

	Department of Human Service CHILDREN, ADULTS & FAMILIES CLIENT SERVICES MANUAL I ISSUED BY: Program Performance and Reporting EFFECTIVE DATE: April 1, 2002	NUMBER: I-E.5.5 OAR: 413-090-0500 thru 0550
		SECTION: E. Substitute Care
		SUBSECTION: 5. Payments
SUBJECT: 5. Payments for Providing Direct Client Legal Services - OAR		

Responsible Manager: Title IV-E Waiver Manager Approval: _____
 Administrator,
 Program Performance
 and Reporting

Interpretation: Title IV-E Waiver Manager

REFERENCES: Child Welfare Policy I-B.1.4, Guardian and Legal Custodian Consents
 Child Welfare Policy I-G.3.1 (413-130-0080), Adoption Assistance
 CF 967, "Guardianship Assistance Legal Fees Agreement"

PURPOSE

413-090-0500 These rules establish the conditions under which SOSCF can issue a standard legal fees payment for the cost of providing direct client services in the establishment of court appointed guardianship of children in SOSCF's care and custody.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

DEFINITIONS

413-090-0510 "Vendor Attorneys" are qualified attorneys, including Legal Aide Programs who have signed a legal fees agreement with SOSCF to accept SOSCF's currently established standard payment, plus reimbursement of any personal costs incurred, for court fees and the filing of mandatory court papers, or for obtaining birth certificates when establishing guardianships for children in SOSCF's care and custody, or to process adoptions.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

ELIGIBILITY FOR PAYMENT OF DIRECT CLIENT LEGAL SERVICES

413-090-0520 (1) DHS may consider making payments for direct client legal services for the establishment of uncontested guardianships for children in DHS's care and custody when it is documented that:

- (a) The family is unable to pay for the services of a private attorney;

(b) No free legal resource is available to the client.

(c) When thoughtful and thorough decision-making has established guardianship as a permanency plan and it has been determined that the plan:

(i) Is in the best interests of the child;

(ii) Offers a long-term commitment by the prospective guardian for stable and continuous care of the child until adulthood;

(iii) Meets the prospective guardian and the child's wishes;

(iv) Meets the child's need for stability and continuity of relationships;

(v) Assures the mental and physical health of all involved;

(vi) Assures the guardian's ability to protect and support the child without the agency's help;

(vii) Has the parent's consent, or the agency can show good cause such as the parent's incarceration, incapacity, or abandonment of the child;

(viii) Assures the prospective guardian can appropriately manage the parent's involvement with the child.

(2) Payment may be considered even though the court's establishment of guardianship does not result in termination of all branch services.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

SELECTING AN ATTORNEY

413-090-0530 Prospective guardians, found eligible for client legal services, may choose an SOSCF "vendor attorney" from the branch list or procure the services of a private attorney.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

RATE OF PAYMENT FOR LEGAL SERVICES

413-090-0540 (1) DHS will pay the costs of establishing uncontested

guardianships at SOSCF's currently established standard payment rate, plus reimbursement of personal costs incurred for court fees and the filing of mandatory court papers. Payments are made from the foster care prevention budget.

(2) Payment will be made after the guardianship is legally established and the branch receives a copy of the court order. Payment will be made after the guardianship is established to either the:

(a) Vendor attorney; or

(b) Family for reimbursement of the services of a private attorney. Payment to the family is limited to the amount of the contracted vendor payment standard plus reimbursement of mandatory court fees and filing costs.

(3) The family is responsible for all charges billed in excess of DHS's established standard payment rate when they choose to hire a private attorney.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005

COURT ORDER CONTENT

413-090-0550 Ideally, court orders resulting from these legal actions should:

(a) Specifically set forth the permanency plan;

(b) Terminate SOSCF's involvement/responsibility;

(c) Designate the responsibility of the parent(s) and the guardian. For example, court orders may state that the guardian has the duty to protect, feed, educate, shelter, and care for the child, as well as make decisions about the child's legal residence, the responsibility to enroll the child in school and get the child medical treatment, as well as having authority over the child's estate and assets.

Stat. Authority: ORS 418.005

Stats. Implemented: ORS 418.005