STATE OF IDAHO)
COUNTY OF KOOTENAI) SS
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CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

STATE OF IDAHO, Department of Health and Welfare, Child Support Services (IDHW), Petitioner/Respondent, vs. CHRISTIAN A CUA BARRIOS, Respondent/Appellant.	Case No. CV-2014-7359 **OPINION ON APPEAL**

This is an appeal brought by Christian Armando Cua Barrios ("Christian"), Respondent/Appellant, challenging the Judgment entered against him on June 29, 2015, in favor of the Idaho Department of Health and Welfare ("IDHW"), Petitioner/Respondent.

BACKGROUND

Christian and Helina Romero ("Helina") are the biological parents of CACR, a minor child born on [redacted] 2014. Appellant's Opening Br., p. 4. Christian and Helina were both high school students when CACR was conceived. *Id.* In June 2014, Cristian and Helina graduated from high school. *Id.* A month later CACR was born. *Id.* At the time of CACR's birth, both parents were eighteen years old,

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both lived at home with their parents, and both were unemployed. *Id.* Neither parent had the means to pay for Helina's prenatal care or for the cost of CACR's birth. Br. of Resp't IDHW, p. 1-2.) While Helina was pregnant, she applied for and received Idaho Medicaid benefits.[1] *Id.* at 2. Idaho Medicaid paid a total of $13,873.00 in connection with Helina's pregnancy for prenatal care and for CACR's birth. *Id.*

Sometime in August 2014, Christian began working part time (26 hours a week) at Red Lobster in Coeur d'Alene. Aff. of Christian Cua Barrios in Supp. of Mem. in Supp. of Resp't Barrios's Cross Mt. for sum. J., p. 2. He earned $9.75 per hour. *Id.* Christian earned a total of $5,736.60 in 2014. *Id.*

On December 29, 2014, IDHW filed an Amended Establishment Petition for Child Support and Medicaid Reimbursement against both Christian and Helina. IDHW sought to establish child support for CACR, to obtain an order requiring Christian and Helina to obtain medical insurance for CACR, and to obtain reimbursement from Christian for his *pro rata* share of the "birth costs" paid by Idaho Medicaid during Helina's pregnancy and as a result of CACR's birth. Amended Establishment Pet. for Child Supp. and Medicaid Reimbursement. IDHW argued that Christian should be responsible for one-half of the total amount paid by Medicaid (i.e., $6,936.50). *Id.* at p. 4, ¶ X. IDHW did not seek any

[1] Helina presumably qualified for Idaho Medicaid benefits under I.C. § 56-254(1)(b). That Section states: "The department shall make payments for medical assistance to, or on behalf of, the following persons eligible for medical assistance. . . . (b) Pregnant women of any age whose family income does not exceed one hundred thirty-three percent (133%) of the federal poverty guideline and who meet other eligibility standards in accordance with department rule, or who meet the presumptive eligibility guidelines in accordance with section 1920 of the social security act."

reimbursement from Helina for her *pro rata* share of the costs incurred based on the exemption found in I.C. § 56-203B. Tr. on Appeal, 7:15-25; 8:1-6. That exemption states:

> Debt under this section shall not be incurred by, nor at any time be collected from a parent . . . who would be or is eligible for or who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person . . . [is] in such status and the collection of the debt from such person would not be in the fiscal interest of the state or would not be in the best interest of the child(ren) for whom such person owes support.

On May 11, 2015, IDHW filed a Motion for Summary Judgment and a Memorandum in Support of that Motion.[2] IDHW asked the trial court to enter a Judgment in its favor against Christian for his *pro rata* share of the "birth costs" paid by Idaho Medicaid. Mem. in Supp. of Mot. for Summ. J., p. 6. On May 27, 2015, Christian filed a Memorandum in Support of Respondent Cua Barrios's Cross Motion for Summary Judgment and in Opposition to State's Motion for Summary Judgment and an Affidavit in support of his Motion and in opposition to IDHW's Motion.[3] In his Memorandum, Christian requested that the trial court deny IDHW's Motion for Summary Judgment and instead enter Judgment in his favor.

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[2] On May 8, 2015, following mediation, a Judgment of Child Custody, Visitation and Child Support was entered. That Judgment set out a custody schedule and Christian's obligation to pay child support. It also obligated Christian and Helina to provide health insurance coverage for CACR in the future if coverage were to become available at a reasonable cost. As a result, the only unresolved issue raised in IDHW's Motion for Summary Judgment, and the only issue raised in this appeal, is the reimbursement sought by IDHW from Christian for his *pro rata* share of the expenses incurred by Idaho Medicaid in connection with Helina's pregnancy and CACR's birth.

[3] Although Christian's Memorandum references a cross-motion for summary judgment and requested that the trial court "grant his motion for summary judgment," it does not appear that a separate cross-motion for summary judgment was ever filed. Nonetheless, the trial court apparently construed Christian's Memorandum as a cross-motion for summary judgment. *See* Tr. on Appeal at 4:5-7; Order Re: Motions for Summary Judgment.

Mem. in Supp. of Resp't Cua Barrios's Cross Mot. for Summ. J. and in Opp. to State's Mot. for Summ. J., p. 2.

A hearing was held on the motions for summary judgment on June 24, 2015. The Magistrate granted IDHW's Motion for Summary Judgment and denied Christian's Motion for Summary Judgment, and entered a Judgment against Christian in favor of IDHW for Medicaid reimbursement in the amount of $6,939.57. Order Re: Motions for Summary Judgment; Judgment.

On August 7, 2015, Christian filed a timely Notice of Appeal with this Court appealing from the Judgment entered against him. Christian has identified the following issues on appeal:

1. Did the Court err when it failed to find that the Appellant is entitled to the exemption from liability for Medicaid reimbursement pursuant to I.C. § 56-203B?
2. Did the Court err when it determined that the Appellant was liable to the State of Idaho for reimbursement of Medicaid costs paid on behalf of the natural mother as "Birth Costs"?
3. Did the Court err when it determined that I.C. § 7-1121 authorizes the State to seek Medicaid reimbursement from a person who is not currently possessed of sufficient means to repay medical costs expended on behalf of a mother and birth costs for a child?
4. Did the Court err when it determined that the State of Idaho's application of I.C. § 56-203B was not in violation of the Equal Protection Clause of the Idaho and U.S. Constitutions?

Appellant's Opening Br., p. 6.

