations shall have the effect of modifying previous determinations. [20 ILCS 505/9.4]*
- i) When substitute care services are provided (as described in Section 352.3 (a)) and the child is Title IV-E eligible (Title IV-E of the Social Security Act), and the Department is unable, after exhausting every reasonable effort, to assess and/or collect liability against the parent(s), the Department shall refer such cases to the Department of Public Aid for Title IV-D (Social Security Act) support services. Cases shall not be referred, however, when the Department has evidence that there

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are circumstances of good cause for non-referral, as specified in 45 CFR Section 232.42 (1997). This incorporation contains no later amendments or editions. To the extent that there is no conflict with 45 CFR Section 232.42 (1997), referrals shall not be made when harm to the child, custodial parent or caretaker is reasonably anticipated.

(Source: Amended at 22 Ill. Reg. effective April 15, 1998)

Section 352.5 Initiation of Charges

The initial charge is due the first day of the month following the date of initiation of the services subject to charge or as soon thereafter as each liable person's financial ability subjects him to charges for services.

Section 352.6 Termination of Account Balances

- a) When the services subject to charge are terminated, the charge shall be prorated to cover the number of days the services were provided excluding the date of service termination.

- b) A request to write-off a past due account balance shall be submitted to the Attorney General's Office when:
 - 1) the debtor is deceased and has no known assets, as documented by the executor of the estate on forms provided by the Department,
 - 2) the debtor is age 65 or older with income at or below the poverty level, as calculated in accordance with 42 U.S.C. Section 9847 and 46 CFR 62674, (1981),
 - 3) the debtor has been disabled for three (3) years or more and had income at or below the poverty level for the same period of time, 4) an account has been delinquent for ten (10) years or more and the balance is \$500.00 or less, or
 - 5) the debtor has been unemployed for five (5) or more years and has had no income for that period of time. Public Assistance payments shall not be considered income.

(Source: Amended at 9 Ill. Reg. 2247, effective February 15, 1985)

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Section 352.7 Method of Billing, Remittance and Collection

- a) The Department shall bill for substitute care charges on a monthly basis. Remittance to the Department shall be by check or money order made payable to the Treasurer, State of Illinois, and sent to the administrator responsible for collections in Springfield. The Department shall deposit all such monies collected in the appropriate fund.
- b) The Department shall assess interest each month and the interest shall be based on a rate equal to the prime commercial rate plus 3% on the accounts of the parents or guardians of the estates of children which are more than 60 days delinquent. [20 ILCS 505/9.7] The Department shall use the prime rate which was effective on the last day of the month prior to the month of billing. The interest balance shall be paid in full before payments will be applied toward the principal.
- c) When the Department has exhausted every reasonable effort to collect delinquent payments, it shall request the Attorney General's Office to pursue collection. When the Attorney General's Office declines to pursue collection and when collection will not jeopardize attainment of the child's permanency goal, pursuant to 89 Ill. Adm. Code 305, Client Service Planning, the Department will proceed in accordance with 20 ILCS 505/9.2 for the collection of monies owed. Such agreements shall be on a contingent fee basis, but such contingent fee shall not exceed 15% of the total amount collected.

(Source: Amended at 22 Ill. Reg. effective April 15,1998)

Section 352.8 Consideration of Other Benefits

- a) All benefits to which a child for whom the Department has legal responsibility, and to which the child is entitled, shall be remitted to the Department by the issuing agency. These benefits include, but are not limited to: social security, veterans' administration, railroad retirement and black lung benefits, and supplemental security income.
- b) Benefits received will be used to offset the Department's cost of care for the child. When the benefits do not meet the cost of care, the Department will assess the parents or guardian of the child's estate. The total amount collected from the parents or guardian of the child's estate shall not exceed the cost of the services provided minus the benefits collected.

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Section 352.9 Rights of Appeal

- a) When notified in writing by the Department of charges for services, the parent or guardian of the child's estate may appeal the assessed amount if he/she believes that the data used in determining the amount is inaccurate or incomplete. A request for an appeal must be made in writing and must be received by the Department within 30 days of the date of the notice of charges. Additionally, parents or guardians may appeal the assessed charged at any time based upon changes in their circumstances which may subsequently affect the assessment.

