

UNDERSTANDING ADOPTION SUBSIDIES

STATE-SPECIFIC GUIDES FOR ADOPTIVE PARENTS AND ADOPTION PROFESSIONALS

ARIZONA

ARIZONA TITLE IV-E ADOPTION SUBSIDY REGULATIONS

Introduction

For the purpose of this guide, the term department refers to the Arizona Department of Economic Security; the term agency refers to the local child welfare agency, and; adoption subsidies are monetary payments or services made on behalf of a special needs adopted child in order to facilitate the adoption. An adoption assistance agreement is a written agreement between the adoptive parents and a state agency which, once signed, becomes a binding contract. Such agreements may be made for a federal or state subsidy.

In Arizona, the adoption subsidy program has benefited many families and helped to facilitate numerous adoptions. In March 2006, the Arizona adoption subsidy program was serving 8,731 children and 5,773 families.

<http://www.de.state.az.us/dcyf/cmdps/cps/pdf/2006%20Full%20Final%20IV-B%20Report%208-06b.pdf> pg 45

Federal Subsidies:

Title IV- E Federal adoption assistance is very popular, accounting for 84% of all adoption subsidies nationally. <http://aspe.hhs.gov/hsp/05/adoption-subsidies/index.htm> The federal government has increased subsidy expenditures by more than 2000% in the last 20 years. In 1981 the federal government spent less than \$400,000 on adoption subsidies and in 2002 it spent \$1.3 billion. By 2008, it is expected that adoption subsidy payments will approach \$2.5 billion. (U.S. House of Representatives, 2004) <http://aspe.hhs.gov/hsp/05/adoption-subsidies/index.htm>

Under the Title IV-E adoption assistance program, a portion of the subsidy payment is paid for by the federal government, while the remaining share is paid for by the state. The federal government uses the Medicaid matching rate to determine the federal portion of the adoption subsidy payment. Nationally, this rate ranges from 50% - 83%. <http://aspe.hhs.gov/hsp/05/adoption-subsidies/index.htm> The federal

financial participation rate in Arizona is 66.47%; the rest of the program is paid for with state funds. www.nacac.org/adoptionsubsidy/stateprofiles/arizona.html

State Subsidies:

Each state is free to use its own funds to provide adoption subsidies for children that do not meet the Title IV-E criteria. <http://aspe.hhs.gov/hsp/05/adoption-subsidies/index.htm> The department makes the adoption subsidy payment with monies appropriated to the department of economic security for adoption subsidy payments. ARS §8-142(A)

Subsidy Eligibility and its Requirements

The department must notify the adoptive parents that a subsidy is available for any child that meets the special needs requirements prior to the “pre-placement visit” with the child. AAC §R6-5-679(A)(1)-(2). The department will determine a child’s eligibility for an adoption subsidy after a subsidy application has been filled out by the adoptive parents.

“Special Needs:”

In order to be eligible for the adoption subsidy, the adopted child must qualify as a child with “special needs”. Nationally, close to “88% of adopted children were classified as having special needs.” <http://aspe.hhs.gov/hsp/05/adoption-subsidies/index.htm> In Arizona, the vast majority of children in the custody of the Department of Economic Security are considered to be “special needs” children. “Special Needs Adoption: A Resource Directory” <http://www.azdes.gov/dcyf/adoption/pdf/PAP-002-PD.pdf>

In Arizona, a “special needs child” is defined as a child who has any of the following characteristics before the adoption is finalized which may impede the adoption of the child:

- 1) a physical or mental disability,
- 2) an “emotional disturbance” currently present or emotional attachment to his or her current foster family (see paragraph below for description),
- 3) elevated risk of a future physical or mental disease or “developmental disability”,
- 4) age six or over,
- 5) is part of a sibling group, or
- 6) is of minority decent.

