



State of Florida
Department of Children and Families

Ron DeSantis
Governor

Chad Poppell
Secretary

DATE: April 9, 2019

TO: Regional Managing Directors
Community-Based Care Lead Agency CEOs
Sheriff's Offices Conducting Child Protective Investigations

THROUGH: Patricia Babcock, Deputy Secretary *PB*

FROM: JoShonda Guerrier, Assistant Secretary for Child Welfare *JG*

SUBJECT: CFOP 170-10, Chapter 14 – Guardianship Assistance Program Eligibility
Effective: July 1, 2019

PURPOSE: The purpose of this memorandum is to provide notification that CFOP 170-10, Providing Services and Support for Children in Care and for Caregivers, has been updated with the addition of Chapter 14, Guardianship Assistance Program Eligibility, which has been finalized and will be effective July 1, 2019.

BACKGROUND: The new CFOP 170-10, Chapter 14 – Guardianship Assistance Program Eligibility, has been developed to align with s. 39.6225, Florida Statutes. With the implementation of the Title IV-E Guardianship Assistance Program (GAP), this operating procedure provides guidance to support the program and new Florida Safe Families Network (FSFN) functionality.

GAP will allow relatives and fictive kin caregivers who are committed to caring for a child long term to access benefits associated with caring for the child. Benefits under GAP include, but are not limited to: monthly GAP payments, Medicaid, tuition and fee exemptions, and additional caregiver supports.

This new chapter provides information regarding the types of guardianship assistance available, how payments are determined, how non-recurring expenses associated with permanent guardianship can be reimbursed, and the requirements for extension of guardianship assistance for youth ages 16-17 through the age of 21.

ACTION REQUIRED: Please share this memorandum and the new CFOP 170-10, Chapter 14, with all appropriate staff in the regions, circuits, Community-Based Care Lead Agencies, case management organizations, and sheriff offices conducting child protective investigations.

CONTACT INFORMATION: If you have questions or need clarification regarding this memorandum or the new CFOP chapter, please contact Teanna Houston, Foster Home Licensing Specialist, at Teanna.Houston@myflfamilies.com or 850-717-4203.

cc: Regional Family and Community Services Directors
Center for Child Welfare

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Chapter 14

GUARDIANSHIP ASSISTANCE PROGRAM ELIGIBILITY

14-1. Purpose. This chapter outlines policies for s. [39.6225](#), F.S., pertaining to continuing care for young adults and supplements Chapter 65C-44, Florida Administrative Code (F.A.C.), titled Guardianship Assistance Program.

14-2. Legal Authority.

- a. Social Security Act, 42 United States Code (U.S.C.) 471.
- b. State statutes, administrative rules and plans:
 - (1) Section [39.6225](#), F.S.
 - (2) Section [409.175](#), F.S.
 - (3) Rule [65C-13.025](#), F.A.C.

14-3. Definitions. For the purposes of this chapter, the following definitions shall apply:

- a. "Child" means an individual who has not attained 18 years of age.
- b. "Extended Guardianship Assistance Agreement" means an agreement that outlines the payment amount and services provided for a qualifying young adult.
- c. "Extended Guardianship Assistance Payment" means a monthly payment provided to a caregiver for the care and support of a qualifying young adult.
- d. "Guardianship Assistance Agreement" means an agreement that outlines the payment amount and services provided for a qualifying child.
- e. "Guardianship Assistance Payment" means a monthly payment provided to the caregiver for care and support of a qualifying child.
- f. "Successor Guardian" means an adult identified by the caregiver and approved by the Department who will assume care and responsibility for the child if the caregiver is no longer able to care for the child.
- g. "Young adult" as defined in s. [39.6225\(1\)\(b\)](#), F.S.

