

## Guardianship

(Revised 09/22/23)

[Forms](#)

[Definition](#)

[Policy](#)

[Eligible Guardians](#)

[Guardian Placement Factors](#)

[Eligible Children](#)

[Child Factors](#)

[SW and Prospective Guardian Responsibilities](#)

[Service Component/Case Status](#)

[Case Plan for Non-Relative Guardian](#)

[Foster Care HSS Responsibility](#)

[Documenting Well-Child Visits in the HEP](#)

[Alignment with SET](#)

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### Forms

The following forms are referenced in this policy:

- 04-16 Permanency Planning-Legal and Psychosocial
  - 04-16sp Permanency Planning-Legal and Psychosocial (Spanish)
  - 04-17 Permanency Planning-Financial
  - 04-17sp Permanency Planning-Financial (Spanish)
  - 04-36 Visitation Plan
  - 04-36sp Visitation Plan (Spanish)
  - 04-253 Information About the Kin-GAP Program
  - 04-253sp Information About the Kin-GAP Program (Spanish)
  - [SOC 369](#) Agency-Relative Guardianship Disclosure
  - 07-311 FC Federal Eligibility Certification (CARA, Eligibility Use Only)
  - 07-313 Kin-GAP Intake Checklist
  - [PUB 511](#) Finding a Competent Therapist, Tips for Adoptive and Guardianship Families
  - FC2 Statement of Facts Supporting Eligibility for AFDC Foster Care (CWS/CMS Client Management Section)
  - RFA 05A Resource Family Approval- Written Report (Binti Form, RFA Use Only)
  - SOC 158 Foster Child's Data Record and AFDC-FC Certification
  - G-845 Alien Documentation Verification Request
  - SDRC 077 Dual Agency SDRC Eligibility Status
  - 10-43 Special Care Rate Authorization / Authorization For Special Care Rate (CWS/CMS Template)
  - FC3 Determination of Federal AFDC-FC Eligibility
  - FC3A AFDC-FC Worksheet Supplement
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**Definition**

Guardianship is a legal status in which the parents' rights to exercise physical and legal control over a child are suspended and an appropriate individual (guardian) is appointed by the court to fulfill the parents' responsibilities. Guardianship is one of three permanent plans, which may be ordered by the Juvenile Court for a dependent child who cannot be reunified with their parent.

The Probate Court appoints guardians for **non-dependent** children.

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**Policy**

The SW will assess a prospective guardian for guardianship placement to establish if the prospective guardian meets all legal requirements and the home is an appropriate placement for the child/youth.

A Non-Relative Legal Guardian (NRLG) will continue to have a case assigned to a SW for the purposes of monitoring the placement and continuing the funding for the placement.

A relative must have a full Resource Family Approval for at least six months in order to be eligible to receive Kin-GAP funding.

The SW is responsible for establishing the guardianship and completing the Kin-GAP intake packet. Once the guardianship and Kin-GAP funding is established, the Child and Family Well Being (CFWB) case will be closed.

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**Eligible Guardians**

A guardian can be a relative, non-relative or resource parent who is over the age of 18 and has an interest in caring for the child.

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**Guardian Placement Factors**

When assessing a potential guardian, the following factors must be considered:

- Capability to meet the child's specific needs related to age and health
- Ability and commitment to provide and care for the child to age 18
- Understanding of the responsibilities and requirements of guardianship
- Willingness to include the child as an integral family member and take the child with them should they move
- Ability to handle all matters pertaining to the child without dependence on Child and Family Well Being Department (CFWB) or the Juvenile Court.

WIC 366.26(d) states: "The assessment may also include the naming of a prospective successor guardian, if one is identified. In the event of the incapacity or death of the appointed guardian, the named successor guardian may be assessed and appointed pursuant to this section. The person preparing the assessment may be called and examined by any party to the proceeding."

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## Guardian Placement Factors (cont.)

Section 1514 of the Probate Code states that the child's parent may not be appointed as the child's guardian. Some exceptions may be made in the case of a custodial parent with a terminal condition and is to be determined by the Probate Court only.

Because of the permanent nature of the guardianship relationship, CWS expects the placement to be stable before the guardians enter into a long-term legal commitment to the child.

This table displays a brief comparison of relative vs. non-relative guardianships; it is not all-inclusive.

