

Child Welfare Policy Manual

Questions & Answers

8.5B Guardianship Assistance Program, Eligibility

1. Question: May a title IV-E agency that operates the Guardianship Assistance Program (GAP) require a child to have resided in foster care with the prospective relative guardian for a minimum period longer than six consecutive months for the child to be eligible for the GAP program?

(Deleted 03/24/2010)

2. Question: If the relative guardian receiving title IV-E Guardianship Assistance Program (GAP) payments on behalf of a child dies or is no longer able to care for the child, does the child retain eligibility for title IV-E foster care maintenance payments if he returns to foster care?

Answer: No. There is no provision in section 472 of the Social Security Act (the Act) for the child to retain title IV-E eligibility for foster care maintenance payments if he re-enters foster care from a legal guardianship. A child in this situation would need to meet the eligibility criteria in section 472(a) through (c) of the Act to receive title IV-E foster care maintenance payments in the subsequent foster care placement.

- **Source/Date:** 05/29/09
- **Legal and Related References:** Social Security Act § sections 472(a) through (c)

3. Question: If the relative guardian receiving title IV-E Guardianship Assistance Program (GAP) payments on behalf of a child dies or is no longer able to care for the child, is the child automatically eligible for the GAP program if placed with a subsequent guardian?

(Deleted 10/09/2014)

4. Question: If the relative guardian receiving title IV-E Guardianship Assistance Program (GAP) payments on behalf of a child dies or is no longer able to care for the child, may the GAP payments be transferred to a third party?

(Deleted 10/09/2014)

5. Question: Describe the child eligibility requirements for the title IV-E kinship guardianship assistance program (GAP).

Answer: To be eligible for title IV-E GAP, a child must have been: 1) removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; and 2) eligible for title IV-E foster care maintenance payments during at least a six consecutive month period during which the child resided in the home of the prospective relative guardian who was licensed or approved as meeting the licensure requirements as a foster family home.

While the Social Security Act (the Act) does not require title IV-E foster care maintenance payments to have been paid on behalf of the child during the six month timeframe, it does require that such a child meet all title IV-E foster care maintenance payment eligibility criteria pursuant to section 472(a),(b) and (c) of the Act and 45 CFR 1356.21 in the home of the fully licensed or approved relative foster parent for a consecutive six-month period to be eligible for title IV-E kinship guardianship assistance payments with that prospective relative guardian (section 473(d)(3)(A)(i)(II) of the Act).

Additionally, the title IV-E agency must determine that: 1) return home or adoption are not appropriate permanency options; 2) the child demonstrates a strong attachment to the prospective relative guardian; and 3) the relative guardian has a strong commitment to caring permanently for the child. The title IV-E agency must consult with a child who is 14 years or older regarding the kinship guardianship arrangement. These determinations are not judicial findings but rather determinations made by the title IV-E agency (section 473(d)(3)(A) of the Act).

- **Source/Date:** 08/12/09
- **Legal and Related References:** Social Security Act ζ sections 472 and 473(d)(3); 45 CFR 1356.21

6. Question: Please provide additional guidance on what counts as a ζ consecutive month ζ for purposes of determining eligibility for title IV-E kinship guardianship assistance payments.

Answer: One of the eligibility criteria for title IV-E kinship guardianship assistance payments is that the child must be eligible for title IV-E foster care maintenance payments for at least a consecutive six-month period while the child resided in the prospective relative guardian's licensed or approved foster family home. A month may be counted in the six consecutive month period if the child met all of the title IV-E foster care maintenance payment eligibility criteria for at least one day of that particular month while in the prospective relative guardian's home, and is therefore eligible for a title IV-E foster care maintenance payment for at least a portion of that month.

- **Source/Date:** 2/24/2011
- **Legal and Related References:** Social Security Act § Section 472, 473(d)(3)(A)(i)(II), 45 CFR 1355.20(a), ACYF-CB-PI-10-11

7. Question: Must a title IV-E agency that takes the option to extend the IV-E programs to older youth ages 19, 20, or 21 per section 475(8)(B) of the Social Security Act and has opted to provide title IV-E guardianship assistance provide title IV-E guardianship assistance payments to the older youth who remains eligible when the agreement expires?

Answer: Yes. A title IV-E agency must provide extended guardianship assistance payments to an older youth when his title IV-E guardianship assistance agreement expires, if the youth remains eligible for the guardianship assistance payments. This includes youth under a title IV-E guardianship assistance agreement in place prior to the agency taking the option to extend the title IVE programs.

- **Source/Date:** 05/04/11
- **Legal and Related References:** Social Security Act § sections 475(8)(B) and 473(d)