14-4. Types of Guardianship Assistance. The child welfare professional shall inform prospective guardianship caregivers of the availability of all of the benefits listed below:

- a. "Guardianship Assistance Payment."
- b. Other Medical Services. Other medical services available include on-going Medicaid coverage and continuing eligibility with Children's Medical Services for children who were receiving such services prior to case closure in permanent guardianship.
- c. Reimbursement for Non-Recurring Guardianship Assistance Expenses. Nonrecurring guardianship expenses are expenses necessary for pursuing legal permanent guardianship. Payments must be requested in writing prior to case closure in permanent guardianship.

d. Tuition Fee Exemption. Children who were in the custody of a permanent guardian may be eligible for an exemption of undergraduate college tuition fees at Florida universities or community colleges pursuant to s. [1009.25](#), F.S.

e. Nonrelative Caregiver Financial Assistance Payments. Nonrelative Caregiver Assistance payments must be made to the nonrelative caregiver, on behalf of the child, to assist with the added expenses of housing, food, clothing, incidentals, supplies, and any other costs or services that aid in the care, safety, and well-being of the dependent child. Please see CFOP 170-10, [Chapter 9](#) for all eligibility criteria.

14-5. Determination of Guardianship Assistance Payments.

a. The purpose of the guardianship payment is to make financial assistance available to permanent guardians to assist them in providing care for a qualifying child. Every permanent guardian must be advised of the availability of a guardianship payment and the purpose for which it was intended.

b. An application to participate in the Guardianship Assistance Program must be made on the "Application for Guardianship Assistance Program" (form CF-FSP 5442, available in DCF Forms). As outlined in CFOP 170-13, Chapter 13, presumptive eligibility must be completed prior to execution of the Guardianship Assistance Agreement.

c. The child's and family's need for guardianship payment must be determined prior to the court case closing to permanent guardianship. Guardianship assistance payments shall not be made prior to all parties signing the "Guardianship Assistance Agreement" (form CF-FSP 5437, available in DCF Forms).

d. If the Department or Community-Based Care Lead Agency (CBC) has responsibility for placement and care of the child, the CBC in the county where the court has jurisdiction is responsible for entering into the Guardianship Assistance Agreement and paying guardianship assistance payments.

e. When the need for guardianship assistance payments is not determined prior to case closure and the permanent guardian(s) believe they have been wrongly denied guardianship assistance payments on behalf of a child, the permanent guardian(s) have the right to appeal in accordance with rules and procedures of the state's fair hearing and appeal process. If it is found that the guardianship assistance payment was wrongly denied, retroactive payment will be made dating back to the date the permanent guardian(s) requested guardianship assistance payments in writing. Retroactive payment dating back to the date of placement will not be approved.

f. Medical or mental health evaluations shall be required to document the need for any guardianship assistance payment that exceeds the statewide standard foster care board rate. Evaluations must be completed within the last 12 months of the initial guardianship assistance payment determination.

g. The CBC or subcontracted agency child welfare professional shall inform the caregiver that the guardianship assistance payments are not intended to cover the complete cost of the child's care. The guardianship assistance payment is intended to assist the permanent guardian in supporting the extra cost associated with providing care for a child.

h. Initial Guardianship Assistance Payment. The initial determination of the monthly guardianship assistance payment shall be based on the needs of the child at the time of negotiation and the projected future needs of the child based on the family and medical history of the child and birth family, or for cases that meet guardianship assistance program requirements and are closed to

permanent guardianship on or after July 1, 2019, as stated in s. [39.6225](#), F.S. Negotiations for the initial guardianship assistance payment shall begin at \$333 monthly.

i. A guardianship assistance payment may be negotiated up to 100% of the statewide foster care board rate. A payment may exceed 100% of the statewide foster care board rate based on a family's level of licensure pursuant to s. [409.175\(5\)](#), F.S., when an exception is granted by the Department's regional managing director or designee and documented on the "Guardianship Assistance Payment Approval" (form CF-FSP 5440, available in DCF Forms).

(1) Requests for exceptions must be in writing.