Appellate argument was heard on Friday, January 22, 2016, in the Kootenai County Courthouse. Christian was present along with his attorney, Melanie E. Baillie, who argued on his behalf. Susan K. Servick was present

and argued on behalf of IDHW. This matter is now fully submitted and ready to be decided.

STANDARD OF REVIEW

In an appeal from an order granting summary judgment, this Court's standard of review is the same as the standard used by the trial court in ruling on a motion for summary judgment. *Venable v. Internet Auto Rent & Sales, Inc.*, 156 Idaho 574, 578, 329 P.3d 356, 360 (2014), *review denied* (July 31, 2014) (citation omitted). The disputed facts are to be construed liberally in favor of the non-moving party, and all reasonable inferences that can be drawn from the record are to be drawn in favor of the non-moving party. *Id.* "[I]f the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law," summary judgment is appropriate. *Id.*; I.R.C.P. 56(c).

An appellate court exercises free review in determining whether a genuine issue of material fact exits and whether the moving party is entitled to judgment as a matter of law. *McHugh v. Reid*, 156 Idaho 299, 302, 324 P.3d 998, 1001 (Ct. App. 2014).

> The party moving for summary judgment initially carries the burden of establishing that there is no genuine issue of material fact and that he or she is entitled to judgment as a matter of law. The burden may be met by establishing the absence of evidence on an element that the nonmoving party will be required to prove at trial. Such an absence of evidence may be established either by an affirmative showing with the moving party's own evidence or by a review of all the nonmoving party's evidence and the contention that such proof of an element is lacking. Once such an absence of evidence has been established, the burden then shifts to the nonmoving party to

> show, via further depositions, discovery responses, or affidavits, that there is indeed a genuine issue for trial or to offer a valid justification for the failure to do so under I.R.C.P. 56(f). The nonmoving party cannot rest upon mere speculation and must submit more than just conclusory assertions that an issue of material fact exists to withstand summary judgment.

Id. at 303, 324 P.3d at 1002.

When an action is to be tried to a court without a jury, the trial court, as the fact-finder, is not restricted in drawing inferences in favor of the nonmoving party. *Id.* at 302, 324 P.3d at 1101. The trial court is entitled to reach the most probable inferences based upon the undisputed evidence properly before it and to grant summary judgment despite the possibility of conflicting inferences. *Id.* However, conflicting evidentiary facts must still be viewed in favor of the nonmoving party. *Id.* at 302-03, 324 P.3d at 1001-02. "The test for reviewing the inferences drawn by the trial court is whether the record reasonably supports the inferences." *Shawver v. Huckleberry Estates, L.L.C.*, 140 Idaho 354, 361, 93 P.3d 685, 692 (2004).

Under Rule 8(c), I.R.C.P., a party must set forth any matter constituting an affirmative defense in his answer to a claim filed against him. "An affirmative defense is a defendant's assertion raising new facts and arguments that, if true, will defeat the plaintiff's . . . claim, even if all allegations in the complaint are true." *Fuhriman v. State, Dep't of Transp.*, 143 Idaho 800, 803, 153 P.3d 480, 483 (2007). In opposing a motion for summary judgment, the nonmoving party has the burden of supporting his claimed affirmative defense. *Chandler v. Hayden*, 147 Idaho 765, 771, 215 P.3d 485, 491 (2009). Consequently, the nonmoving party seeking to assert an affirmative defense to the claim brought against him must present

evidence in support of that defense in order to defeat the opposing party's motion for summary judgment. *Id.*

ANALYSIS

A. Did the Magistrate Judge err in failing to find that Christian is entitled to the exemption[4] from liability for Medicaid reimbursement set forth in I.C. § 56-203B?

I.C. § 56–203B makes clear that "[a]ny payment of public assistance money made to or for the benefit of any dependent child . . . creates a debt due or owing to the department by the parent . . . who [is] responsible for support of such [child] in an amount equal to the support obligation as is subsequently determined by court order pursuant to the Idaho child support guidelines . . . ." Idaho's Supreme Court has instructed that "[t]he statute should be read in conjunction with the remedial language of I.C. §§ 32–1002 [repealed 2011] and 32–1003, which prescribe duties of support and establish parental liability for necessaries furnished to a child by a third party 'in good faith' when a parent has neglected to do so." *State, Dep't of Health & Welfare v. Housel*, 140 Idaho 96, 104, 90 P.3d 321, 329 (2004) (citation omitted) (internal quotation marks omitted). The statute reflects the State's goal of assuring that parents, and not taxpayers, bear the financial responsibility of supporting their children. *State, Dep't of Health & Welfare ex rel. Martz v. Reid*, 124

[4] Christian, throughout his briefing and oral argument, described the effect of I.C. § 56-203B as an "exemption." However, I.C. § 56-203B is not simply an exemption. It is an exemption in that it exempts someone who falls within its ambit from incurring a debt: "[d]ebt shall not be incurred by . . . ." In addition, the statute also creates a temporary bar to the collection of debt once incurred: "[d]ebt under this section shall not . . . at any time be collected . . . ." While this opinion will frequently describe the statute as an "exemption," because that is how Christian has characterized the statute's application, it is more accurate to refer to the statute's application as a "bar." For the sake of accuracy, it will occasionally be referred to as a bar in this opinion.

Idaho 908, 913, 865 P.2d 999, 1004 (Ct.App.1993) (citation omitted). Consistent with this goal, I.C. § 56–203C empowers IDHW to seek an order for support, including medical support, and I.C. § 56-203B creates a debt to and an interest in IDHW to seek and obtain reimbursement for any public assistance moneys paid on behalf of a dependent child.

A parent may be exempt from incurring a debt or IDHW may be barred from collecting a debt under I.C. § 56-203B if the parent can show that he "would be or is eligible for or . . . is the recipient of public assistance moneys for the benefit of [a] minor dependent [child]." I.C. § 56-203B. The exemption and bar found in I.C. § 56-203B reads in full as follows:

> Debt under this section shall not be incurred by, nor at any time be collected from a parent or other person who would be or is eligible for or who is the recipient of public assistance moneys for the benefit of minor dependent children for the period such person or persons are in such status and the collection of the debt from such person would not be in the fiscal interest of the state or would not be in the best interest of the child(ren) for whom such person owes support.

