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Secretary

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Director

June 1, 2016

DEAR COUNTY DIRECTOR OF SOCIAL SERVICES

SUBJECT: Attorney Fees

In the past the Division of Social Services (DSS) Fiscal Manual required the DSS Chief of Budget and Contracts to approve rates above \$125.00 for Attorney services purchased by contract, (see [DSS Fiscal Manual Section II B.2.a.](#)). As of July 1, 2016 it will no longer be required for counties to obtain approval from the NC DSS Budget Office to spend over \$125.00 for Attorney Services Purchased By Contract – Legal & Administrative. Please see below excerpt from the DSS Fiscal Manual and areas to be struck through and added.

2. Attorney Services Purchased By Contract - Legal & Administrative

The cost of legal services required in the administration of the grant programs is allowable. *The cost of legal services provided by the county attorney as a part of his/her official duties (legal advisor to the county commissioners) is unallowable. Legal expenses for the prosecution of claims against the federal government are unallowable. Otherwise, attorney services may be purchased subject to the following:*

a. Legal Attorney Services - *These are defined as the activities engaged in by an attorney in the actual provision of legal services to the agency. A rate of up to \$125 per hour may should be negotiated for these services, which must be inclusive of the attorney's time as well as any adjunctive expenses routinely incurred by an attorney in the public practice of law. Such adjunctive expenses might include photocopying, postage, telephone bills, legal secretary expenses, and so on.*

A county may request a waiver for any rate above \$125 per hour. Such request should include justification for the rate above \$125 per hour. This justification should include market rate for Attorney services in the area, projected number of hours of usage, type of cases the Attorney will handle and programmatic area cases fall in. Request for a waiver must be submitted to the



~~Division of Social Services Chief of Budget and Contracts. If approved, the approval is for one state fiscal year. A new request for a waiver must be submitted each state fiscal year.~~

Agencies may also hire an attorney on a retainer basis, provided that the fees reported for reimbursement are adjusted annually (by June 30th) so as to not exceed the hourly ~~rates indicated [above] for the hours actually worked.~~
negotiated rate for hours actually worked.

Child Support attorneys may not be hired on retainer per federal regulations requiring reimbursement for **ACTUAL TIME** spent on a case based on the contracted hourly rate.

b. Administrative Attorney Services - These are defined as the activities engaged in by an attorney, which are outside the realm of legal services as defined in the preceding paragraph. Specifically, this category would include attendance at professional meetings, seminars, and the like. **A rate of up to \$55 per hour may be negotiated for these services, not to exceed \$440 per day.**

Agencies may also hire an attorney on a retainer basis, provided that the fees reported for reimbursement are adjusted annually (by June 30th) ~~so as to not exceed the hourly rates indicated [above] for the hours actually worked.~~

Child Support attorneys may not be hired on retainer per federal regulations requiring reimbursement for **ACTUAL TIME** spent on a case based on the contracted hourly rate.

Travel and Subsistence payments are allowable in addition to the hourly rates up to a maximum of the same rates that are applicable to the county DSS employees. These costs must be included in the agreement as a budget addendum. **However, an attorney may not be paid an hourly rate for time spent traveling.**

The county DSS office must maintain the signed documentation citing the agreed upon rate that has been established.

The DSS Fiscal Manual will be updated next quarter. Counties should continue perform due diligence in obtaining quality services for the lowest negotiated price as possible. Counties should comply with any federal or state regulations when incurring expenditures as well as maintaining compliance with the [Code of Federal Regulations](#).

Sincerely,



Kathy Sommese
NC DSS Business Director