

Child Welfare Policy Manual

Questions & Answers

8.5A Guardianship Assistance Program, Agreements

1. Question: What are the requirements for a title IV-E kinship guardianship agreement?

Answer: Section 473(d)(1)(A) of the Social Security Act (the Act) requires that a title IV-E agency negotiate and enter into a written, binding kinship guardianship assistance agreement with the prospective relative guardian, and provide the prospective relative guardian with a copy of the agreement. Section 473(d)(1)(B) of the Act prescribes certain requirements for the kinship guardianship assistance agreement. It must specify the following: the amount of, and manner in which the kinship guardianship assistance payment will be provided to the prospective relative guardian; 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 for which the child and relative guardian will be eligible under the agreement; and the procedure by which the relative guardian may apply for additional services.

Additionally, the kinship guardianship assistance agreement must provide that the agreement will remain in effect without regard to the State of residency of the relative guardian pursuant to 473(d)(1)(C) of the Act, and must specify that the agency 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.

- **Source/Date:** 08/12/09
- **Legal and Related References:** Social Security Act § section 473(d)(1)

2. Question: For the Guardianship Assistance Program (GAP), does a title IV-E agency have the flexibility to establish a cap on specific components (e.g., attorney fees) of the nonrecurring expenses that it must pay in connection with obtaining legal guardianship of the child?

Answer: No. Section 473(d)(1)(B)(iv) of the Social Security Act provides that a GAP agreement must specify, among other things, that the title IV-E agency 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. Such language does not permit a title IV-E agency the discretion to establish such a cap on specific items that qualify as nonrecurring expenses.

- **Source/Date:** 2/24/2011
- **Legal and Related References:** Social Security Act § Section 473(d)(1)(B)(iv)

3. Question: May a title IV-E agency include a provision in the Guardianship Assistance Program (GAP) agreement terminating payments if the guardian and the child move to another country?

Answer: Yes. The title IV-E agency has the flexibility to include a provision in the GAP agreement terminating payments if the guardian and the child move to another country. ACYF-CB-PI-10-11 states that a title IV-E agency has broad discretion to establish how it will evaluate, reevaluate, or terminate GAP agreements. The PI states, “[f]or example, a title IV-E agency may establish agreements that: . . . allow the agency to suspend or discontinue guardianship assistance payments when a certain event occurs.” Accordingly, a title IV-E agency may provide in the GAP agreement that moving to another country is an event that could cause the suspension or discontinuation of GAP payments.

- **Source/Date:** 2/24/2011
- **Legal and Related References:** Social Security Act § Section 473(d)(1), ACYF-CB-PI-10-11