Christian acknowledges that he is the biological father of CACR, that CACR is a dependent minor child, and that public assistance moneys were paid by IDHW in connection with Helina's pregnancy and CACR's birth.[5] Appellant's Opening Brief, p. 5. As a defense, Christian contends that IDHW failed to prove his ineligibility for public assistance moneys, and that, in fact, he is a parent "who would be or is eligible for . . . public assistance moneys for the benefit of [his] minor dependent [child]" and was therefore exempt from reimbursing the IDHW. *Id.* at 8,

[5] Public assistance moneys include moneys paid by IDHW for "general assistance, old-age assistance, aid to the blind, assistance to families with children, aid to the disabled, and medical assistance." I.C. § 56-201(e).

10. (Because Christian was not entitled to public assistance moneys when Helina was pregnant it appears that a debt to IDHW was incurred. Consequently, it seems as if he should have argued that IDHW was *barred* from collecting the debt from him, rather than that he was *exempt* from having to repay IDHW. *See* footnote 4, *supra*.)

At the hearing on the parties' motions for summary judgment, Christian presented evidence that his annual earnings for 2014 were $5,736.60, and that in May 2015, (shortly before the hearing on the motions for summary judgment), he was still working at Red Lobster, part time (24 hours a week), and earning between $9.47 and $9.90 per hour. Aff. of Christian Cua Barrios in Supp. of Mem. in Supp. of Resp't Barrios' Cross Mt. for Summ. J., p. 2. Based on this submission, Christian claimed that after CACR's birth he was eligible to receive Medicaid benefits for CACR based on I.C. § 56-254(1)(a). Mem. in Supp. of Resp't Cua Barrios's Cross Mot. for Summ. J. and in Opp. to State's Mot. for Summ. J., p. 5. That provision allows a parent to receive Idaho Medicaid benefits for his minor child if the "family income does not exceed one hundred eighty-five percent (185%) of the federal poverty guideline and who meets age-related and other eligibility standards in accordance with department rule." I.C. § 56-254(a)(1).

The federal poverty guidelines for 2014 established poverty for a household of one at a yearly gross income of $11,670.00, a household of two at $15,730.00, and a household of three at $19,790.00. Annual Update of the HHS Poverty guidelines, 79 Fed. Reg. 3593 (Jan. 22, 2014); Mem. in Supp. of Resp't Cua Barrios's Cross Mot. for

Summ. J. and in Opp. to State's Mot. for Summ. J., p. 5. Based on his income, Christian claimed that he made below the federal poverty guideline in 2014 (and also in 2015) and therefore, was eligible to receive Medicaid benefits on behalf of CACR after the child's birth. Mem. in Supp. of Resp't Cua Barrios's Cross Mt. for Summ. J. and in Opp. to State's Mot. for Summ. J., p. 5. Accordingly, Christian now contends that he was "exempt" from reimbursing IDHW for moneys it spent during Helina's pregnancy and CACR's birth (i.e., that IDHW was *barred* from collecting the money from him). Appellant's Opening Br., p. 12.

Christian also claims that even if he were not eligible to receive Medicaid benefits on behalf of CACR (since Helina obtained such coverage first), he was still eligible to receive other public assistance funds (such as funds for child care from the Idaho Child Care Program (ICCP) or for food assistance from the Idaho Food Stamp Program) for the benefit of CACR and was therefore "exempt" from having to repay Idaho Medicaid.[6] Appellant's Opening Brief, p. 12.

IDHW contends, as an initial matter, that Christian had the burden of showing his eligibility for public assistance money on behalf of CACR at the summary judgment hearing and that he failed to carry that burden. Br. of Resp't IDHW, p. 13-14. In addition, at the hearing, IDHW claimed, and still contends,

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[6] As noted, *see* footnote 3, *supra*, although Christian uses the term exemption, his argument really appears to be that IDHW is *barred* from collecting any debt incurred by him in connection with Helina's pregnancy and CACR's birth. Christian claims once CACR was born he became eligible to obtain Medicaid, ICCP, and food stamps on CACR's behalf. Under I.C. § 56-203B it appears that Christian incurred a debt to IDHW for Helina's prenatal care and CACR's birth because he was ineligible to obtain any kind of public assistance moneys for the benefit of CACR until after CACR's birth. (Only pregnant women can obtain such assistance for unborn children.) Consequently, because the costs sought by IDHW arose prior to the time when Christian could have been eligible for assistance for the benefit of CACR, the issue really is whether IDHW was barred from collecting the debt from him.

that Christian does not qualify for the exemption found in I.C. § 56-203B. IDHW's position is premised on the fact that Helina was receiving Idaho Medicaid benefits for CACR at the time, that Idaho law does not permit two parents, living separately, to receive public assistance for the same child, and that Christian had no other dependent minor child for whom he could receive funding.[7] *Id.* at 12-13; Mem. in Opp'n to Def.'s Mt. for Summ. J. and Reply, p. 5. On appeal, IDHW also argues that Christian had the affirmative defense to establish entitlement to benefits and that because he failed to do so, summary judgment was appropriate. Br. of Resp't IDHW, p. 13.

At the conclusion of the hearing on the parties' Motions for Summary Judgment, the trial Court made the following findings and conclusions:

> [C]oncerning the requirement to have Mr. Cua Barrios pay the [birth costs] . . . it appears to me that the Court does have some discretion under the statutes to determine whether it would be appropriate for either parent or both parents to pay. . . . Ms. Baillie's client works at Red Lobster. Makes 5,000 plus a year. And it's her . . . client's position that it would be unjust to require [him] to pay the medical expenses or his share of the medical expenses incurred for the birth of his child . . . . that when [I.C. § 56-203B] was changed following the Reed [sic] case, that if a person was eligible for the public assistance Medicaid, that then they would not be required to repay those medical expenses. But reading the statutory scheme in its entirety, starting

[7] The bar to recovery contained in I.C. § 56-203B, requires that the person seeking to prevent IDHW from recovering must have actual custody of a child in order to be eligible for the bar to apply. Following the Idaho Court of Appeals ruling in *State, Dept. of Health and Welfare ex rel. Martz v. Reid,* 124 Idaho 908 (Ct. App. 1993), the Idaho Legislature amended I.C. § 56-203B. The amendment prevents IDHW from seeking reimbursement from a parent "who would be or is eligible for" public assistance moneys for the benefit of a minor dependent child. The statement of fiscal impact for that change reads as follows: "If this legislation is enacted it would result in a reduction of money paid for reimbursement of public assistance paid to or on behalf of a dependent child. There are no statistics available to determine how many non-custodial parents would be eligible for public assistance and who would not be responsible for payment of public assistance paid to or on behalf of their dependent child. *The non-custodial parent would have to have a child in their home in order to qualify.* As a result, it is difficult to calculate how much of a reduction of money paid for reimbursement of public assistance there would be." (italics added).

with the Reed [sic] case and looking at all of the cases here that the state - - and statues that the state has put forth, I do not believe that the Court has to focus only on that particular time when the benefits are received or paid or when the child is born. I think that would be way too narrow reading of all the statutes. I think the Court has to look at the big picture.

