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DoD Adoption Reimbursement Program

Public law 102-190 effective December 5, 1991, established a permanent adoption reimbursement program for active duty members of the military services. Two United States Code sections provide for the reimbursement of qualifying adoption expenses paid by service members: COMDTINST 1754.9A implements 14 US Code Section 514 covering Coast Guard members and Department of Defense Instruction 1341.9, DoD Adoption Reimbursement Policy implements 10 US Code Section 1052 covering members of the Armed Forces.

Reimbursement

An active duty member of the military services who incurs expenses for the adoption of a child under age 18 may be reimbursed up to \$2,000 per child (with a maximum reimbursement to one service member of \$5,000 in any calendar year) for qualifying expenses. No more than one member of a dual military couple may be reimbursed for the expenses for the adoption of the same child. Couples where both spouses are members of a military service may not receive reimbursement under the program totaling more than \$5,000 in any calendar year.

Benefits are only payable after the adoption is final. Requests for reimbursements must be submitted not later than one year after finalization of the adoption. A benefit may not be paid for any expense paid to or for a member of the military services under any other adoption benefits program administered by the federal government or under any such program administered by a state or local government. A separate form must be submitted for each child adopted.

Qualifications

- The service member must be serving on continuous active duty or full-time National Guard duty specifying a period of at least 180 days to apply for reimbursement.
- Adoptions by single service members as well as married couples are included.
- Child/Children must be under 18 years of age or physically or mentally incapable of caring for himself or herself.
- Child/Children may not be the biological offspring of the service member.

The adoption must be arranged by one of the following procedures:

- A qualified adoption agency or other source* that has responsibility under state or local law for child placement through adoption; *(change authorized by P.L. 109-163, January 6, 2006)
- A nonprofit voluntary adoption agency that is authorized by State or local law to place children for adoption, or
- Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under state or local law. (The latter provision was added in 1996 by P.L. 104-201 and covers most private adoptions).
- The adoption of special needs children and inter-country adoptions are included.

Qualifying Expenses

- Public and private agency fees including adoption fees charged by an agency in a foreign country.
- Placement fees, including fees charged adoptive parents for counseling.
- Legal fees, including court costs, for services that are unavailable to a member of the Military Services under 10 U.S.C 1044 or 1044a
- Medical expenses, including
 - certain hospital expenses of the biological mother of the child to be adopted
 - certain hospital expenses of the newborn infant to be adopted,
 - medical care given to the adopted child before the adoption,
 - physical examinations for the biological mother of the child to be adopted
- Temporary foster care charges when payment of such charges is required to be made before the adoptive child's placement.

Non-Qualifying Expenses

Qualifying adoption expenses do not include expenses:

- by an adopting parent for travel; or
- for an adoption that violates Federal, state or local law, or
- for carrying out any surrogate parenting arrangement.

The expenses incurred by the adoption of the service member's child(ren) or the spouse's child(ren) are not reimbursable. In the majority of the cases of stepchildren/family adoptions, the stepchild/family member is already in the home. A state or local government agency or qualified adoption agency has not taken the required active role of placement of the child in the home. The adoption is a legal formality necessary to create the parental relationship between the child and the family member.

Applying for Reimbursement

The adoption must have been final while the service member was on continuous active duty or full-time National Guard duty with orders specifying a period of at least 180 days, and the request must be submitted within 365 days of the final adoption decree. DoD personnel use DD Form 2675, "Reimbursement Requests for Adoption Expenses." This form can be found at <http://www.dtic.mil/whs/directives/infomgt/forms/forminfo/forminfo2038.html>.

Your servicing unit personnel office is also a good place to obtain the reimbursement claim form. There have been some changes to the information you must submit but, DD2675 has not been updated. Note the following items, which are not reflected on the current DD2675:

- All payments are now made by electronic fund transfer (EFT). You will need to submit information for an EFT such as bank name, routing and account number.
- Page 3 indicates that reimbursement will be taxed at 20% - the payment is non-taxable and will not be taxed.
- The mailing code has been changed from FMC to PMMCB.

It will also help to write "Adoption Reimbursement" on the envelope.

Coast Guard members use form CG 5553 from COMDTINST1754.9A. This form can be found at http://www.uscg.mil/HQ/G-W/G-WK/GWKW/COMDT/1754_9A.pdf. As with the DD2675 the reimbursement is non-taxable.