(2) In determining whether to grant an exception, the regional managing director or designee shall consider the medical, behavioral, and therapeutic needs of the child at the time of the negotiation, as well as the projected future needs of the child based on the family and medical history of the child and birth family.

(3) In no case shall the guardianship assistance payment exceed the foster care maintenance payment for which the child is or would be eligible if the child had been placed in a family foster home.

(4) Guardianship assistance payments are not intended to cover services which can be obtained through family insurance, Medicaid, Children's Medical Services, or through special education plans provided by the public school district.

j. The effective date of the agreement is the date that all requirements for the Guardianship Assistance Program have been met. Payments may not be made for any months in which there is no Guardianship Assistance Agreement in place.

k. The permanent guardian must be advised by the child welfare professional that it is their responsibility to notify the Department or CBC of any change in circumstances, including moving out of state, no later than 48 hours after the change.

l. The Guardianship Assistance benefits shall be terminated:

(1) Upon the death or incapacity of the guardian(s) if no successor legal guardian is named.

(2) Upon the death of the child.

(3) When it is determined that the child is no longer the legal responsibility of the guardian(s).

(4) The guardian(s) are no longer providing support to the child. This is defined as:

(a) The child is absent from the home of the guardian for a period of at least 60 consecutive calendar days, unless the child:

1. Is absent due to medical care, school attendance, runaway status, or detention in a Department of Juvenile Justice facility; and,

2. Continues to be under the care and custody of the guardian.

(b) The court modifies the placement of the child and the guardian is no longer eligible to receive guardianship assistance benefits.

(5) Upon request of the guardian(s).

m. Permanent guardians may request an increase in the guardianship assistance payment after the initial Guardianship Assistance Agreement was approved due to increased needs related to conditions of the child that were identified as current or future needs of the child prior to the permanent guardianship placement, or the circumstances of the family have changed to meet the increased needs of the child.

(1) If the increase request is approved, retroactive payment will be made dating back to the date the permanent guardian officially requested the increased guardianship assistance payment in writing.

(2) If the increase request is denied, the designated Department staff shall send a denial letter with notification of the permanent guardian(s) of their right to appeal the denial in accordance with rules and procedures of the state's fair hearing and appeal process. If it is found that the increase was wrongfully denied, the effective date of the new payment will be the date the increase request was received.

(3) A new Guardianship Assistance Agreement must be signed by all parties with the new approved amount documented. No child will have his or her guardianship assistance payment reduced based on application of this rule.

(4) No change shall be made to a guardianship assistance payment without concurrence of the permanent guardian except as provided by federal regulation or state law. The Guardianship Assistance Agreement is not transferable but should include a successor guardian.

14-6. Guardianship Assistance Agreement.

a. The "Guardianship Assistance Agreement" (form CF-FSP 5437, available in DCF Forms) must be signed and dated by all parties prior to case closure to permanent guardianship and uploaded into the into the file cabinet under the child or young adult's program eligibility page in Florida Safe Families Network (FSFN) database.

b. A successor guardian should be identified and documented on the Guardianship Assistance Agreement.

c. The successor guardian is not required to be a relative, fictive kin, or a licensed caregiver.

d. The successor guardian must successfully complete the following criminal, delinquency, and abuse/neglect history checks prior to being added to the Guardianship Assistance Agreement:

(1) Fingerprints;

(2) Statewide criminal records check through the Florida Department of Law Enforcement;

(3) Records check of the Florida Sexual Offenders and Predators registry;

(4) Juvenile records check through the Florida Department of Juvenile Justice for adults ages 18-26 years old;

(5) Federal criminal records check through the Federal Bureau of Investigations;

(6) Local criminal records check through law enforcement agencies, including records of any responses to the home by law enforcement that did not result in criminal charges;

(7) Abuse and neglect records check through FSFN; and,

(8) Civil court records check regarding domestic violence complaints and orders of domestic violence complaints and orders of protection.

e. Successor guardians are not required to have a completed Unified Home Study at the point of being identified but must have a home study completed and approved in FSFN prior to placement.