. . .

In this case, the Department is seeking to recover $6,936.57, which is the pro rata share of the $13,873 that were in medical expenses incurred for the birth of the child here.

Under the statutes and the case law cited in the Department's memorandum in support of their motion for summary judgment, I find that there isn't any genuine issue as to any material fact. That there isn't anything that will preclude Mr. Cua Barrios from paying these expenses in the future. That he doesn't have any disabilities or anything that would prohibit him from earning money to make these payments and it becomes a matter of, you know, how do you pay that obligation as opposed to whether it's legally required to be paid.

So I am going to grant the Department's motion for summary judgment. . . . I will enter a judgment in favor of the Department for the $6,936.57 which represents the pro rata share of the costs incurred relating to the birth of the child.

Tr. on Appeal at 22-24.

Christian's counsel then asked the Magistrate for clarification on the court's findings.

Ms. Baillie: I just wanted to be sure about one thing, your Honor, if you could clarify.

You said under 56-203(b) [sic] the exemption relates specifically to public assistance. Then you said one who is or could be eligible for public assistance. And then you said Medicaid. But the statute doesn't say Medicaid. So did you mean public assistance or Medicaid or were you just assuming public assistance meant Medicaid? Because it is defined in the statute, public assistance is, and it doesn't just incorporate Medicaid.

The Court: Well, it includes any recipient of any public assistance monies.

Ms. Baillie: Okay. So - -

The Court: That's what the statute says.

Ms. Baillie: So I want to make sure I understand. Is the Court saying. That my client is not eligible for public assistance?

The Court: Quite honestly, I don't know whether he would be eligible or not. There isn't anything before me that would establish that he would or would not be and you have to read that whole sentence together. You can't just kind of parse it out that way so that you can say based on the Reed [sic] case and the change in the statue, anybody who would be or is eligible for or who is the recipient of public assistance monies for the benefit of the minor dependent children. You have to read it altogether.

Ms. Baillie: Right. So such as food stamps or Medicaid or ICCP or any of those other public assistance benefits that a person might be eligible for - -

The Court: Uh-huh.

Ms. Baillie: - - under the statute?

The Court: Right. And that's - -

Ms. Baillie: Okay. I just wanted to make sure that - - and so the Court's position is that he didn't establish that he would be eligible?

The Court: There's nothing here that shows that he would be eligible for - - to be the recipient of public assistance monies for the benefit of the minor dependent child.

Tr. on Appeal at 25:20-25; 26-27.

At the trial level, IDHW established that Christian incurred a debt that was due and owing to IDHW for his share of the public assistance moneys expended for the benefit of CACR. Christain admitted paternity, and admitted that public assistance money (i.e., Idaho Medicaid benefits) had been paid by IDHW on behalf

of CACR (although Christian disputed the exact amount of money spent "for the benefit of" CACR). Consequently, IDHW established that under I.C. § 56-203B, Christian, the biological father of CACR, owed a debt to IDHW for a portion of the public assistance moneys spent on behalf of CACR. I.C. § 56-203B.

It is clear the Magistrate squarely placed the burden of establishing eligibility for public assistance moneys on Christian. The bar that prevents IDHW from seeking reimbursement found in I.C. § 56-203B is an affirmative defense. *See Fuhriman*, 143 Idaho at 803, 153 P.3d at 483; *see also Davison v. State, Dep't of Health & Welfare*, 104 Idaho 442, 444, 660 P.2d 54, 56 (1982) ("Where a claimant has applied for and been denied benefits, the claimant has the burden of proving that he met all eligibility requirements."). This is the case because if Christian's assertion regarding his eligibility for public assistance moneys on behalf of CACR were true, IDHW's claim against him for reimbursement would have been barred. This would have been the case despite the fact that Christian admitted paternity and admitted that public assistance moneys had been paid on behalf of CACR. Consequently, Christian had the burden of supporting his claimed affirmative defense. *Hayden*, 147 Idaho at 771, 215 P.3d at 491.

In order to support his claimed affirmative defense and demonstrate that there was a genuine issue of material fact for trial, Christian was required to present evidence supporting his eligibility for public assistance moneys on behalf of CACR. Christian failed to carry his burden. The only evidence Christian presented at the hearing on the parties' motions for summary judgment was his

yearly income for 2014, his hourly wage and weekly hours of work for 2015, and the federal poverty guidelines for 2014. Based on this evidence, Christian failed to raise a question of fact about his eligibility for public assistance for CACR.

Christian's claim that he was eligible for public assistance is merely a conclusory assertion. Although Christian's income level may be one piece of the puzzle, eligibility for public assistance also takes into account other factors. For example, it appears that Helina's receipt of public assistance moneys on behalf of CACR likely renders Christian, the non-custodial parent, ineligible to receive public assistance moneys (at least in the form of Idaho Medicaid benefits) on behalf of CACR. *See Davison*, 104 Idaho at 55-56, 660 P.2d at 443-44. Additionally, information regarding Christian's household size and household income (which would include his parents if he were still living at home and if they claimed him as a dependent on their taxes) are necessary to determine his eligibility for public assistance monies.[8] The record is devoid of any evidence, beyond Christian's bare assertions, that he was eligible to receive public assistance moneys on behalf of CACR.

The Magistrate Judge did not err in requiring Christian to set forth facts supporting his claim to eligibility of public assistance. Further, the Magistrate Judge did not err in finding that Christian failed to carry his burden of setting forth facts to indicate he was entitled to public assistance benefits in order to create a

[8] *See* IDHW's Application for Assistance (including food assistance and child care assistance) available at: http://healthandwelfare.idaho.gov/Portals/0/FoodCashAssistance/ApplicationForAssistance1.pdf

genuine issue of fact regarding the affirmative defense. As a result, the Magistrate's granting of summary judgment in this regard was correct.

B. Did the Magistrate err in determining that Christian was liable to IDHW for reimbursement of Medicaid costs paid on behalf of Helina?

