

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

December 29, 2004

MEMORANDUM

What's Inside:

Attorney Fees in
Termination of
Parental Rights
Cases

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS, AND
CHILDREN'S DIVISION STAFF

FROM: FREDERIC M. SIMMENS, DIRECTOR

SUBJECT: ATTORNEY FEES IN TERMINATION OF PARENTAL RIGHTS
CASES

REFERENCE: CHILDREN'S DIVISION

DISCUSSION:

The purpose of this memorandum is to update policy to include the limits on attorney fees set forth in Administrative Rule 13 CSR 40-30.020 Attorney Fees and Guardian Ad Litem Fees in Termination of Parental Rights Cases. The administrative rule allows for the following fees:

- Any attorney shall, at the conclusion of representation, be compensated at a rate not exceeding one hundred dollars (\$100) per hour. Attorneys may be reimbursed, at the conclusion of the representation, for expenses reasonably incurred, including the costs of transcripts authorized by court.
- The compensation to be paid for representation at trial shall not exceed one thousand dollars (\$1,000) for uncontested matters and seven thousand dollars (\$7,000) for contested matters.
- For representation in an appellate court, the compensation shall not exceed three thousand five hundred dollars (\$3,500) at one hundred dollars (\$100) per hour.
- At any time an attorney believes that the cost of representation will surpass the limits provided, they must provide notice to the Children's Division that they may exceed the current maximum fee and this amount must be approved by the court.

Missouri Statute, 453.020 states, "the Guardian ad Litem (GAL) may be awarded a reasonable fee for such services to be set by the court. The court, in its discretion, may award such fees as a judgment to be paid by any party to the proceedings or from public funds. Such an award of GAL fees shall constitute a final judgment in favor of the GAL."

Approval for payment of these costs must be received from the Regional Director by submitting the request through supervisory channels. The court must enter an order for the payment of these fees by CD before CD will pay court costs in a TPR or adoption case. Legal expenses in excess of \$100/hour shall be referred through supervisory channels to the DLS attorney assigned to their circuit, who will then make the decision whether to approve or disapprove the expense.

Necessary Action:

1. Review this memorandum with all Children's Division staff.
2. Any questions regarding this memorandum are to be routed through normal supervisory channels.

FMS/AM:js