Topic	Relative	Non-Relative
Length of placement prior to Guardianship being ordered.	Minimum of 6 months from the date the RFA home was approved.	Minimum of 1 year.  <b>NOTE:</b> It is the Agency's practice to have a child/youth placed with a non-relative for at least one year prior to guardianship being ordered, however, if it is determined by the SW and PSS to be appropriate to move forward with guardianship prior to one year, funding will not be impacted.
Finances (refer to the Guardianship Placement policy)	AFDC-FC is discontinued, and Kin-GAP established.	Eligible for AFDC-FC.
Placement	Must meet the RFA home approval requirements	Must meet the RFA home approval requirements prior to placement.
CFWB Case Management	CFWB case closes after the court grants the guardianship and terminates jurisdiction.	CFWB case remains open even after the court grants the guardianship and terminates jurisdiction.  <b>NOTE:</b> NRLG cases are commonly referred to as "money-only" or "aid only" cases. Child must be seen once every 6 months.

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## Eligible Children

Any out-of-home dependent child is appropriate to be considered for Guardianship when reunification services have been terminated or are about to be terminated.

If the child's parent is a minor or an NMD, the SW will inform the parent that they have the right to consult with counsel before entering into any formal or informal agreement for legal guardianship of the child. The SW will document this as a contact in CWS/CMS and indicate that they were informed of their right to counsel.

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## Child Factors

When selecting a potential guardian for a child, many factors must be taken into consideration, such as the child's:

- Age, gender identity and cultural background
  - Ethnic and religious identification
  - How sibling relationship(s) will be impacted
  - Health and emotional status
  - Anticipated special needs such as medical and/or psychological care, special education, etc.
  - Child's preference, if the child is age 12 or older.
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## SW and Prospective Guardian Responsibilities

This table describes SW and Prospective Guardian responsibilities.

Type of Prospective Guardian	SW Responsibilities	Prospective Guardian Responsibilities
Relative	<ul style="list-style-type: none"><li>• Provide the following to the relative prior to the relative's decision to become the child's guardian:<ul style="list-style-type: none"><li>○ 04-253</li><li>○ 04-16</li><li>○ 04-17</li><li>○ Provide Finding a Competent Therapist, Tips for Adoptive and Guardianship Families brochure</li></ul></li><li>• Advise the relative that after the guardianship is granted, dependency will terminate and CWS contact will cease.</li></ul>	On the SOC 369, indicate their choice of legal guardianship with Kin-GAP or another payment option.

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**SW and Prospective Guardian Responsibilities (cont.)**

Type of Prospective Guardian	SW Responsibilities	Prospective Guardian Responsibilities
<b>Non-relative</b>	<ul style="list-style-type: none"> <li>Inform the prospective guardian that after the guardianship is granted, court jurisdiction will terminate and CWS contact will occur once every 6 months (unless more frequent contact is warranted).</li> <li>Provide Finding a Competent Therapist, Tips for Adoptive and Guardianship Families brochure.</li> <li>At least once every 6 months:               <ul style="list-style-type: none"> <li>See the child</li> <li>Update the case plan-see Case Plan section below.</li> </ul> </li> </ul> <p><b>NOTE:</b> For NRLG cases, an 07-65 indicating that guardianship was established as well as a complete closing summary need to be submitted before the case is transferred to region for case management.</p>	<p>Comply with the case plan.</p> <p><b>NOTE:</b> If the NRLG does not make themselves available to sign the updated case plan or to see the child during the home visit, the SW and PSS should make them aware that an 07-65 will be submitted to end the placement (and stop payments).</p>
<b>Successor Guardian</b>	<ul style="list-style-type: none"> <li>If a successor guardian has been identified in the event of the incapacitation or death of the prospective guardian, the Guardianship Unit will assess the successor guardian.</li> </ul>	<p>Comply with the case plan if a non-relative becomes guardian.</p>

**NOTE:** If a guardian is requesting to terminate the guardianship, please reference the policy 388 Motions to Terminate a Guardianship by Parents or Guardians.

**Service Component/  
Case Status**

When a non-relative becomes a guardian and jurisdiction is terminated:

- the service component will be marked as PP, and
- the case status will be marked as voluntary.

**Case Plan for Non-Relative Guardian**

All non-relative (money-only) cases must have a case plan.