Christian contends that the trial court erred in ordering him to reimburse IDHW for half of the costs associated with Helina's prenatal care and "birth related health care." Appellant's Opening Brief, p. 5, 14. Christian argues that "[t]he total pre natal (sic) and birth related health care costs for Ms. Romero totaled $13,576.39," while the costs incurred for CACR's birth were only $296.75. *Id.* at 5. It is Christian's position that I.C. § 56-203B "extends only to public assistance money expended for or on behalf of a dependent child," and that there is nothing in that statute that would make a father liable "for the prenatal medical expenses of an expectant mother." *Id.* at 16. Christian's argument is rejected.

I.C. § 56-203B states that "[a]ny payment of public assistance money made to or for the benefit of any dependent child . . . creates a debt due or owing to the department by the parent." In support of its Motion for Summary Judgment, IDHW submitted the Affidavit of Mark Turner, M.D. Dr. Turner reviewed the itemized costs claimed by IDHW and, based on his medical opinion, education, and experience, determined that "each medical service included . . . was reasonable and necessary for Helina's care *and reasonable and necessary for the health of her unborn child.*" Aff. of Mark Turner M.D., p. 3. (italics added). Christian presented no evidence to contradict of Dr. Turner's Affidavit.

The trial court did not err in finding that Christian was liable for half of the total costs claimed by IDHW. Christian failed to present any evidence that raised a genuine issue of material fact for trial showing that the costs incurred by IDHW were not for the benefit of CACR. Therefore, the trial court properly concluded that I.C. § 56-203B allowed IDHW to seek reimbursement of all money spent for the benefit of a dependent child, including prenatal costs, and that Christian was liable for $6,939.57 (as opposed to some lesser amount).

C. Did the trial court err in determining that I.C. § 7-1121 authorizes IDHW to seek Medicaid reimbursement from a father who is not currently capable of paying the medical costs incurred on behalf of his child?

Christian filed a voluntary acknowledgment of paternity with the Bureau of Vital Statistics before IDHW filed its Establishment Petition for Medical Support and Medicaid Reimbursement. Establishment Pet. for Medical Supp. and Medicaid Reimbursement, p. 2, ¶ V. Based on this fact, Christian argues that the provisions of the Idaho Code, Title 7, Chapter 11 ("Paternity Act") are inapplicable to this case, and that it was error for the trial court to rely on I.C. § 7-1121 in finding that he was liable to IDHW for expenses paid by it in connection with Helina's pregnancy.

The Paternity Act applies to proceedings to establish paternity and child support. I.C. § 7-1110 authorizes IDHW to initiate a proceeding to establish the paternity of a child receiving public benefits and to compel support for the child from the child's biological father. Proceedings under the Paternity Act are commenced either by the filing of a verified voluntary acknowledgment of parentage, or by the filing of a verified complaint. I.C. § 7-1111. I.C. § 7-1106 states

that "a voluntary acknowledgment of paternity . . . shall constitute a legal finding of paternity upon the filing of a signed and notarized acknowledgment with the vital statistics unit of the department of health and welfare." Upon execution of a voluntary acknowledgment of paternity, the court "may enter an order for the support of a child . . . without further proceedings to establish paternity." I.C. § 7-1106(3). I.C. § 7-1121 sets forth what an order for child support may encompass once paternity has been established. The relevant portion of that provision reads as follows:

> (1) In a proceeding in which the court has made an order of filiation, the court may direct a father possessed of sufficient means or able to earn such means to pay monthly or at other fixed periods a fair and reasonable sum for the support and education of the child. . . .
> (2) The order of filiation may direct the father to pay or reimburse amounts paid for the support of the child prior to the date of the order of filiation and may also direct him to pay or *reimburse* amounts paid for: . . . (c) *such expenses in connection with the pregnancy of the mother* as the court may deem proper.

I.C. § 7-1121 (italics added).

In contrast, Idaho Code, Title 56, Chapter 2, ("Public Assistance Law") governs IDHW's administration of public assistance moneys. Specifically, I.C. § 56-203B states that any payment of public assistance money (including medical assistance) for the benefit of any dependent child creates a debt due or owing to IDHW by the child's parent. In order to carry out its responsibilities under the Public Assistance Law, I.C. § 56-203C gives IDHW the power to "[p]etition to establish an order for support including medical support and support for a period during which a child received public assistance."

A basic tenet of statutory construction is that the more specific statute or section addressing an issue controls over the statute that is more general. *Marshall v. Dept. of Transp.*, 137 Idaho 337, 341, 48 P.3d 666, 670 (Ct. App. 2002) (citation omitted). "[T]he more general statute should not be interpreted as encompassing an area already covered by one which is more specific." *Id.* (citation omitted).

The Paternity Act does not specifically authorize IDHW to seek reimbursement for prenatal and birth expenses paid by Medicaid. I.C. § 56-203B clearly governs repayment of public assistance funds paid on behalf of a minor child. I.C. § 7-1121 only generally allows a court to issue a child support order directing a father to reimburse for expenses paid in connection with the pregnancy of his child's mother. (These expenses would presumably be those other than what have been paid by Idaho Medicaid.) The Paternity Act is specifically directed at establishing paternity and child support. On the other hand, I.C. § 56-203B expressly governs the reimbursement of Medicaid expenditures made on behalf of a minor child. I.C. § 56-203B controls under the facts of this case, not I.C. § 7-1121.

I.C. § 56-203B is the applicable statute to be applied in determining a parent's liability for Medicaid reimbursement paid on behalf of his child, not I.C. § 7-1121. Consequently, to the extent the Magistrate Judge relied on I.C. § 7-1121 to do what he did, it was error for him to do so.[9] However, this error appears to be

[9] It appears from the record that the trial court, at least in part, took into account I.C. § 7-1121 in determining that Christian was obligated to repay his *pro rata* share of the "birth costs" sought by IDHW. Specifically, it appears the trial court put emphasis on the fact that Christian appeared "able to earn such means to pay" for the costs sought by the IDHW. Tr. on Appeal, 15:9-20; 22:16-25; 23:1-25; 24:1-18. A court's ability to look at a party's future earnings in fashioning a support order is a component of I.C. § 7-1121, not I.C. § 56-203B.

harmless since Christian failed to carry his burden of establishing eligibility for public assistance money, and the judgment against him will not be vacated on these grounds.

D. Did the trial court err in determining that IDHW's treatment of Christian was constitutional under the Equal Protection Clauses of the State and Federal Constitutions?

