

Boards are required to contract with the DWD to implement and administer the program under Title IV of the Federal Social Security Act. See Wis. Stat. § 59.53(5).

The DWD is authorized by s.49.22 (7) to delegate its authority to represent the State of Wisconsin in child support and paternity actions to attorneys responsible for support enforcement under s. 59.53(6). Attorneys responsible for support enforcement are authorized to represent the State in actions or proceedings under ss. 49.22(7), 767.075, 767.08, 767.45 and Ch. 769. However, the authority of child support agency attorneys under either s.49.22 or s. 59.53(5) is limited to representation of the State. No attorney-client relationship exists between the agency attorney and the individuals who apply for child support services. See Wis. Stat. § 767.075(2). Rather, a child support agency attorney's participation in a case is limited, as a matter of law, to issues related to establishing paternity and child support.

It is not uncommon for an appeal to be filed in such cases that relates to the custody or placement of the child, but not to child support. The State is not a party of interest in those issues. Nonetheless, DWD has been repeatedly advised that if the State determines that an appeal does not raise issues related to child support, it is not sufficient to simply notify the court of this fact with a brief letter. Indeed, DWD has been advised that such a letter:

[D]oes not discharge [DWD's] responsibilities under our rules of appellate procedure. If the respondent feels that the appeal does not raise issues related to child support, it should file a brief stating that legal position and the legal authority for it.

In another instance, after filing a letter indicating it was not a party of interest to the appeal, the DWD was threatened with sanctions pursuant to Wis. Stat. § 809.83(2) for failure to file a brief.

The briefing requirement is time consuming and costly for counties. It is of no benefit to the client, the State. Therefore, the DWD hereby petitions the Wisconsin Supreme Court for an order amending Wis. Stat. 809.19 (3) (a), as follows:

Section 1. Wis. Stat. s. 809.19(3) (a)2. of the rules of appellate procedure is amended to read:

2. The brief must conform with sub. (1), except that the statement of issues and the statement of the case may be excluded, and, a respondent who is not a party in interest to the appeal may file a statement that no brief will be filed.

Respectfully submitted this 8th day of March, 2006.

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