Other Benefits Related to Adoption

Extension of Assignment

Service members may request voluntary extension of assignment, under DoD Directive 1315.7 beyond their prescribed tour, to complete the adoption process for a child less than 18 years of age.

Military Leave

- Service members are not eligible for leave under the Family and Medical Leave Act. Consistent with military requirements, commanders are encouraged to approve requests for ordinary leave once a child is placed in the home of the member for adoption to allow a period of bonding or time to establish arrangements for child care.

Public Law 109-163 allows up to 21 days of leave in addition to regular leave, to be used in connection with the adoption. Only service members who are eligible for reimbursement of adoption expenses are eligible for this leave. In the event that two members of the armed forces who are married to each other adopt a child in a qualifying child adoption, only one such member shall be allowed this special leave. This provision is effective January 6, 2006 and shall apply only with respect to adoptions completed on or after that date.

Deployment Deferment

- Single members or one member of a military couple shall receive a four month assignment and deployment deferment from duty away from the home station for the period immediately following the date a child is placed in the home of such a member or members, as part of the formal adoption process. The member may waive the deferment period.

Permanent Change of Station Allowances (PCS) and Medical Benefits

- A child or children under the age of 18 placed in the home of a member by a placement agency for adoption is considered a dependent in determining travel and transportation allowances, and with a court order for the placement, the child may be eligible for military health benefits.

Coast Guard Parental Leave

- Coast Guard members may apply for a one-time separation from active duty for up to two years to care for an adopted child and up to 5 days administrative leave to attend to the needs of an adopted child. Ordinary leave may be used and is encouraged once a child is in the member's home for adoption.

Mutual Assistance Loans to Pay Expenses

- In some instances, service members may qualify for a mutual assistance loan from military relief organizations at their local installation. If the member is required to repay the loan, the DoD or Coast Guard may reimburse these expenses to the members subject to the limits of the reimbursement program as listed above, e.g. maximum of \$2,000 for one child. Any loan amounts in excess of the limits would not be reimbursed and unless repaid, could not be taken as an adoption tax credit.

Tax Advantages

- There are two tax benefits to offset the expenses of adopting a child, the adoption credit and the exclusion from income of benefits under an employer's adoption assistance program. Information concerning these benefits can be obtained from your installation tax advisor or the IRS at 1.800.829.3678 or <http://www.IRS.gov>. See IRS publication 968 "Tax Benefits for Adoption."

Child with Special Needs

An eligible child is a child with special needs if he or she is a citizen or resident of the United States (including the District of Columbia and U.S. possessions) and a state determines that the child cannot or should not be returned to his or her parents' home and probably will not be adopted unless adoption assistance is provided to the adoptive parents. A foreign child can not be treated as a child with special needs. Factors used by states to determine if a child has special needs could include:

- The child's ethnic background
- The child's age
- Whether the child is a member of a minority or sibling group, or
- Whether the child has a medical condition or physical, mental or emotional handicap.

If your state has determined that the child you are adopting is a child with special needs, you should keep evidence of that fact for your records.

Citizenship Changes

The Child Citizenship Act (P.L. 106-395) effective February 28, 2001 grants automatic citizenship to foreign-born adopted children under these conditions:

- The child is under 18
- The child has at least one parent or legal guardian who is a U.S. citizen by birth or naturalization
- The child resides permanently in the United States in the legal physical custody of the parent or guardian
- The child is a lawful permanent resident

International Adoption

Parents considering an international adoption may want to contact the U.S. Department of State, Children's Issues Desk at 202.647.2688 and inquire as to the status of the agency or organization handling adoption before the parent signs anything or pays any fees. Legal advice is also available from military legal assistance offices located on most military installations. Should you consult a private attorney, consider asking if he or she is an expert in the field of adoptions. Military chaplains and social service personnel may also be of assistance.

Online Resources

National Adoption Information Clearinghouse (<http://naic.acf.hhs.gov>) maintains an informative website with information for all families about adoption. Of special interest to military families are the fact sheets: "Military Families and Adoption: A Fact Sheet for Families" and "Military Families and Adoption – A Bulletin for Professionals"