Christian contends that he has been denied the equal protection of law because he has been discriminated against on the basis of his gender when considering how I.C. § 56-254(1)(b) and I.C. § 56-203B have been applied. Appellant's Opening Brief, p. 18-25. This is the case, Christian argues, because IDHW's enforcement of I.C. § 56-203B in this instance discriminates against men. Tr. on Appeal, 16:9-25; 17:1. Christian contends that I.C. § 56-203B makes a father liable to repay "pregnancy Medicaid costs," while at the same time it exempts the child's mother from any obligation to repay the costs incurred. Appellant's Opening Brief, p. 18-19. This is the case despite the fact that the father, who just like the mother, may also be indigent. *Id.* at 19.

Where a statute's constitutionality is challenged, a trial court's ruling is reviewed *de novo* because it involves purely a question of law. *State v. Cobb*, 132 Idaho 195, 197, 969 P.2d 244, 246 (1998). There is a strong presumption that a statute is constitutional, and an appellate court is obliged to seek an interpretation of a statute that upholds its constitutionality. *Id.* "It is fundamental that the judicial power to declare legislative action invalid upon constitutional grounds is to be exercised only in clear cases." *Rudeen v. Cenarrusa*, 136 Idaho 560, 564, 38 P.3d

598, 602 (2001) (citation omitted) (internal quotation marks omitted). A statute will not be declared unconstitutional unless its invalidity is clear beyond a reasonable doubt. *Id.* (citations omitted).

> The equal protection clauses of the state and federal constitutions embrace the principle that all persons in like circumstances should receive the same benefits and burdens of the law. Equal protection issues focus upon classifications within statutory schemes that allocate benefits or burdens differently among the categories of persons affected.
>
> In analyzing an equal protection claim under either the state or federal constitution, the first step is to identify the statutory classification under attack. The second step is to decide the applicable standard by which the legislative classification is to be judicially reviewed: "strict scrutiny," the "rational basis" test, or an intermediate standard of review. The third step is to determine whether the appropriate standard has been satisfied.

State, Dep't of Health & Welfare ex rel. Martz v. Reid, 124 Idaho 908, 911-12, 865 P.2d 999, 1002-03 (Ct. App. 1993).

Here, Christian concedes that I.C. § 56-203B, standing alone, is gender-neutral. Appellant's Opening Brief, p. 21. However, he contends that when read and applied in conjunction with I.C. § 56-254(1)(b), the statutory scheme discriminates against fathers, or at least has a "disparate impact" upon them. *Id.* Christian argues that "under the federal constitution this classification warrants intermediate scrutiny," while the rational basis test applies under the Idaho Constitution. *Id.*

IDHW argues that I.C. § 56-203B distinguishes between parents "who receive, or qualify for, public assistance on behalf of their dependent children and parents who do not qualify for public assistance on behalf of a dependent child." Br.

of Resp't, p. 18. "Parents who do not receive, or who are not qualified to receive, public assistance on behalf of [their] dependent . . . child(ren) are not eligible for an exemption." *Id.* IDHW points to the equal protection analysis in *Reid*, suggesting it is controlling authority, and asserts that rational basis review is the appropriate standard to be employed. *Id.* IDHW contends that I.C. § 56-203B "reflects the goal of the State of Idaho to make parents, not taxpayers, bear the financial responsibility of supporting their children. This goal is rationally served by limiting the exemption [in I.C. § 56-203B] to parents who receive, or qualify for, public assistance on behalf of their dependent children." *Id.* at 20.

The Magistrate Judge identified the issue as follows: Christian is "[b]asically arguing that there has been some violation of the equal protection clause by the application of this statue [I.C. § 56-203B]. Put simply, by trying to collect from the father not the mother." Tr. on Appeal, 21:4-10. The Magistrate agreed with IDHW and found that the court was constrained by the precedent set in *Reid*. Tr. on Appeal, 21:11-20. Consequently, the trial court applied the rational basis test and concluded that "on balance, it passes the rational relation test." Tr. on Appeal, p. 21:16-20.

As an initial matter, it is important to distinguish the facts in *Reid* from the facts of this case. In *Reid*, June Reid, the defendant, and her former husband, Clifton Martz, had a daughter during their marriage. *Reid*, 124 Idaho at 910, 865 P.2d at 1001. Reid also had a child, a son, from a previous relationship. *Id.* Reid and Martz were later divorced. *Id.* Eventually the parties' daughter went to live

with Martz, and Reid's son remained with her. *Id.* at 911, 865 P.2d at 1002. Martz at some point began receiving public assistance moneys for the benefit of the parties' minor daughter in the form of Aid to Dependent Children (ADC). *Id.* Reid was also eligible to receive public assistance money in the form of ADC on behalf her son; however, because of her personal convictions, she never applied for and did not receive public assistance. *Id.*

IDHW filed an action against Reid under I.C. § 56-203B for reimbursement of a portion of the ADC funds spent on behalf of the parties' daughter. *Id.* Martz was exempt from liability under I.C. § 56-203B because he was receiving benefits. *Id.* At the time, I.C. § 56-203B only provided an exemption for a parent who was actually receiving public assistance money for a dependent child. *Id.* at 913, 865 P.2d at 1003. It did not exempt a parent, like Reid, who was eligible for, but declined to obtain, public assistance. *Id.*

Reid argued that the statute, as applied to her, violated the equal protection clauses of the Idaho and Federal Constitutions. *Id.* at 912, 865 P.2d at 1002. Reid urged the Court to evaluate her claim under the strict scrutiny test because she contended the statute interfered with her fundamental right to parent. *Id.* at 912, 865 P.2d at 1003. Reid did not provide any argument or support that an intermediate standard of review should be employed. *Id.* at 913, 865 P.2d at 1004.

In evaluating Reid's claim, the Idaho Court of Appeals stated that: "As applied to the instant case, this statute distinguishes between parents who receive public assistance on behalf of their children, and parents who do not apply for such

benefits even though they are otherwise eligible to receive them." *Id.* at 912, 856 P.2d at 1003. Having identified the classification, the Court went on to evaluate Reid's claim under the rational basis test. *Id.* at 913, 856 P.2d at 1004. In reaching its conclusion, the Court stated that "strict scrutiny . . . does not apply in this case. Nor has Reid provided any argument or support that the intermediate means-focus analysis should be employed. Consequently, the standard of review which we will apply is the rational basis test." *Id.* (internal quotation marks omitted). The court concluded that the legislative goals underlying I.C. § 56-203B were rationally served by limiting the statutory exemption to ADC recipients and upheld the statutory classification as valid. *Id.*

Following *Reid*, the legislature amended I.C. § 56-203B to exempt from liability parents like Reid, "who would be or [who are] eligible for" public assistance moneys for the benefit of their child, but choose not to apply for such benefits. 1994 Idaho Laws Ch. 289 (H.B. 733).

