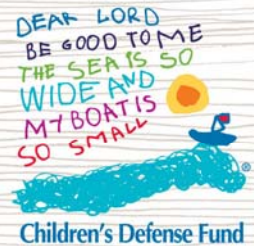


# Children's Defense Fund

## New Program Instruction: Children Already With Guardians Eligible for KinGAP Assistance



March 2010

The Administration for Children and Families (ACF) issued new guidance in February for the *Fostering Connections to Success and Increasing Adoptions Act* that makes clear that children who had already exited foster care to live with relative guardians at the time the state or tribe elects the Kinship Guardianship Assistance Program (KinGAP) option can become eligible for federal assistance provided the children and guardians are otherwise eligible for assistance. In order to be eligible, the child and relative guardian must both meet the eligibility requirements for the program and there must be a kinship guardianship assistance agreement that meets, or is amended to meet, all of the Title IV-E requirements. A sibling of an eligible child who is placed with the same relative under the same kinship guardianship arrangement is also eligible for federal assistance if the agency and relative guardian agree that the placement is appropriate.

The Program Instruction, [ACYF-CB-PI-10-01](#) issued on February 18, 2010, supersedes earlier instructions (ACYF-CB-PI-08-07 issued on December 24, 2008). The earlier instructions had limited claims under the new KinGAP option to those for children who exited from foster care to guardianship after a state had taken the option and an approved plan amendment had been submitted to ACF.

Under the new Program Instruction, states and tribes electing the KinGAP option and seeking to claim federal funding for children in guardianship arrangements prior to approval of the plan amendment must notify ACF of their plans to do so. They must submit a description to ACF explaining the process it will use to ensure that claims will only be submitted on behalf of children who meet all eligibility criteria for the KinGAP Program.

### The eligibility criteria for KinGAP under the Act are:

The child must have been:

- removed from his or her family's home pursuant to a voluntary placement agreement or as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child's welfare; and
- eligible for federal foster care maintenance payments under Title IV-E of the Social Security Act for at least six consecutive months while residing in the home of the prospective relative guardian who was licensed or approved as meeting the licensure requirements as a foster family home.

The agency must determine that:

- return home or adoption are not appropriate permanency options for the child;
- the child demonstrates a strong attachment to the prospective relative guardian;
- the relative guardian has a strong commitment to caring permanently for the child; and
- if the child is age 14 or older, that the child was consulted regarding the guardianship arrangement.

The agency must also:

- conduct fingerprint-based criminal record checks of the relative guardian and child abuse and neglect registry checks of the relative guardian and all adults in the guardian's home;

- negotiate and enter into a written, binding guardianship assistance agreement with the prospective relative guardian (and must provide a copy of the agreement to the prospective relative guardian prior to guardianship being awarded) that specifies:
  - the amount of the guardianship assistance to be provided under the agreement for each eligible child and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child;
  - the additional services and assistance that the child and relative guardian will be eligible for under the agreement;
  - the procedure by which the relative guardian may apply for additional services as needed;
  - the department will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000; and
  - the guardianship assistance agreement shall remain in effect without regard to state residency of the relative guardian;
- include a description of the following in the child's case plan:
  - the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
  - the reasons for any separation of siblings during placement;
  - the reasons why a permanent placement with a fit and willing relative through a guardianship assistance arrangement is in the child's best interests;
  - the ways in which the child meets the eligibility requirements for a guardianship assistance payment;
  - the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption; and
  - the efforts made by the agency to discuss with the child's parent or parents the guardianship assistance arrangement, or the reasons why efforts were not made.

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