The Child Strengths and Needs Assessment (CSNA) tool will be used to help guide the

**Case Plan for Non-Relative Guardian (cont.)**

formation of the case plan. For more information, see the Structured Decision Making (SDM) Policy. Relative guardians will not have a case plan because the CWS case will be closed after jurisdiction is terminated and Kin-GAP is in place.

**The SW will update the case plan at least every six months and the guardian(s) will sign it.**

At a minimum, the following items must be included in the Case Plan:

Page	Participant	Category/Type
Service Objectives	Guardian/Child	<p>Select <b>Other Service Objective</b> type and add to the <b>Additional Description for Participant</b> text box.</p> <ul style="list-style-type: none"> <li>• Include youth's wishes regarding their permanent plan and an assessment of those wishes</li> </ul>
Planned Client Services	Guardian	Select <b>Health/CHDP Services</b> category and <b>Provide Medical Consent</b> service type.
Case Management Services	Guardian	Select <b>Case Management Services</b> category and <b>Referrals to Community Resources</b> services type.
Case Management Services	Child	<p>Select <b>Case Management Services</b>. Select <b>SW Plan Contact</b> type. Select <b>Schedule for Service</b> and complete fields for <b>Start date/End date</b>, <b>Occurrences</b>, <b>Frequency</b> and <b>Contact Exceptions</b>.</p> <p><b>NOTE:</b> Guardianship cases require face-to-face contact at least once every 6 months, or more frequently if warranted.</p> <p>Select <b>Case Management Services</b> category. Select <b>Arrange Visitation Services</b> type if visits with the parent(s) or other family members are being recommended.</p> <p>Select <b>Schedule for Service</b> and complete fields for <b>Start date/End date</b>, <b>Occurrences</b>, <b>Frequency</b> and <b>Contact Exceptions</b>. Select <b>Agency Responsibilities for Service</b> text box and add specific information about the visitation plan.</p>

**Case Plan for Non-Relative Guardian (cont.)**

Page	Participant	Category/Type
Case Management Services (cont.)	Child	<b>Select Agency Responsibilities for Service</b> text box and include following: <ul style="list-style-type: none"> <li>If child has been in care for three years or more, document a description of specialized permanency services used or if not used a statement explaining why decision made not to provide these services.</li> </ul>

**Foster Care HSS Responsibility**

Once the SW submits the 07-311 to the Foster Care HSS, FC HSS's are required to follow the steps below:

Step	Action
1	<p>Once it has been determined that guardianship with the relative is the appropriate permanency option, the SW will email the 07-311 to the SWI in the Guardianship unit and CC the Guardianship PSS.</p> <p>Complete the 07-311 even if there is no current active foster care case</p> <p><b>NOTE:</b> This form is provided by eligibility and certifies that the foster care maintenance payments are either federal or state funded. Approval of Kin-GAP aid type will follow the foster care determination to either federal or state funds.</p>
2	<p>Make copies of all required forms:</p> <ul style="list-style-type: none"> <li>FC2 (original based on current episode) FC3, FC3A, RFA 05A, and SOC 158A (most recent on file), G-845, SDRC 077 or 10-43 if applicable</li> </ul>
3	<p>Within 5 working days of the receipt of the 07-311, complete and email the form with all attachments to Guardianship Unit Supervisor with a copy to their FC Supervisor.</p>
4	<p>Once notified by the guardianship unit that guardianship has been approved:</p> <ul style="list-style-type: none"> <li>hold payment until the receipt of the SOC 158A</li> <li>If there is an active CalWORKS case, forward information to the Family Resource Center FC Liaison and CC their FC supervisor</li> </ul>

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**Documenting Well-Child Visits in the HEP**

Health exams and visits must be documented in the Health and Education Passport. Refer to Health and Education Passport for policy and procedures on documenting health visits for children in Guardianship.

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**Alignment with SET**

This policy supports the following SET Values:

- [Value 2](#): **Collaborative Partnerships with Kinship and Resources Families**, through the provision of supportive services, including mental health information and referrals.
  - [Value 3](#): **Helping Children and Youth Achieve Their Full Potential and Develop Lifelong Relationships** by prioritizing safety and permanence, preferably through familial connections.
  - [Value 5](#): **A Strong Working Relationship with the Legal System** through collaboration with legal partners to focus on the child's best interests by identifying the most permanent and least restrictive level of care.
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