As in *Reid*, the challenged statute in this case is I.C. § 56-203B; however, Christian challenges the statute's constitutionality when viewed in conjunction with I.C. § 56-254(1)(b). The pertinent parts of I.C. § 56-203B provide:

> Any payment of public assistance money made to or for the benefit of any dependent child . . . creates a debt due and owing to the department by the parent . . . who is responsible for support of such [child] in an amount equal to the support obligation as is subsequently determined by court order pursuant to the Idaho child support guidelines
> . . .
>
> *Debt under this section shall not be incurred by*, nor at any time be collected from a parent . . . who would be or is eligible for or who is

> the recipient of public assistance moneys for the benefit of minor dependent children for the period such person . . . [is] in such status and the collection of the debt from such person would not be in the fiscal interest of the state or would not be in the best interest of the child(ren) for whom such person owes support.

I.C. § 56-203B (italics added). The relevant portion of I.C. § 56-254 states that IDHW "shall make payments for medical assistance to, or on behalf of . . . [p]regnant women of any age whose family income does not exceed" a certain percentage of the federal poverty guidelines. I.C. § 56-254(1)(b).

As applied to the instant case and under these facts, the statutory scheme (and specifically the exemption at issue) distinguishes between a first-time mother who is eligible for public assistance moneys for the benefit of her unborn child by way of I.C. § 56-254(b), and a first-time father who would never be eligible to receive public assistance moneys on behalf of the same unborn child until after the child's birth. (Once born, a father might be eligible for public assistance benefits, which would act as a bar to IDHW recovering money paid for birth costs, while the mother's eligibility and exemption from having to repay IDHW for the benefits continues.) Stated differently, I.C. § 56-203B discriminates between mothers and fathers with respect to "liability for birth costs reimbursement." Appellant's Opening Brief, p. 19. The mother is always exempt: the father is not and is therefore liable.

Having identified the classification at issue, the second step is to decide the applicable standard of review. There are three standards used in reviewing a

statute under an equal protection challenge: strict scrutiny; the rational basis test; or the intermediate standard of review. *Reid*, 124 Idaho at 912, 865 P.2d at 1003.

Under rational basis review, the party challenging a law has the burden of proving that the state's goal is not legitimate and that the challenged law is not rationally related to a legitimate governmental purpose. *Cenarrusa*, 136 Idaho at 569, 38 P.3d at 607 (citation omitted); *Reid*, 124 Idaho at 913, 865 P.2d at 1004 ("the "rational basis" test requires only that the legislative classification bear a rational relationship to a legitimate government goal."). "[L]egislation relating to government welfare benefits are considered general economic and social welfare measures, and as such will be upheld under the rational basis test if statutory classifications advance legitimate government goals in a rational fashion." *Id.* (citations omitted) (internal quotation marks omitted).

However, a more demanding standard of review is applied if the law dispenses benefits upon the basis of gender, or if the challenged statute "creates unusually sensitive, although not necessarily suspect classes, or where especially important though not fundamental interests are at stake" and is blatantly discriminatory. *Reid*, 124 Idaho at 912, 865 P.2d at 1003; *Cenarrusa*, 136 Idaho at 569, 38 P.3d at 607.

If a statute is challenged on the basis of gender disparity the heightened standard employed is intermediate scrutiny. *Cenarrusa*, 136 Idaho at 569, 38 P.3d at 607; *State v. LaMere*, 103 Idaho 839, 842, 655 P.2d 46, 49 (1982).

> In order to withstand intermediate scrutiny, gender classifications must serve important governmental objectives and the discriminatory

> means employed must be substantially related to the achievement of those objectives. In other words, gender classifications must be reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike. Moreover, the government's objectives must not rely on overbroad generalizations about the different talents, capacities, or preferences of males and females.

Banner Life Ins. Co. v. Mark Wallace Dixson Irrevocable Trust, 147 Idaho 117, 131-32, 206 P.3d 481, 495-96 (2009) (citations omitted) (internal quotation marks omitted).

Counsel for Christian argues that a statute challenged under the Idaho Constitution is not evaluated under the intermediate scrutiny test articulated by the federal courts, but instead is evaluated under Idaho's "means focus" test. Appellant's Opening Br., p. 21. However, this Court has been unable to identify any Idaho authority where the "means focus" test has been applied to a claim of gender-based discrimination. In fact, Idaho case law suggests that the intermediate scrutiny test that applies when analyzing the federal constitution is the appropriate test to be applied in gender-based discrimination cases. *See State v. LaMere*, 103 Idaho 839, 842, 655 P.2d 46, 49 (1982); *Credit Bureau of Eastern Idaho, Inc. v. Lecheminant*, 149 Idaho 467, 470, 235 P.3d 1188, 1191 (2010); and *Murphey v. Murphey*, 103 Idaho 720, 723, 653 P.2d 441, 444 (1982).

It is also important to remember that this Court has distinguished the *Reid* decision from the facts in this case. *Reid* did not involve a claim of gender discrimination. Consequently, it does not stand for the proposition that the "means focus" test applies in a gender discrimination case. In addition, even assuming for

purposes of argument that the Idaho Supreme Court adopted the "means focus" test in gender-based discrimination claims instead of intermediate scrutiny, the federal test would establish a floor under which Idaho could not fall below. *See James v. City of Boise, Idaho*, 136 S. Ct. 685, (2016). As a result, it is unnecessary for this Court to consider or to apply the "means focus" test in this case.

Strict scrutiny is only applicable where a suspect class or fundamental right is involved. *Cenarrusa*, 136 Idaho at 569, 38 P.3d at 607.

As applied, the exemption from liability under I.C. § 56-203B is overtly based on gender. It is undisputed that I.C. § 56-203B makes parents (both male and female) liable to IDHW for moneys spent for the benefit of a dependent child. It is also undisputed, based on the evidence presented by IDHW, that prenatal costs (expended prior to a child's birth) and birth costs were incurred for the benefit of the child and therefore, created a debt due to IDHW. Consequently, as a general rule, a parent (male or female) is liable to the IDHW for any prenatal or birth costs expended by IDHW.