- b) The written request from the parent or guardian of the estate shall include their name and address, names of those dependent on them for support, their specific grievance and other relevant information. In order to better understand the financial circumstances of the individual requesting relief the individual may provide, or the Department may request, additional information and supporting data including but not limited to tax returns, savings account passbooks, current rental or mortgage payments, monthly expenditures for purchase of necessary living items and extraordinary expenditures such as medical, dental or insurance costs. On the basis of the request and supporting information provided, the Department may make an exparte correction for error or adjustment to reduce the assessed liability retroactively to the appropriate date and adjust any amount in arrears to meet the grievances presented in the request.

(Source: Amended at 9 Ill. Reg. 2247, effective February 15, 1985)

Section 352.10 Parental Repayment Hearing

- a) When the Department determines that no justification exists for the relief requested, a hearing shall be set not more than 90 days from receipt of the request for redetermination or temporary reduction in payment. The individual who made the request shall be sent notice of the date, time and place of the hearing not less than 10 days in advance of the date of such hearing. Due regard shall be given to the individual's schedule and place of residence in selecting the time and place of the hearing in order to facilitate his attendance on the date selected.

- b) The petitioner shall be requested to personally appear at the hearing but may be represented by legal counsel or another interested party authorized in writing by the petitioner to act on his behalf. Witnesses and evidence which the petitioner deems necessary to support the grievances and allegations in his request may be presented.

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- c) A hearing officer authorized by the Director of the Department shall conduct the hearing in an objective and orderly manner. He shall have the authority to subpoena witnesses and to compel the production of books, records and other documents which would or might be pertinent to a just termination of the matter.
- d) Prior to taking any testimony from any witnesses, the hearing officer shall require the witness to take an oath or affirmation of the truth of their statements.
- e) Strict rules of evidence shall not apply and the hearing officer shall grant the petitioner latitude in introducing relevant evidence in support of his request, provided that the hearing officer retains the power to conduct the hearing in an orderly manner. Exhibits may be received into evidence and shall be numbered in order according to whether they are Department or petitioner exhibits.
- f) Testimony shall be taken by the Department at the hearing and a record of the proceeding shall be preserved, either by stenographic or electronic means. All exhibits shall also be preserved and made a part of the record. Should the petitioner request a copy of the record of the proceedings, it shall be made available to him at cost.

Section 352.11 Hearing Decision

- a) The decision of the hearing officer will be based only on facts presented at the hearing in the form of oral testimony or documentary exhibits.
- b) Within 20 days from the date of the hearing, the hearing officer shall make findings of facts and conclusions and recommendations available to the Director of the Department or his designee for review. The Director or his designee shall within 10 days of receipt of the findings, conclusions and recommendations accept, reject or modify the recommendations of the hearing officer and his decision shall be sent by certified mail to the petitioner and his attorney with copies to the hearing officer and the Department administrator responsible for collections.

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**Section 352.APPENDIX A Schedule of Weekly Fees for Subsidized Child Care
Programs Income Eligibility 0-75% Median Income (Repealed)**

(Source: Repealed at 22 Ill. Reg. effective April 15, 1998)

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Section 352.APPENDIX B Substitute Care Fee Schedule

SCHEDULE OF MAXIMUM MONTHLY FEES PER PERSON

Annual Income Range		Family Size					
		2	3	4	5	6	7 or more
\$7,000	\$ 7,500	\$5	0	0	0	0	0
7,501	8,000	10	0	0	0	0	0
8,001	8,500	15	0	0	0	0	0
8,501	9,000	20	\$5	0	0	0	0
9,001	9,500	25	10	0	0	0	0
9,501	10,000	30	15	0	0	0	0
10,001	10,500	35	20	\$5	0	0	0
10,501	11,000	40	25	10	0	0	0
11,001	11,500	45	30	15	0	0	0
11,501	12,000	50	35	20	\$5	0	0
12,501	13,000	60	45	30	15	0	0
13,001	13,500	65	50	35	20	\$5	0
13,501	14,000	70	55	40	25	10	0
14,001	14,500	75	60	45	30	15	0
14,501	15,000	80	65	50	35	20	\$5

NOTE: These fees are maximum fees per month for each child in substitute care. For each increment of \$500 of annual income in excess of \$15,000 the maximum monthly fees for the several family sizes shall be increased by \$5, subject to the limitation imposed by Ill. Rev. Stat. 1981, ch.23, par. 5005.1.

However, no charges shall be assessed which in any manner jeopardize federal reimbursement.

Annual income shall be gross income as defined in Section 203 of the "Illinois Income Tax Act", as now or hereafter amended. (Ill. Rev. Stat. 1981, ch. 120, par. 2-203)

(Source: Amended at 7 Ill. Reg. 3175, effective April 1, 1983)