ARS § 8-141(A)(14) and AAC§R6-5-6704(D). In addition to meeting the above criteria, the child must be legally free for adoption and in the custody of the department or a licensed child placing agency in Arizona. AAC§R6-5-6705(D) Prior to placement with the adoptive family, the child must be evaluated by “qualified specialists” to determine if the child meets any of the special needs

criteria and what, if any, special services the child will require. AAC §R6-5-6707(A)

A child will be determined to be “emotionally attached” to his or her foster family if: 1) the child is currently in the family’s home, 2) the family meets adoption criteria, and 3) the child has undergone a psychological evaluation which found the child would “be unable to readily accept another family” or the child has developed such a strong relationship with the family that it is in the child best interest to be adopted by the foster family. AAC §R6-5-6707(B)

The Subsidy Application Process

Application

Any person adopting a child from either a public or private agency may apply to the department of economic security for an adoption subsidy. ARS § 8-143. Parents must first apply for federal adoption subsidies. An applicant for the state adoption subsidy will not be considered until he or she has applied for all “federal eligibility categories under the title IV-E program.” ARS §8-142(C)

After the application has been filled out by the adoptive parents, it will be reviewed by the local office supervisor. If the application is complete, the local office supervisor will then submit the application to the Adoption Subsidy Unit where a panel of three will determine if the child meets the eligibility requirements. www.nacac.org/adoptionsubsidy/stateprofiles/arizona.html

Approval

An application for an adoption subsidy will be approved if the child meets all of the eligibility requirements including the special needs requirements stated in the previous section. ARS § 8-143. In addition, the adoptive parents must have been approved as an adoptive home and deemed to be the best placement for the child. AAC §R6-5-6708(A)-(B)

The panel must make its approval decision within 30 days of receiving the application. AAC §R6-5-6708(D) If the department denies the application for the subsidy, it must notify the adoptive parents within 10 days of making the decision, giving the reasons for the denial and informing the parents of their right to appeal. AAC §R6-5-6709

Negotiation

After the child has been deemed eligible to receive the subsidy, the adoptive parents are required to negotiate and enter into an adoption subsidy agreement with the adoption subsidy staff. AAC §R6-5-6709(C) During the negotiation, the department is required to analyze the adoptive parent’s insurance benefits and discuss with the adoptive parents any limitations that may decrease the subsidy payment amount. AAC §R6-5-6709(A)(3) After both parties, the parents and the department, are satisfied with the adoption subsidy

payment amounts and services to be provided in the adoption subsidy agreement, the agreement will be signed and will become effective immediately. Parents should not sign the agreement until they are sure that they are receiving the level of payment and services needed to properly provide for the adopted child.

In some events, the department may approve the child for a subsidy before the child is placed in an adoptive home. AAC §R6-5-6707(G). In this case, the parents will not have to go through the eligibility determination but will still have to negotiate the agreement with the adoption subsidy staff.

Payment

After the adoption agreement has been negotiated and the agreement has been signed, the adoption subsidy payments may begin at the time of placement or after finalization. ARS § 8-144.

Post Adoption Application

If an adoption subsidy agreement was not entered into prior to the adoption, an application for a new or increased subsidy can be made at any time after adoption with a showing of an undiagnosed problem that was present prior to adoption finalization. ARS 8-144(D)

The Subsidy Agreement

After the child has been placed in the adoptive home but prior to finalization of the adoption and after the child has been determined to be eligible for a subsidy and the parents have negotiated the agreement, the adoptive family and department must sign a subsidy agreement. The agreement must contain a provision for annual reviews. ARS §8-144

The parents may not enter into an agreement with the department to provide adoption assistance for some undetermined time in the future. Arizona does not provide deferred adoption assistance as an option when making an adoption assistance agreement.

www.nacac.org/adoption/subsidy/stateprofiles/arizona.html

After the agreement has been signed and the services have been determined, if there are services that the child needs or the parents have any questions regarding additional resources available to them and the child, adoption subsidy case managers are available to aid the parents in finding any needed services. “Special Needs Adoption: A Resource Directory” <http://www.azdes.gov/dcyf/adoption/pdf/PAP-002-PD.pdf>