However, the exemption found in I.C. § 56-203B states that a parent will not incur any liability (or have a debt collected from him or her) if he or she is eligible for or receiving public assistance moneys for the benefit of a minor dependent child. Only pregnant women are eligible for and able to receive public assistance moneys for the benefit of an unborn child. I.C. § 56-254(1)(b); I.C. § 56-201(e) (defining public assistance moneys); Tr. on Appeal, 12:14-16. There is no provision that allows the father of an unborn child to receive public assistance moneys for the

benefit of that child until after the child is born. This creates a situation where a father, regardless of his financial condition, will inevitably incur a debt for at least a portion of the prenatal and birth costs paid by IDHW under "pregnancy Medicaid" benefits obtained by the mother of his child. Meanwhile, a mother, in the exact same or perhaps an even better financial condition than the father, is exempt from incurring any debt in connection with her prenatal care and the child's birth.

This statutory scheme does not merely distinguish "between parents who receive, or qualify for, public assistance on behalf of their dependent children and parents who do not qualify for public assistance on behalf of a dependent child," as IDHW asserts. Rather, the statute as applied creates a distinction between a woman who receives assistance on behalf of her unborn child (because she is a pregnant woman and therefore eligible for benefits) and the father who, because he is not a "pregnant woman," is not eligible for assistance for his unborn child. Under this scheme, the mother does not incur any debt in connection with prenatal and birth costs, whereas the father inevitably incurs a debt due to IDHW for the prenatal and birth costs of the child.

Because the statutory scheme created by I.C. §§ 56-203B and 56-254(1)(b) overtly discriminates between who is liable to IDHW for prenatal and birth costs paid for "pregnancy Medicaid" benefits on the basis of gender, intermediate scrutiny applies to Christian's federal equal protection challenge. Consequently, the gender classification created by I.C. § 56-203B "must serve important governmental objectives and the discriminatory means employed must be substantially related to

the achievement of those objectives." *Mark Wallace Dixson Irrevocable Trust*, 147 Idaho at 131-32, 206 P.3d at 495-96. In other words, the gender classification must be "reasonable, not arbitrary, and must rest upon some ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike. Moreover, the government's objectives must not rely on overbroad generalizations about the different talents, capacities, or preferences of males and females." *Id.*

The governmental objectives underlying I.C. § 56-203B were clearly set out in *Reid.* In reviewing the statute, the Court stated "the broad language of I.C. § 56-203B is to be read in conjunction with the remedial language of I.C. §§ 32-1002 [since repealed] and 32-1003, which prescribe *parental* duties of support and establish *parental* liability for necessities furnished to a child by a third party. Thus viewed, I.C. § 56-203B reflects the state's goal of assuring that *parents*, and not taxpayers, bear the financial responsibility of supporting their children. At the same time, the statute manifests the legitimate interest of the state in providing assistance to those *parents* it determines are unable to provide for their children." *Reid*, 124 Idaho 908, 913, 865 P.2d 999, 1004 (Ct.App.1993) (citation omitted) (italics added).

Under this statutory scheme, the discriminatory means employed in furthering the State's objectives are not substantially related to the achievement of the State's goals. Holding a father, but not a mother, liable for prenatal and birth expenses simply because the mother, but not the father, was able to procure

Medicaid coverage for herself and the unborn child does not further the State's objectives. The statutory scheme created only assures that the father, not that both *parents*, will bear the financial responsibility of supporting the unborn child. Additionally, the statutory scheme does not further the State's interest in providing assistance to those *parents* who are unable to financially provide for their unborn child, but instead only provides assistance to pregnant women who are unable to provide for their unborn children. This is the case despite the fact that an expectant father, like Christian, may also be financially unable to provide for his unborn child. To hold one parent liable based on his gender, while excusing the other parent's financial responsibilities, likewise because of her gender, bears no substantial relationship to the achievement of the State's goals. These facts are therefore distinguishable from those in *Reid*. In *Reid*, the statute acted in a gender neutral fashion. In this case only women receive "pregnancy Medicaid" benefits and men are always (with very few exceptions) liable to repay them.

Even applying the lowest test, the rational basis standard of review, the statutory classification based on gender created by I.C. §§ 56-203B and 56-254(1)(b) is not rationally related to the State's legitimate goals. Requiring only one parent, the father, to pay for one-half of the prenatal care and birth costs of his child, while excusing the mother of that child from all the remaining attendant costs is not rationally related to the State's goal of holding *parents* responsible for their children. Nor is such a scheme rationally related to assisting *parents* who are unable to provide for their children. It would be rational to hold both parents liable,

or, if both parents are financially unable to provide for their unborn child, to hold neither liable. It is not rationally related to the purpose of holding *parents* responsible when only men may be held accountable.

It is well established that "all persons similarly circumstanced shall be treated alike." *Reed v. Reed*, 404 U.S. 71, 76, 92 S. Ct. 251, 254, 30 L. Ed. 2d 225 (1971). From the record it is clear that the only important difference between the way Christian and Helina are treated, is because of their gender. Both Christian and Helina were seventeen and in high school when their child was conceived, both had barely graduated when their child was born, both were unemployed, and both lived at home with their parents. Because Helina was a pregnant woman, she was able to obtain Medicaid benefits and was therefore able to escape liability for the expenses paid on behalf of her child while *in utero* and during birth. Because Christian is a man, he was not able to obtain any public assistance moneys on behalf of his unborn child. Consequently, he incurred a debt equal to half of what was paid for Helina's "pregnancy Medicaid" benefits despite the fact that he established that his income was below the federal poverty level.

For the reasons set forth above, this Court finds that Christian has been discriminated against on the basis of his gender. Under the statutory scheme, as applied, only men are held financially accountable for "pregnancy Medicaid" benefits paid out by IDHW. As a result, Christian has been denied the equal protection of the law.

CONCLUSION

The Magistrate Judge's decision, with the exception of the equal protection challenge, is **AFFIRMED**. The Magistrate Judge's decision as it relates to the equal protection challenge to I.C. § 56-203B and I.C. § 56-254, as applied, is **REVERSED** and the Judgment entered against Christian is **VACATED**. The case is **REMANDED** to the Magistrate Court for further proceedings consistent with this opinion.

Dated this 4th day of March 2016.

John R. Stegner
District Judge

CERTIFICATE OF SERVICE

I do hereby certify that full, true, complete, and correct copies of the foregoing OPINION ON APPEAL were delivered by the following methods to the following:

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on this 7th day of March 2016.

CLERK OF THE COURT

JIM BRANNON

By: _____
Deputy Clerk

FIRST JUDICIAL DISTRICT KOOTENAI COUNTY CLERK OF COURT STATE OF IDAHO