MAKING IT WORK:

Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care

A Collobarative Project of the Children's Defense Fund, Child Trends, American Bar Association Center on Children and the Law, Casey Family Programs, Child Focus, and Generations United

The collaborating organizations noted on the cover of Making It Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care surveyed the 30 jurisdictions that were implementing GAP as of September 30, 2012. They hope the report will help encourage state agency staff and other stakeholders that have not yet pursued the Guardianship Assistance Program for children in their states to do so and assist states already implementing GAP to further expand their implementation activities. We ask that you credit the source when you share information in the report. Contacts for the collaborating organizations noted on the cover are included in Appendix C of the report.

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About this report

With the support of Casey Family Programs, organizations with a long-standing interest in ensuring permanent families for children in foster care and in supporting kinship guardianship assistance programs, worked together to research and prepare this report, *Making It Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care.* The report focuses specifically on states' implementation of the Title IV-E Guardianship Assistance Program, which was established in the Fostering Connections to Success and Increasing Adoptions Act of 2008. At the time of publication, 29 states, the District of Columbia and one Indian tribe, had received approval to operate GAP from the Children's Bureau in the Administration on Children, Youth and Families in the U.S. Department of Health and Human Services; officials in each were interviewed for the report. The survey methodology is described in Appendix A. The goal of this report is to highlight the leadership and good work being done by those state child welfare agencies and the Port Gamble S'Klallam Tribe, sometimes in partnership with relative caregivers and other stakeholders, to ensure more children in foster care have access to permanent families and relative guardians when appropriate.

The report describes the key elements and challenges of GAP implementation and lessons learned to date. It offers suggestions to states that have not yet applied for GAP funds or are in the early stages of GAP implementation. It also includes for each of the jurisdictions interviewed a narrative summary and fact sheet describing GAP implementation activities. The text boxes placed throughout the report and the appendices offer further detail about GAP implementation and the survey findings. Those involved hope the report will help move the nation closer to the goal of a permanent family for every child.

Acknowledgements

Making It Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care was produced through a collaborative effort of organizations, named below, with support from Casey Family Programs. The views expressed in this report do not necessarily reflect the positions of the collaborating organizations, but rather are those of the state child welfare agencies that were interviewed and, in the conclusion to the Overview, those of the authors.

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Special thanks also go to staff in the Children's Bureau's Washington, D.C. office and staff in the regional offices who worked closely with these states as their GAP state plan amendments were being reviewed, revised and finally approved. Their commitment to seeing GAP properly implemented so as to truly assist children was recognized by many. We thank our colleagues at Casey Family Programs, not only for their financial support, but for the valuable consultation and assistance they provided throughout the project. In particular, we thank Lauren Behsudi, Christine Calpin, JooYeun Chang, Steve Christian, Cedric Davis, Maria Fuentes, Sarah Gesiriech, Margaret Hunt, Susan Robison, Susan Weiss, and Anthony Williams for all of their involvement and support over the course of this project.

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The primary authors of the report are MaryLee Allen and Stefanie Sprow, Children's Defense Fund, and Elizabeth Jordan and Megan Fletcher, Child Trends. The report was designed and produced by Anourack Chinyavong at the Children's Defense Fund.

Overview

Introduction

The enactment of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Fostering Connections Act) represents the most significant federal reform for children in foster care in more than a decade. This law offers new hope for tens of thousands of children spending part of their childhood in foster care without the permanent family connections so critical to their overall well-being and development. The Fostering Connections Act contains a number of provisions intended to help keep families together and improve children's outcomes. It establishes the federal Title IV-E Guardianship Assistance Program, referred to in this report as "GAP." GAP is the first time that federal dollars were made available exclusively for supporting children exiting foster care to permanent homes with relative guardians.

GAP was a critically important step in a variety of efforts to increase support for relative caregivers and other guardians. Thirty-seven states and the District of Columbia had offered subsidized guardianship assistance funded primarily with state dollars prior to Title IV-E GAP. Members of Congress from both sides of the aisle, recognizing the importance of guardianship in the permanency continuum, introduced legislation in the 109th Congress and again in the 110th Congress to garner federal support for children being raised by relative guardians, which was incorporated in part in Title IV-E GAP. A handful of states received time-limited Child Welfare Waiver Demonstrations that allowed them to use existing federal dollars intended for foster care for guardianship assistance payments. However, it was not until the passage of the Fostering Connections Act that every state had the option to claim federal reimbursement for children served by the new federal Guardianship Assistance Program.

