



## **ADOPTION SUBSIDIES AND TAX ISSUES FOR ADOPTIVE PARENTS**

The federal and state governments, wishing to end foster care drift and provide incentives for adoption, have offered a variety of post-adoption subsidies. Families who adopt special needs children should not hesitate to take advantage of these subsidies. The money is for the children.

The subsidies available as of Fall, 2000, which will be discussed in this brochure are:

The Adoption Assistance Program (AAP) a federal program providing per diem for special needs children.

The Indiana Adoption Subsidy Program (IASP), a state program which supplements the AAP and uses slightly different criteria.

The Non-Recurring Adoption Expense Program, a one-time federal program which reimburses adoptive parents for expenses in adopting a special needs child.

Medicaid, the state/federal program to cover health care costs, which is available to special needs adopted children.

Income tax benefits available to all working parents with dependent children.

The adoption tax credit, a one-time credit on federal income taxes, which is available to parents for expenses incurred in adopting a child.

The earned income credit, a federal credit for low-income working people.

### **ADOPTION ASSISTANCE PROGRAM (AAP)**

AAP pays up to a maximum of 75 percent of the previous per diem paid by the county. The amount of payment may be negotiated up to the maximum, and must be re-negotiated every two years, but cannot be canceled. If the Office of Family and Children offers a lesser amount, the decision can be appealed to an Administrative Law Judge.

AAP has two basic eligibility requirements, both of which must be met:

1. *CATEGORICAL ELIGIBILITY*: The child's birth family must meet the income requirements for AFDC at the time of removal from the birth home or the child was eligible for SSI at any time before the filing of the adoption petition.

2. *SPECIAL NEEDS*: A child age two or older; a child placed with a sibling who meets the age requirement; a child with a diagnosed medical condition or mental handicap.

A reasonable effort must be made to place the child for adoption without a subsidy. However, this effort need not be made if to do so would be against the best interests of the child, such as a child who is bonded or significantly attached to his foster parents who wish to adopt him.

## **INDIANA ADOPTION SUBSIDY PROGRAM (IASP)**

The county subsidy (IASP) can be used by itself or to supplement the federal AAP program. IASP does not have an application process but must be requested in the adoption petition and granted by the court. Certain children meet the special needs definition but do not meet the categorical eligibility requirement and hence do not qualify for AAP. If the child is not eligible for AAP subsidy, adopting families may request the full amount of the foster care per diem from the IASP. If the child is eligible for AAP subsidy, the adopting family may request the difference between the AAP subsidy and 100 percent of their foster care per diem. The language in the adoption petition requesting the county subsidy must be very clear so that, and as the child gets older, or in the event that the AAP subsidy disappears, the county subsidy increases so that 100 percent of the per diem is maintained. The county subsidy must be renewed annually through the court.

IASP uses the term “hard-to-place” rather than “special needs,” and the requirements differ. Indiana law defines “hard-to-place” as a child who is disadvantaged 1) because of ethnic background, race, color, language, physical, mental or medical disability or age or 2) because the child or children are members of a sibling group that must be placed in the same home. If the judge orders the IASP, the county may argue that they have no funds. Should this occur, contact the Indiana Foster Care and Adoption Association (800-468-4228) or ACT (877-ACT-4KIDS.)

An adoption assistance subsidy received by the adoptive parents is not listed as income according to the IRS Publication 525 for the year 2000.

## **NON-RECURRING ADOPTION EXPENSES (NRAE)**

NRAE is a one-time reimbursement of adoption expenses incurred by the parents adopting a special needs child. The total amount may not exceed \$1500 per child.

Examples of reimbursable expenses include:

- \* Attorney fees and out-of-pocket expenses.
- \* Adoption fees such as placement or home study fees.
- \* Court cost such as filing fees.
- \* Transportation and lodging costs for pre-placement visits of over 50 miles.

Attorneys may file for direct vendor payments using Form 3313 with a W-9. Attorneys should file an itemized bill but may have a fixed fee.

## **MEDICAID**

Any special needs child who is granted either AAP or IASP is eligible for Medicaid. (See DFC directive 99-08, dated August 18, 1999.) The county administering the IASP subsidy must make the Medicaid application, and it is effective from the first day of the month in which the adoption took place.

In determining eligibility for IASP and Medicaid, statements from licensed psychologists, social workers, and counselors may be used as well as statements from licensed physicians to document the child’s special needs.

To maintain the Medicaid, the adoptive parents must report to the court annually. The local county office must notify the family when this report is due. Adoptive parents who have questions about the Medicaid subsidy should contact either of these two numbers at the state level: 1-317-233-1568 or 1-317-233-1570.

## **TAX BENEFITS FOR ALL PARENTS**

Once a child is adopted and becomes the dependent of the adoptive parents, those parents can claim the benefits due to parents from the federal government. These benefits include: 1) The child tax credit, new in 1998, claimed on Form 1040 or Form 1040A. 2)

If applicable, the credit for child and dependent care expenses incurred so that parents can work, reported on Form 2441. 3) If applicable, the HOPE Scholarship Credit for tuition expenses for themselves or a dependent child, reported on Form 8863.

## **TAX CREDIT FOR ADOPTION**

New credits for adoption went into effect with the tax bill signed on June 7, 2001. Adoptive Families magazine ([www.AdoptiveFamilies.com](http://www.AdoptiveFamilies.com)) offers the following information from their legal Q&A section, July/August 2002:

After December 31, 2002, for the adoption of U.S. children with special needs, the law provides a flat credit against income taxes of \$10,000 regardless of expenses incurred. If you reduce your taxes to zero and have credit left, you can carry the credit forward for five years or until it is used up.

After December 31, 2001, for the adoption of U.S. children without special needs, the law provides a credit of up to \$10,000 but only against actual adoption expenses. The credit can be taken even if the adoption is never finalized.

After December 31, 2001, for the adoption of children from other countries, parents can take a tax credit of up to \$10,000 for adoption expenses, but only if and when the adoption is finalized.

The distinction by type of adoption is new. Since the distinctions are rather complicated, adopting parents would be wise to consult their accountant or attorney and read IRS publications carefully.

## **EARNED INCOME CREDIT**

The earned income credit (EIC) is a refundable tax credit available to low-income taxpayers.

The following rules apply to anyone claiming the credit:

- \* Taxpayers must have some reportable earned income.
- \* The child must be a son, daughter, adopted child, grandchild, stepchild, or eligible foster child.
  - \* To be an eligible foster child, the child must have lived in the taxpayer's home for the entire tax year. Children other than foster children must have resided in the home for at least six months.
  - \* The child must be under age 19, a full-time student under age 24, or a child of any age who is permanently and totally disabled.

To claim this credit, taxpayers must file either Form 1040 or Form 1040A and Schedule EIC. Instructions for the EIC are found in the instruction booklet for Form 1040. The maximum amount of income which taxpayers can earn and still be eligible for the EIC changes from year to year. In 2000 the maximum amount of income to be eligible was \$27,400 with one child or \$31,152 with two or more children. The maximum earned income credit also changes from year to year. In 2000 the maximum

earned income credit was \$2,353 with one child or \$3,888 with two or more children.  
See the IRS Publication 596 Earned Income Credit.

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