

DSS Policy and Procedure Guide

Division 03: Child Welfare

Chapter 05: Placement

Item 022: Title IV-E Kin-GAP Program Requirements

Suggested changes send to: [DSS PSOA Mailbox](#)

Issued: **June 22, 2012**

Replaces Issue: **New**

References: [All County Letter No. 11-15](#)

Policy

Prior to an order of legal guardianship, pursuant to WIC § 366.26, in dependency court, the Department of Social Services (DSS) shall ensure that forms [SOC 369](#), *Agency-Relative Guardianship Disclosure* and [SOC 369A](#), *Kinship Guardianship Assistance Payment (Kin-Gap) Program Agreement Amendment* have been reviewed with the prospective relative guardians and that prospective relative guardians initial and sign the form, as required. (See [ACL No. 11-15](#) and [11-15E](#).) The case managing social worker (CM SW) is responsible to ensure that these required forms have been completed prior to the order of guardianship in order to support the child's eligibility for federal funding (Title IV-E).

Purpose

To inform DSS Child Welfare social workers of their responsibility to ensure the completion of required documents necessary to determine a child's eligibility for the federally funded Kin-GAP Program.

Definitions

SOC 369 - *Agency-Relative Guardianship Disclosure* (version 12/10).

This form, used in conjunction with the SOC 369A, constitutes the written agreement and memorializes the terms, conditions, rights, responsibilities, and agreements reached between the DSS and the relative guardian. The form is amended and supplemented by the SOC 369A and is used to inform the prospective relative guardian of the funding and program options available when choosing to take legal guardianship of a related foster child.

SOC 369A - *Kinship Guardianship Assistance Payment (Kin-GAP) Program Agreement Amendment* (version 12/10).

This **new** form amends and supplements the SOC 369 and is used as the written agreement to memorialize the terms, conditions, rights, responsibilities, and agreements reached between the DSS and the relative guardian. This form implements the state and federal requirement that there be a written, binding agreement with the relative guardian stating, among other things, the rate of payment and the manner in which the payment can be re-negotiated based upon the needs of the child and the circumstances of the relative guardian; the agreement remains in effect without regard to the state of residency; the guardian pays no fees or costs associated with establishing guardianship; and, the agreement remains in effect unless and until it is amended by the reassessment process or is terminated.

Changes to the Kin-GAP Program

As a result of the enactment of AB 12, a number of improvements to the existing Kin-GAP Program became effective including:

- Reducing the length of time that a court-dependent child must reside in the approved home of the prospective relative guardian while under the jurisdiction of the juvenile court or a voluntary placement agreement *from 12 consecutive months to six consecutive months*;
- Providing for continued eligibility for Kin-GAP regardless of the state of residence of the relative guardian and child;
- Requiring the county child welfare agency to enter into a binding written agreement with the relative guardian;
- Allowing the county child welfare agency and the relative guardian to re-negotiate the payment amount based on the changing needs of the child and the circumstances of the relative;
- Allowing entry into the Kin-GAP Program under a voluntary placement agreement with an approved relative that resulted in a guardianship being established in juvenile court under W&IC section 360,
- Allowing a former dependent child/youth or ward of the juvenile court who attained 16 years of age before the Kin-GAP negotiated payment began to continue to receive aid up to 19 years of age, and
- Extending Kin-GAP benefits to age 21 for a youth who has a physical or mental disability that warrants the continuation of assistance.

Background Information

The new Kin-GAP Program has two components – a federally funded component when the child is eligible for Title IV-E foster care and a new state funded component when the child is not eligible for Title IV-E foster care. The federally funded program is described in W&IC commencing with section 11385, and the state funded program is described in W&IC commencing with section 11360.

