

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency
Office of the General Counsel



MLA 07-02 (Adoption Subsidy)
February 9, 2007

Memorandum of Legal Advice

Issue

Can an adoptive parent continue to receive an adoption subsidy on behalf of the child while the child is residing in a residential treatment facility?

Conclusion

Yes. The adoption statute does not prohibit the adoptive parent from continuing to receive the subsidy if the child recipient is still under the age of 18 and in the legal custody of the adoptive parent whose parental rights remain in tact. However, the statute does indicate that the amount of the subsidy shall be reviewed annually and adjusted based upon the current needs of the child. Therefore, the Agency will need to review the adoptive parent's subsidy to ensure that the amount is appropriate to meet the needs of the child while living in a residential treatment facility.

Analysis

D.C. Code § 4-301 governs the issuance of adoption subsidy payments. The statute does not expressly state the circumstances in which a recipient of an adoption subsidy would no longer be eligible to receive payments except that §4-301(f)(1) states that "a child who was eligible for adoption assistance payments under this section during an initial adoption...is eligible for the subsidy in a subsequent adoption if the initial adoption was disrupted because: (A)The parental rights of the adoptive parents have been terminated or relinquished; or (B) The adoptive parents have died."¹ Moreover, §4-301(h) states that "Once during each calendar year the mayor shall review the need for continuing each family's subsidy. At the time of such review and at other times during the calendar year when changed conditions, including variations in medical opinions, prognosis, and costs are deemed by the Mayor to warrant such action, appropriate adjustments in payments shall be made based upon changes in the needs of the child."²

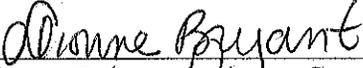
¹ See, D.C. Code Section 4-301(f)(1)(2001 ed.).

² See, D.C. Code Section 4-301(h)(2001 ed.).

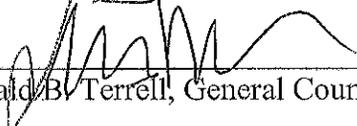
Conclusion

It appears that pursuant to the statute, an adoptive parent will be eligible to continue receiving subsidy payments on behalf of the child because as a general principle, parents do not relinquish their parental rights or legal custody of a child just because the child in a residential treatment facility on a temporary basis. However, due to a significant change in circumstance, which in this case is the living situation for the child, the Agency will need to review the amount of the subsidy currently being provided to the adoptive parent. Unless the parent is paying all or a portion of the fees charged for the child's residential stay, it can be assumed that the costs associated with the child have significantly decreased. There may, however, be some costs incurred by the parent related to the child's residential treatment such as travel expenses to visit a child placed in another jurisdiction or increased phone bills which may justify the award of a subsidy, but on a decreased level.

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