Duration

The subsidy agreement must continue so long as the child continues to have special needs and is a “legal dependent” of his or her adoptive parents. AAC§R6-5-6705(F) The agreement will automatically end when the child reaches 18 or 21 if he or she is currently enrolled high school. ARS 8-144(B) and AAC §R6-5-6703 If the child is taken out of the parent’s custody, under the subsidy agreement, the payments will be suspended but will resume upon return of the child to the adoptive parent’s home. AAC §R6-5-6705(I) In addition, the subsidy payment will continue if the family moves out of state so long as there is documentation of the continued need for the subsidy. AAC §R6-5-6705(J)

Modification

The agreement will be reviewed by the department at least annually and every time there is a material change in circumstances. At this time the subsidy will be reevaluated and the department will determine whether the payment should remain the same or be adjusted. ARS 8-144(C); AAC §R6-5-6705(H); AAC §R6-5-6710.

Subsidy Payment Amounts

The payment amount will vary according to the child’s needs and the availability of other resources and will be determined by the negotiations between the parents and the department. ARS 8-144(A); AAC §R6-5-6705(F). In all cases, the amount of the adoption subsidy can not be any larger than the amount the child would receive under the foster care subsidy rates and all other benefits that the child receives, such as social security, ASI, tribal and insurance benefits must be subtracted from the subsidy payment. ARS 8-144(B); AAC §R6-5-6706(A) AAC §R6-5-6705(G) The department must automatically adjust the payment when foster care rates are raised. ARS 8-144(B); AAC §R6-5-6706(A)

The rates shown below are the foster care daily rates for Arizona in 2005 and show the maximum amount that the child can receive under the adoption subsidy.

Basic rates (2005):

Age	Rate	
0-11	\$24.60/day	\$738/month (30 days)
12-20	\$27.15/day	\$814.50/month

<http://www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html>

Specialized rates (higher monthly payments) are available after an individualized evaluation of the special needs of the child looking at the child’s limitations, needs and mental and physical conditions and the intensity of services that the child requires. www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html

Specialized rates (2005):

AM 2*	\$29.40/day	\$882/month
AM 3	\$37.42/day	\$1122.60/month
AM 4+	\$44.69/day	\$1340.70/month
AM 5 (DD)**	\$31.98/day	\$959.40/month
AM 6 (DD) **	\$39.90/day	\$1197/month

*AM = adoption maintenance

**DD = division of developmental disabilities

AM 4+ is reserved for therapeutic or professional homes

<http://www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html>

The adoption subsidy is considered the child’s income and therefore cannot be used to offset child support obligations of the parent. *Hamblen v. Hamblen*, 203 Ariz. 342 (Ariz. Ct. App. 2002).

Types of Available Subsidies

Adoption subsidies can come in multiple forms in Arizona. The subsidy may be a monthly payment given to help care for the child or the subsidy may provide special services for the child’s medical, dental and psychological care not covered by other resources. The subsidy payment may also be a one time payment to help with such expenses as attorney fees, court costs or home studies. ARS 8-144(B); AAC §R6-5-6705(F); “Special Needs Adoption: A Resource Directory” <http://www.azdes.gov/dcyf/adoption/pdf/PAP-002-PD.pdf>

Money Payments:

Money payments are issued monthly to the adoptive parents. AAC §R6-5-6706(A). They may be issued for a limited amount of time, long term or on a delayed basis.

Time Limited: This payment is made only for a specified amount of time as stated in the adoption subsidy agreement. AAC §R6-5-6706(A)(2)(a)

Long Term: These subsidy payments are made for an indefinite period of time, ending when the child turns 18 or no is no longer eligible. AAC §R6-5-6706(A)(2)(b). This is the typical adoption subsidy provided by the department for adopted children.