Procedure

Requirements Prior to an Order of Legal Guardianship

- A written binding agreement (SOC 369 and SOC 369A) shall be entered into by the relative guardian and the DSS prior to the establishment of the guardianship and
- A kinship guardianship established pursuant to W&IC sections 366.26, 360 or 728(d), and dependency dismissed pursuant to W&IC section 366.3
- Wardship shall be terminated pursuant to W&IC section 728(e) concurrently or subsequently to the establishment of the kinship guardianship.

Provisions for Federal Kin-GAP Program (Title IV-E)

Case Managing Social Worker (CM SW) Responsibilities

AB 12 reiterates the existing requirement that current and prospective relative guardians be given information in writing that explains the difference between the benefits of the Kin-GAP Program, the Adoption Assistance Program (AAP) and Aid to Families with Dependent Children-Foster Care (AFDC-FC). CM SWs may use the following resources to help meet this requirement: [*Giving a Child a Permanent Home-Choices for Relatives*](#) and [*A Guide to Permanency Options for Youth*](#).

AB 12 also requires that current and prospective relative guardians are given information on the availability of mental health services through Medi-Cal or other programs.

Required Forms

Prior to a relative becoming a legal guardian the child's CM SW shall meet in person with the prospective relative guardian to review the [SOC 369](#), *Agency-Relative Guardianship Disclosure* and [SOC 369A](#), *Kinship Guardianship Assistance Payment (Kin-Gap) Program Agreement Amendment*.

SOC 369

- Ensure that the prospective relative guardian understands any and all changes to the child's payment amount, available services, benefits and limitations under the different program funding sources and then initials the form to indicate that understanding.
- Ensure that the prospective relative guardian selects a legal guardianship option and signs the SOC 369.
- Provide the prospective relative guardian with a copy of the signed SOC 369.
- Send a copy of the signed SOC 369 to the child's eligibility worker (EW) via e-mail.
- Retain a copy of the SOC 369 in the child's case file.

SOC 369A

- The CM SW shall complete the SOC 369A to memorialize the terms, conditions, rights, responsibilities, and agreements reached between the DSS and the relative guardian.
- Determine whether the child/youth should be assessed for additional rates such as the Special Care Increment (SCI) rate or other special rate(s) based on the status of the child/youth as a teen custodial parent or a dual agency regional center client.
- Negotiate with the prospective relative guardian to determine the Kin-GAP payment. Factors to be addressed in the negotiations must include the child's needs and the relative guardian's circumstances. (The Kin-GAP payment cannot exceed the amount the child/youth would have received while in foster care.)

- Review the SOC 369A with the prospective relative guardian and request the guardian's signature indicating agreement.
- If an agreement cannot be reached complete the SOC 369A and have the relative guardian sign the form indicating the relative guardian disagrees with its terms and requests a state hearing. If the relative guardian refuses to sign the SOC 369A, the relative guardian is ineligible for participation in the Kin-GAP Program.
- Provide the prospective relative guardian with a copy of the SOC 369A.
- Send a copy of the SOC 369A (signed/unsigned) to the child's eligibility worker via email.
- Retain a copy of the SOC 369A in the child's case file.

Process for New Kin-GAP Cases

The CM SW shall complete the following steps to support the child's eligibility for Title IV-E funded Kin-GAP:

- Document that the dependent child/youth or ward has resided with the approved relative caregiver (prospective relative guardian) for at least six consecutive months.
- Determine whether the child/youth should be assessed for additional rates such as the Special Care Increment (SCI) rate or other special rate(s) based on the status of the child/youth as a teen custodial parent or a dual agency regional center client.
- Negotiate with the prospective relative guardian to determine the Kin-GAP payment. Factors to be addressed in the negotiations must include the child's needs and the relative guardian's circumstances. (The Kin-GAP payment cannot exceed the amount the child/youth would have received while in foster care.)
- If an agreement cannot be reached complete the SOC 369A and have the relative guardian sign the form indicating the relative guardian disagrees with its terms and requests a state hearing. **If the relative guardian refuses to sign the SOC 369A, the relative guardian is ineligible for participation in the Kin-GAP Program.**