GAP provides assistance for children who are removed from the care of their parents and are being raised by their grandparents or other relatives in foster care when those relatives become their guardians. More specifically, the new federal GAP resources help children who are eligible for federal foster care payments under Title IV-E of the Social Security Act and have been cared for by prospective, licensed relative guardians for at least six consecutive months to leave foster care to live permanently with the relatives who then become their legal guardians. More detailed eligibility requirements for the GAP Program are described in Appendix E.

Financial assistance for guardians raising children who were in foster care is an essential component of the supports relatives need in order to offer these children permanent families. However, financial assistance alone is insufficient, and the Fostering Connections Act includes, in addition to GAP, other critically important components related to supporting those relatives wishing to step forward and help.

How the Guardianship Assistance Program (GAP) Benefits Individual Children

- Promotes a sense of belonging; helps children stay connected to family and to their culture
- Increases stability and continuity
- Prevents children from remaining in foster care when reunification and adoption are not appropriate permanency options
- Reduces agency supervision and intervention in children's lives once they are in a permanent family
- Does not require the termination of parental rights for children who have relationships with parents who cannot care for them
- Provides relatives with assistance to care permanently for children

The Fostering Connections Act requires that child welfare agencies identify and notify relatives when a child is about to enter foster care. It establishes grants for Kinship Navigator Programs to help link caregivers to the supports they need, for intensive family finding efforts to locate relatives when children first come to the attention of the system or are preparing to leave care, for family group decision-making meetings to bring birth families and kin to the table as decisions are being made about children, and for comprehensive family-based residential substance abuse treatment programs. The Fostering Connections Act also requires agencies to make reasonable efforts to keep siblings together, efforts to help keep children in school and minimize the number of school moves, and efforts to promote the coordination of health care children need. It extends care beyond age 17 for children who exit foster care for relative guardianship at age 16 or older in order to enable children with relative guardians to benefit from independent living services and education and training vouchers. The Fostering Connections Act also provides that certain non-safety related licensing standards for relative homes can be waived on a case-by-case basis in order to make it easier for relatives to become licensed foster homes. All of these provisions are intended to improve safety, permanence and well-being for children living with kinship care families. See Appendix F for reference to this and other selected federal programs that offer opportunities to promote permanent families with relatives for children.

This new support for kinship families has been applauded by relatives raising children, youth currently or formerly in foster care, other advocates, policymakers, providers and the legal communities. The Guardianship Assistance Program recognizes the importance of family commitments to children and builds upon the longtime commitment of relatives to care permanently for related children.

Making It Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care examines the benefits of GAP for children, their siblings and other family members, and those seeking to find permanent families for children in foster care. This report examines stakeholder involvement; strategies to train stakeholders about the new program and its importance to permanence for children; challenges faced in implementing GAP; and lessons learned and advice for states still deciding whether to take and/or how to best implement the GAP option.

This Overview and the individual state narratives and state fact sheets that follow capture GAP activity at a given moment in time. As of September 2012, 29 states, the District of Columbia (D.C.) and the Port Gamble S'Klallam Indian Tribe in Washington state had applied to and been approved by the Department of Health and Human Services for federal funding from the new Title IV-E Guardianship Assistance Program (See Box 1 below.) All are now working to implement GAP in order to help children leave foster care and move to permanent homes with relatives.

BOX 1: States and American Indian Tribes with Approved Title IV-E Guardianship Assistance Programs (GAP) As of September 2012

Alabama	Louisiana	Oklahoma
Alaska	Maine	Oregon
Arkansas	Maryland	Pennsylvania
California	Massachusetts	Rhode Island
Colorado	Michigan	South Dakota
Connecticut	Missouri	Tennessee
District of Columbia	Montana	Texas
Hawaii	Nebraska	Vermont
Idaho	New Jersey	Washington
Illinois	New York	Wisconsin

Port Gamble S'Klalam Indian Tribe

Staff from the ABA Center for Children and the Law, Casey Family Programs, Child Focus, Child Trends, Children's Defense Fund and Generations United—all organizations with a long-standing commitment to helping children in foster care connect to family—conducted interviews with individuals responsible for guardianship programs in each of the 29 states and the District of Columbia with approved GAP plans and with additional stakeholders in some states. The goals for this report are threefold:

- to provide a snapshot of state activities early in the implementation process so progress can be tracked over time;
- to identify the benefits of GAP and best practices in GAP implementation to share among states; and
- to make a case for broader efforts to increase the number of children reached by GAP and to provide permanent families for many more children.