Delayed: A delayed money payment occurs when there is a signed subsidy agreement, but no payments are made until the child develops a future need for the payment. AAC §R6-5-6706(A)(2)(c)

Nonrecurring Expense Payments:

A Nonrecurring expense payment is a reimbursement given to the parents by the department for things such as: adoption fees, attorney fees and court fees. The expense must be directly related to the adoption of the special needs child. www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html The maximum amount for one time non-recurring expense is \$2,000 per child. <http://www.hsdcsf.utah.gov/PDF/icama/AZ.pdf> The expenses must submitted for reimbursement within 9 months of the expense occurring. www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html

The Department often provides reimbursement to adoptive families for the costs of the adoption. In departments fiscal year of 2004-2005, “the Department reimbursed \$817,469 of nonrecurring adoption expenses for 754 completed adoptions.” <http://www.de.state.az.us/dcyf/cmdps/cps/pdf/2006%20Full%20Final%20IV-B%20Report%208-06b.pdf>

Special Service Payments and Services:

A special service subsidy is a payment to the adoptive parents or the service provider for expenses related to medical and dental care, psychological care, special education and any other service needed to treat any physical or mental condition the child had prior to adoption. AAC §R6-5-6704 A child can receive a special service subsidy only if the child has a known condition present before the adoption that will require surgery or treatment after the adoption or the child, due to his or her medical history, has a high risk of developing a medical condition. AAC §R6-5-6706(B)(1). The special service payment is not to be used to pay for routine medical care or medical conditions that develop after adoption. AAC §R6-5-6706(B)(3)(b)

School Tuition

The child’s education may be paid for or supplemented through the special service payment if there is proof that the public school district cannot provide of the child’s needs. The non-public school must be certified for such special education and all other resources must be first exhausted. AAC §R6-5-6706(B)(3)(c)The payment for school tuition may not be anymore than the monthly tuition minus any state vouchers or any discounts provided by the school. AAC §R6-5-6076(B)(4)(b)

Payment

The payment will pay for services needed for medical, dental and emotional conditions and may also be used to cover things such as braces, hearing aid, glasses, speech, hearing or physical therapy and wheelchairs. AAC §R6-5-6706(B)(2)

Prior to payment by the department, the adoptive parents must assess whether or not their personal health insurance or other public programs will cover the services. If these other sources will pay for the services, they must be used. If the services are fully covered by these other sources, a subsidy agreement may be implemented as a back up in case in of the sources are no longer available in the future. AAC §R6-5-6706(B)(3)

Parents must submit a reimbursement request within 9 months of the date of service or it will not be paid. ARS § 8-142(B) The department will pay only for the reasonable price of the service provided. ARS 8-144(B) and AAC §R6-5-6706(B)(4) The subsidy payments are made directly the adoptive parents who then should reimburse the provider. AAC §R6-5-6076(B)(4)(c)

Respite Care:

Up to 288 hours of respite care is available if it is related to the child's special needs stated in the adoption subsidy agreement. The parents must use all available public resources and get approval from his or her subsidy case manager before using the respite services. www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html

Respite Care, attendant care and habilitation services are provided through "Aid to Adoption of Special Kids"(AASK). For more information please visit their website located at: <http://www.aaskforhomebasedservices.org/index.html>

For other resources regarding respite care please go to:
<http://www.arizonaschildren.org/karecenter.htm>

Medical Coverage: <http://www.azdes.gov/dcyf/cmdpe/default.asp>

Any child receiving an adoption subsidy will be enrolled in the Arizona health care cost containment system. ARS 8-142.01(B)

Mental health services are also available through the Arizona Health Care Cost Containment System including but not limited to; screening, inpatient care, outpatient care, behavioral treatment, therapy, medication and respite care. www.nacac.org

For resources for outpatient behavioral health services available to children receiving medical care from the state please visit:

<http://www.arizonaschildren.org/outpatient.htm>

The department must reimburse hospitals for any inpatient hospital admissions or outpatient services according to the per diem rates and “cost-to-charge ratios” in 36-2903.01. ARS §8-142.01(A)

Tuition Grant Program for Special Needs Adoption Recipients:

Tuition assistance is available to children that were in foster care at the age of 16 or 17 and are enrolled in secondary education and/or training. The aid is based on need and is available until the person is 21 but if the person has shown significant progress it can be extended to the person reaches 23. <http://www.azdes.gov/dcyf/ilp/app.asp>

