

A collection of colorful, stylized icons is scattered across the left and bottom portions of the slide. These icons include a house, a family of three, a telephone, a magnifying glass, a balance scale, a gear, a handshake, a stroller, a house with a '24' inside a circle, a person holding a plant, a fork and plate, a person with a gear on their head, and various geometric shapes like stars and plus signs.

Title IV-E Foster Care Legal Representation Cost Reimbursement

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What?

July 9, 2024 | Final rule issued by U.S. Department of Health and Human Services (DHHS)

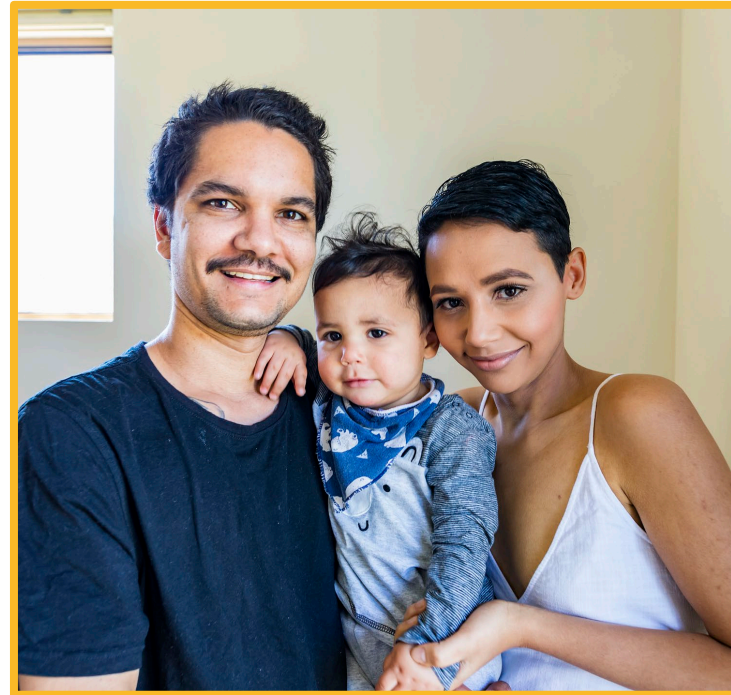
- Title IV-E agencies can claim federal financial participation (FFP) for the administrative costs of independent legal representation provided by an attorney representing a child in Title IV-E foster care or who is a candidate or eligible for Title IV-E foster care, the child's parent, Indian custodian or relative caregiver in foster care and ancillary civil legal proceedings.
- Section 474 (a)(3) of the Social Security Act authorizes federal reimbursement for Title IV-E foster care administrative costs.

DCF is the Title VI-E agency in Kansas.



Why?

- Help children and families involved or at risk of being involved in the child welfare system, especially those facing family, health, housing, or economic challenges or crises
- Help children and families involved in foster care by expediting reunification and improving permanency
- Access to an attorney can help stabilize families, improve safety and reduce the need for state involvement





How?

How can counties be reimbursed for their costs paid to attorneys for their legal representation of children, parents, caregivers in county court foster care legal proceedings?

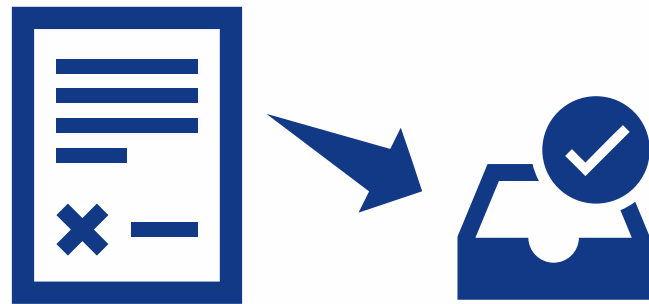
DCF is authorized to provide reimbursement for costs incurred by Kansas counties for allowable costs of IV-E legal representation of foster care candidates and children already in foster care.

Per the *Children's Bureau Technical Bulletin Frequently Asked Questions: Independent Legal Representation* dated July 20, 2020, the May 10, 2024, Final rule, and Section 8.1B of the Children's Bureau, Child Welfare Policy Manual, questions 30, 31, and 32.



