

TITLE IV-E REIMBURSEMENT CONTRACT

CONTRACT NUMBER 20-DPHHS Title IV E

This contract is entered into by and between the Office of State Public Defender, 44 West Park, Butte, Montana 59601 (hereinafter referred to as the Contractor, Office of State Public Defender, or OPD) and the Montana Department of Public Health and Human Services, P. O. Box 8005, Helena, Montana, 59604 (hereinafter referred to as the Department or DPHHS). This agreement and attachments constitute the entire agreement between the Department and the Office of State Public Defender regarding cases of child abuse and neglect, and supersedes all previous agreements, either written or verbal.

SECTION ONE

Purpose

This agreement establishes the financial relationship between the Office of State Public Defender and the Department for attorney services provided by OPD in the representation of parents and children in child abuse and neglect cases. This agreement is for the express purpose of specifying how and under what conditions OPD may be reimbursed by the Department for a portion of the costs incurred by the Office of State Public Defender in providing such representation.

SECTION TWO

Statutory Authority

Montana Code Annotated § 41-3-425 requires courts to appoint the Office of State Public Defender to assign counsel for indigent parents, guardians, and other persons having legal custody of children involved in child abuse and neglect proceedings. Courts may also appoint the Office of State Public Defender to assign counsel for children or youth involved in any child abuse and neglect cases.

Federal law and regulations provide for the partial reimbursement of allowable costs for cases regarding children who meet the eligibility criteria of Title IV-E of the Social Security Act. 42 U.S.C. § 673(a)(6); 45 CFR § 1356.60. The provision of legal representation for parents and children in abuse and neglect cases involving IV-E eligible children is an allowable cost under federal law and regulations.

SECTION THREE

**Duties and Responsibilities of the Office of
State Public Defender**

1. The Office of State Public Defender shall provide independent legal representation for children and parents in child abuse and neglect proceedings under Mont. Code Ann., Title 41, Chapter 3.
2. The Office of State Public Defender shall work to provide high quality legal representation for the children and parents it represents in abuse and neglect cases. This may include, but is not limited to, engaging specialized attorneys, social workers, peer mentors, and therapeutic case managers to work with parents and children. This may also include representation of parents and children on other legal issues which directly relate to preventing children from being removed from their parent's care or being returned to their parent's care after removal. Examples of other legal representation may include, but is not limited to, guardianship issues, orders of protection, parenting plans, and landlord-tenant issues. The Office of State Public Defender understands and agrees that a multidisciplinary approach to parent and child representation in abuse and neglect

cases provides for better outcomes for children and families. Attorneys for parents and children will provide independent representation of their clients consistent with their ethical obligations as attorneys.

3. OPD shall keep an accurate record of the costs associated with providing representation in child abuse and neglect cases under Mont. Code Ann., Title 41, Chapter 3. These costs may include the salary, benefit, and overhead costs of a public defender and the cost of private attorneys.
4. The Office of State Public Defender shall, at the end of each quarter for which costs are to be claimed by OPD, submit to the Department a summary of those costs, in a format acceptable to the Department. Quarterly cost summaries shall be approved by signature of the OPD Director prior to submitting to the Department.
5. OPD shall retain records that support or document the costs claimed on the quarterly claim. Those records shall be made available to the Department or federal authorities upon request.

SECTION FOUR
Duties and Responsibilities of the
Department

1. The Department shall determine the statewide eligibility rate or penetration rate for IV-E funding for children involved in child abuse and neglect proceedings.
2. The Department shall review the costs for providing legal representation submitted by OPD at the end of each quarter. The Department shall apply the statewide penetration rate to the costs submitted by OPD and submit the resulting claim to the federal government.
3. The Department shall, upon receipt of federal reimbursement, pay OPD its share of the reimbursement received.

SECTION FIVE
Disallowed Costs and Recovery of Improper or Erroneous Payments

1. If, under state or federal review or audit, costs claimed by OPD and reimbursed by the Department are disallowed because they were not directly attributable to the cost of attorneys for parents and children in child abuse and neglect cases, or they were not supported by appropriate documents or records, those costs must be repaid by OPD to the Department within 30 days of written demand by the Department.
2. The Department shall be entitled to recover all payments erroneously or improperly made to OPD. OPD is responsible to refund the full amount of any erroneous or improper payment within 30 days of written demand by the Department.
3. If OPD fails to repay the Department within 30 days, the amount owed to the Department may be automatically deducted from any future payments to OPD. Any erroneous or improper payment received by OPD shall constitute a debt to the Department and may be recovered by the Department by any means provided by law or this contract.

4. OPD must notify the Department immediately if OPD believes it has received an overpayment or other erroneous or improper payment and shall promptly return the full amount of the improper or erroneous payment to the Department.

SECTION SIX
Effective Date and Termination

This agreement is effective beginning July 1, 2019 and shall terminate June 30, 2020, unless previously renewed in accordance with this section. This contract may be renewed for up to a total of seven (7) years if the Parties agree in writing prior to the expiration of the contract.

Any party may terminate this agreement at any time, with or without cause, upon no less than thirty (30) days written notice by certified mail or personal delivery of notice to the other party.

SECTION SEVEN
Signatures

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first written below.

Office of the State Public Defender

By: Rhonda Scaffe
Title: OPD Director

Date: 8/22/19

Department of Public Health and Human Services

By: Jana Smith
Title: DPHHS Deputy Director

Date: 08/21/19