A scholarship is available to present and former permanent wards of the state that are currently enrolled in secondary education or a training program. The scholarship is given for one semester or one year and is renewable. The amount of money given is based on the recipient’s needs. <http://www.affcf.org/awards/>

Subsidized guardianship

Guardianships finalized after August 6th, 1999 are eligible for subsidies if the child was placed in the guardianship from foster care.
www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html

Eligibility

In order to be eligible for the guardianship subsidy the child must have been in the custody of children services, the guardianship must have been finalized “through the Juvenile Division of Arizona Superior Court in accordance with state statute A.R.S. §8-872” and the guardian must first apply for other state and federal benefits on behalf of the child
www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html

Subsidy Payments

The guardianship subsidy will be offset by any other benefits received on behalf of the child and cannot be any larger than the foster care payment amounts shown in the adoption subsidy section of this document.
www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html

The rates are as follows:

AMG 2*	\$12.95 per day
AMG 3	\$15.73 per day
AMG 4	\$22.06 per day

AMG 5 (DDD)	\$17.77 per day
AMG 6 (DDD)	\$24.03 per day
AMG 7	\$27.81 per day

*AMG=adoption maintenance for guardianship

www.nacac.org/adoptionssubsidy/stateprofiles/arizona.html

The Subsidy Fair Hearing and Appeals Process

Overview of the Process

An adoptive parent may appeal any denial, termination or reduction of an adoption subsidy. ARS 8-145 The appeal should be filed with the department soon after the decision has been received by the parents.

Notice of Action or Intended Action

When a subsidy is contested, both the parents and the department are entitled to a hearing after reasonable notice has been given. The notice must state the time and place of the hearing, the statute in question and the matters to be covered during the hearing. ARS §41-1061(A)

Hearing Procedures

The hearing will be conducted by a hearing officer and can be conducted informally without strict observance of the judicial and evidentiary rules. ARS §41-1992(A); ARS §41-1062(A)(1) Each party may be represented by an attorney and introduce his or her own evidence and cross-examine. ARS §41-1062(A)(1) The parents and the state will both have the opportunity to present evidence and respond to the other party's evidence. ARS §41-1061(C) If needed, the hearing officer may issue subpoenas to compel a witness to attend or for the production of documents and other evidence. ARS § 41-1062(A)(3) Under state law, the state must record the hearing and provide a transcript at the request of any party. ARS §41-1061(F) The hearing officer may end the proceeding with settlement, stipulation, consent or default. ARS §41-1061(D)

Final Decision of the Hearing Examiner

The final decision of the hearing officer must be in writing or in the record and must state the hearing officer's findings of fact and conclusions of law. The findings of fact must be based only on evidence presented during the hearing. The decision must be given to the parties in person or via mail. ARS §41-1063; ARS § 41-1061(G) The hearing decision will be final unless a party files a written petition within 15 days after the decision was mailed or the case is transferred to the appeals board. ARS §41-1992(C)

Appeal of Hearing Decision:

If either party is unsatisfied with the hearing officer's decision, he or she may appeal the decision. The department of economic security has established an appeals board to review any contested hearing decisions. The board may modify, affirm, reverse or remand a decision. The appeals may also decide to take a case directly rather than first sending it to a hearing officer. ARS §41-1992(D) Any party who disagrees with the board's decision may file an application for appeal with the court of appeals within 30 days of the decision being mailed. The party may not bring up any issues with the court that were not raised with the board of appeals. ARS §41-1993(B)

If the party wishes, he or she may avoid the appeals board and go directly to the court system. The Arizona Supreme Court has ruled that after the hearing decision has been rendered, the parties do not need to seek a second review from the hearing officer prior to petitioning for a judicial review of the matter. *Southwestern Paint & Varnish Co. v. Arizona Dep't of Env'tl. Quality*, 194 Ariz. 22 (1999).

CONTACT INFORMATION

State Agencies

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Additional Resources

- <http://www.yelowpagesforkids.com/help/az.htm>
- <http://www.azdhs.gov/phs/index.htm>
- <http://www.raisingsspecialkids.org/>
- <http://www.our-kids.org/>
- <http://www.azinfo.org/about.html>