Interagency Agreement between County and DCF

An interagency agreement will govern reimbursement payments to counties for legal representation.



CINC Cases Considered Candidates

- Cases filed pursuant to the Kansas Child in Need of Care Code, K.S.A. Chapter 38, Article 22 (CINC) considered to meet the IV-E definition of foster care or candidate
- A candidate is a child at imminent risk of being placed in DCF's custody
 - May reside at home or in temporary custody



Legal Representation of Parties

Legal representation of:

- A child who is a candidate for Title IV-E foster care or is in Title IV-E foster care,
- their parent (s),
- Indian custodian, and
- child's relative caregiver

“Interested Parties” must fit the definition of relative caregiver to be allowed under IV-E.

Indian custodian

any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child (25 U.S.C. 1903(6))

Relative

defined at KSA 38-2202 as “a person related by blood, marriage or adoption”

Guardian Ad Litem

- The cost of a GAL is allowed under IV-E.
- The cost of a second attorney appointed to represent the child under KSA 38-2205 is also allowable.



Allowed Legal Representation Costs

Allowable costs:

- compensation for the attorney
- administrative costs to directly support the attorney representing parents, relative caregiver, Indian custodian, or child.

Administrative costs:

- costs for paralegals, investigators, peer partners, or social workers supporting the attorney on the CINC case or ancillary civil legal proceeding.

Costs for juvenile offender or criminal cases are not allowed.

Ancillary Civil Legal Proceedings

Legal representation costs to represent a child or parents, relative caregiver or Indian custodian, in ancillary civil legal proceedings ***are allowed*** under Title IV-E if necessary to carry out the requirements of a child's case plan.



County Cost Allocation Plans

Counties submit cost allocation plan to DCF:

- describing their methodology (or methodologies) to determine allowable CINC costs;
- identifying only CINC related costs the county has already paid; and
- demonstrating that the costs are reasonable and necessary.

DCF will consider costs that only apply to a specific case, when approved by a judge to be reasonable and necessary.

Cost Allocation Plan Options

CINC case specific billings/invoices

- CINC specific billings/invoices that have been subjected to the normal approval processes may be treated as a 100% CINC cost.
- A specific billing may be for an appointed attorney, staff necessary to support the attorney in the CINC case, such as a paralegal, investigator, peer partner, or social worker, or other necessary cost of representation.

Non-specific billings/invoices

- Billings/invoices that have been subjected to the normal approval processes that include CINC as well as non-CINC expenses must be distributed (allocated) to determine the CINC costs.
- Non-specific billings may be for appointed attorneys, support staff, or other necessary cost of representation.

Allocation methods that may be used include:

1. Time spent on each case (cost / total hours * CINC hours).
2. Total of all cases for the billing period (cost / total # cases * CINC cases).
3. The county may propose other reasonable allocation methods.

Costs for which allocation data (hours, #cases) is not available will not be allowed.

Certification of Expenditure Form (COE)

- Counties will submit a quarterly COE to DCF to claim allowable legal representation costs.
- Costs for legal representation of a child who is a CINC and in the legal custody of DCF and the costs for a child who is a CINC and is not in the legal custody of DCF must be reported separately.
- Unduplicated child counts of children in legal custody of DCF and not in legal custody of DCF must also be reported separately.
- DCF will provide the COE form and instructions.





Annual Statewide IV-E Foster Care Administration Rate

DCF will establish a statewide IV-E administration rate each state fiscal year that will be used to calculate payment amounts for legal representation to counties.



Payments to Counties

Amount determined by applying:

- SFY IV-E Administration rate to the allowable expenses reported on the COE
- IV-E Foster Care Administration federal financial participation rate of 50%

| | | |
|--------------------------------|---|-------------|
| Allowable Expenditures Per COE | | \$ 1,000.00 |
| SFY Administration Rate | x | 25.00% |
| FFP Rate | x | 50.00% |
| Reimbursement Amount | | \$ 125.00 |

Payments will be processed through SMART and delivered to counties by direct deposit or state warrant.



State Match

The funds counties have used to pay the legal representation costs being reimbursed will count as the required 50% state match.



Questions?

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THANK YOU!