

Children's Law Center of Indiana



Paternity

12/16/2008

In **In Re D.J.**, 898 N.E.2d 356 (Ind. Ct. App. 2008), the Court reversed and remanded the trial court's order finding that Father was not obligated to reimburse Medicaid for any portion of Mother's pregnancy and childbirth expenses because of the age of the child. The child was born in January 2001. Medicaid paid the expenses incurred during the birth. Mother and Father, who are not married, have lived together since the child's birth, but Father has not contributed significantly toward the child's support. In February 2008, the State filed a petition to establish paternity in Father. Father admitted to paternity and was ordered to pay child support of \$42 retroactive to five days after the petition was filed. The trial court, however, ruled "Father isn't Ordered to reimburse the State ... for birth expenses paid for by Medicaid due to the age of the child." After the trial court denied the State's motion to correct error with regard to the denial of reimbursement to Medicaid, the State appealed.

The trial court's decision to deny the State's request for reimbursement due to the age of the child was error in light of IC 31-14-17-1. Id. at 358. The Court reviewed IC 31-14-17-1 which governs the payment of expenses associated with the birth of a child. Construing the statute, the Court noted that the word "shall" is used regarding reimbursement, and thus the statute should be construed as mandatory unless it appears clear from the context or the purpose of the statute that the legislature intended a different meaning, which is not the case here. The Court also noted that the court had previously held that the statute imposed no time limitation on the recovery of birth-related expenses. Therefore, the Court instructed that, on remand, the trial court order Father to reimburse the State in an amount no less than 50% of the child's birth-related expenses paid by Medicaid. Id.