

Birthing Costs

When it comes to the costs for children, it is worth noting that in addition to periodic child support payments, the court has the power to make orders requiring the father of a child to contribute towards the mother's childbearing costs, but only when the parents of the child are not married. The court may also make orders for the father to pay for the maintenance of the mother during the childbirth maintenance period and the mother's reasonable medical expenses in relation to the pregnancy and birth. Either of these claims come under the Family Law Act (the Act), not the Child Support Agency.

Under the Act, the childbirth maintenance period can commence from up to 2 months prior to the child's due date and ends 3 months after the child's birth.

The application can be made any time during the pregnancy of the mother, however must be made within 12 months of the birth of the child.

In deciding what contribution should be made by a father, the court must take into account:-

- The income, earning capacity, property and financial resources of the mother and father, with the court disregarding any entitlements of the mother to an income tested pension, allowance or benefit;
- Commitments of each of those persons that are necessary to enable the person to support themselves, or any other child that person has a duty to maintain; and
- Any other special circumstances which if not taken into account would result in injustice or undue hardship to any person.

A recent case has considered how a court calculates reasonable birthing costs:-

- The mother sought that the father pay to her the sum of \$27,061. \$15,610 for her maintenance during the childbirth maintenance period and \$11,451 for her reasonable medical expenses in relation to the pregnancy and birth.
- The costs of \$15,610 related to the loss of income for the 6 weeks prior to the child's birth, and the 3 months after that.
- The application was made within 12 months of the child's birth and following DNA testing the father no longer disputed the paternity of the child. The father therefore proposed orders that he pay the mother \$7,000 by way of maintenance

and expenses. The father submitted that this was a reasonable amount as he had already paid the mother \$3,200 by way of financial support and that he should not have to bear all the costs and expenses claimed, but rather only half.

- The court was not satisfied that the mother's medical expenses strictly came within the term of "reasonable medical expenses", as she sought payment for all of her health insurance cover, the Doula birthing partner and a settling swing.
- The court ordered that the father pay \$7,000 in relation to the mothers maintenance during the childbirth maintenance period and a further \$7,000 for the mothers reasonable medical expenses.