14-7. Non-Recurring Guardianship Expenses.

a. Under any Guardianship Assistance Agreement, the state is authorized to make payments to the guardian for non-recurring, one-time expenses the guardian incurred in connection with the guardianship.

b. Agency fees shall be established by written agreement between the agency and family prior to the performance of the requested service. If these children are otherwise eligible, agency fees shall be counted as an allowable expense under non-recurring guardianship expenses. It is not necessary that the family be receiving guardianship assistance payments to be eligible for reimbursement of non-recurring guardianship expenses.

c. In cases where siblings are placed separately or as a unit, each child is treated as an individual with separate reimbursement for nonrecurring expenses up to the maximum amount of \$1,000 per child.

d. There are no income eligibility requirements for guardians in determining whether payments for non-recurring expenses of guardianship will be made.

e. Guardians cannot be reimbursed for out-of-pocket expenses for which they have been otherwise reimbursed.

f. The following procedures will initiate payment for reimbursement of non-recurring guardianship expenses:

(1) All guardians will be advised by the staff person conducting the home study of the availability of non-recurring expense reimbursement.

(2) Reimbursement for eligible costs may be made to the guardian or directly to a vendor. The staff person conducting the home study shall advise all guardians to keep copies of receipts of expenditures related to pursuing guardianship. Copies of such receipts shall be entered into the payment record in FSFN. Eligible expenses include court costs, attorney fees, birth certificates, costs of required physicals and psychological examinations, costs of transportation, lodging and food for the child and/or guardian when necessary to complete the guardianship process, and the cost of the home study if the child is in the custody of a private agency.

(3) When completing program eligibility, the Guardianship Assistance Agreement shall be negotiated with the family and must include a statement of the projected cost to be reimbursed for non-recurring guardianship expenses as well as proposed guardianship assistance payments.

(4) Payments for non-recurring expenses can be made up to one (1) year following the closing to permanent guardianship.

14-8. Extension of Guardianship Assistance Agreement.

- a. Families shall be notified of the Extension of Guardianship Assistance Payment when they are entering into an agreement for a child who has attained 16 or 17 years of age.
- b. The initial agreement shall notate that the caregiver intends to opt into the Extension of Guardianship Assistance Program.
- c. The "Extension of Guardianship Assistance Agreement" (form CF-FSP 5434, available in DCF Forms) shall be executed prior to the child's 18th birthday.
- d. The young adult must meet the eligibility criteria as stated in s. [39.6225](#), F.S.
- e. Extension of Guardianship Assistance Payments may be made until the young adult reaches 21 years of age, if the young adult is determined to meet eligibility criteria during the annual redetermination periods.

14-9. Redetermination of Guardianship Assistance Payment and Extended Guardianship Assistance Payment.

- a. An annual redetermination for guardianship assistance payment eligibility shall be completed every 12 months. Failure of the guardian to submit a completed "Guardianship Assistance Program Eligibility Redetermination" (form CF-FSP 5441, available in DCF Forms) prior to the end of the 12-month redetermination date shall result in suspension of the guardianship assistance payment.
- b. A redetermination for extended guardianship assistance payment eligibility shall be completed every six (6) months.
 - (1) The guardian must provide documentation that the young adult for whom they are receiving extended guardianship assistance payment continues to meet the eligibility criteria in s. [39.6225\(9\)](#), F.S.
 - (2) Failure of the guardian to submit a completed "Guardianship Assistance Program Eligibility Redetermination" form prior to the end of the 6-month redetermination date shall result in suspension of the guardianship assistance payment.
- c. The "Guardianship Assistance Program Eligibility Redetermination" form will be uploaded into the file cabinet under the child or young adult's program eligibility page in FSFN.