Court Appointed Dependency Counsel Title IV-E Match Program Update: November 2019

2019 Revisions to Federal Policy for Dependency Counsel Representation

Title IV-E of the Social Security Act enables states and counties to seek reimbursement from the federal government for eligible foster care related expenditures. Traditionally this has included social workers and their attorneys (typically county counsel). A recent revision of the Child Welfare Policy Manual (CWPM), extends the availability of title IV-E match funds to dependency counsel who provide legal representation to children in foster care and their parents. This significant federal funding development has the potential to provide up to an additional $57 million to augment court appointed counsel services.

California Implementation Process

Court appointed dependency counsel funds are administered by the Judicial Council pursuant to a workload-based methodology adopted in April 2016. Currently, 38 courts receive funding to contract with dependency counsel providers at the local level and 20 courts participate in the Dependency Representation, Administration, Funding, and Training (DRAFT) program where the JCC contracts directly with attorneys.

The federally designated agency, the California Department of Social Services (CDSS), and the Judicial Council worked together to develop a plan that will enable California dependency attorneys to access the IV-E match funds. As a result of that plan, the Budget Act of 2019 included $34 million in ongoing federal funds to support court-appointed dependency counsel representing parents and children; an amount that is expected to increase to $57million in 2020-2021 once the program is fully implemented. Judicial Council staff, in conjunction with its advisory bodies and in consultation with stakeholders, including judges; court administrators; and dependency counsel providers, are developing the plan to administer the title IV-E match program. The Judicial Council will administer the program statewide and directly contract with DRAFT providers. In other counties, the court may directly contract with providers (or delegate authority to the Judicial Council). Courts will work with Judicial Council staff to ensure providers adhere to record-keeping and invoice requirements for program participation.

Activities Eligible for Federal Funding Match

This new federal funding opportunity, provided through title IV-E, is limited to the provision of legal services by attorneys who serve the child welfare population. California is an early adopter of this new program and we expect further clarification and refinement as the program develops. This federal funding covers representation provided by attorneys to children and their parents in foster care, including in-court work as well as out-of-court work such as investigations, discovery review, legal research and writing, and client meetings. The funding also extends to a proportionate share of related agency overhead and costs related to data collection and reporting. Clarification regarding eligible expenses is forthcoming from federal administrators. The JCC and CDSS anticipate the need for cautious claiming in the early stage of the program as the details are defined.

For additional questions and answers regarding the extent to which federal match funds may be used the following websites may be of assistance. Please note, these websites are maintained by non-profit organizations and may not maintain fidelity to California implementation:

https://familyjusticeinitiative.org/iv-e-funding/

https://www.naccchildlaw.org/page/PolicyNews