Partnering organizations anticipate that this report describing state experiences, including challenges and lessons learned, will be beneficial to states in different stages of implementation and states that have not yet implemented GAP.

Abigail's Story

Imagine getting a call tonight that nine of your nieces and nephews need a place to stay to keep them safe. When you ask how long you will need to care for them, you hear it really just depends on what the court requires. Aunt Abigail didn't hesitate to take in her nieces and nephews while her sister addressed serious mental health concerns that placed the children in grave danger. While caring for the children, Abigail looked for ways to help support the parents' progress by coordinating visits for all of the children together, demonstrated ways to keep the children engaged, and helped the parents understand ways to support the children's positive behavior.

After a year with their aunt, the children were slowly reunified with their parents. Shortly after reunification, their safety was once again threatened while with their parents. Abigail again stepped up to help care for all of the children. She went through the process to become a foster/ adopt home to help meet any possible permanency outcome for the children. When Child Protective Services sought to terminate parental rights to free the children for adoption by their aunt, the courts gave permanent managing conservatorship to the department without terminating parental rights, thus ending the hopes of adoption. Because Abigail had become a verified foster home with the support of the kinship program, the children were able to benefit from the Permanency Care Assistance program (the state's Title IV-E Guardianship Assistance Program) when Abigail was granted permanent managing conservatorship. The Permanency Care Assistance program allowed Abigail to keep such a large sibling group together while meeting all of their needs and to help the children continue other family connections, including contact with their parents as appropriate.

Key Findings

Jurisdictions with and without previous experience with subsidized guardianship recognize the benefits of GAP for children.

Eight of the 30 jurisdictions listed in Box 2 that have approved GAP plans did not previously have subsidized guardianship programs. Prior to the federal GAP option, no monetary assistance, other than child-only grants under the Temporary Assistance for Needy Families (TANF) program, was available in those states for guardians caring for children, even when they were helping to keep children out of, or remove them from state-supported foster care. Many children raised by relatives in foster care in these states remained in foster care long-term. Staff from New York, one of the eight states, said their previous efforts to pass a subsidized guardianship law had been unsuccessful, but the availability of federal funds for GAP provided the state with the impetus it needed to make guardianship assistance a reality. Michigan passed subsidized guardianship legislation for the first time just before GAP was enacted, but postponed implementation until it could apply for GAP funds.

BOX 2: States that had Subsidized Guardianship Programs Prior to GAP (Including Primary Funding Source)

Alaska (State Funds)
California (State Funds)
Connecticut (State Funds)
District of Columbia (Local Funds)
Hawaii (State Funds)
Idaho (State Funds)
Illinois (Title IV-E Waiver)
Maine (State Funds)
Maryland (Title IV-E Waiver and State Funds)
Massachusetts (State Funds)
Missouri (State Funds)
Montana (Title IV-E Waiver and State Funds)
Nebraska (State Funds)
New Jersey (State Funds and TANF)
Oklahoma (TANF and State Funds)
Oregon (Title IV-E Waiver)
Pennsylvania (State and County Funds)
Rhode Island (State Funds and TANF)
South Dakota (State Funds)
Tennessee (Title IV-E Waiver)
Washington (State Funds)
Wisconsin (Title IV-E Waiver)

States that Did Not Have a Subsidized Guardianship Programs Prior to GAP

Alabama
Arkansas
Colorado
Louisiana
Michigan
New York
Texas
Vermont

Twenty-one states and the District of Columbia already had state, local, Title IV-E waiver- or TANF-funded guardianship assistance programs when the Fostering Connections Act was enacted. However, those programs differed significantly in scope and in the groups of children served. For instance, state-subsidized guardianship programs in Maine and Montana previously limited eligibility for guardianship assistance to children with special needs or those categorized as "hard to place" (a practice often used by adoption assistance programs).

Eight states previously offered assistance to children with guardians, but without the requirement that the child first live with the relative in foster care for six consecutive months as required by GAP. Fourteen of the 21 states and the District of Columbia did not require that the guardian be a relative. In Pennsylvania, the guardian did not need to be a relative and the six months in foster care could be cumulative. Some states, like California, Illinois and New Jersey, required that the child live with the caregiver for 12 months in order to be eligible for the subsidy. Illinois, New Jersey and several others did not require that the homes be licensed. Idaho and Hawaii required that a child's parental rights had to be terminated prior to placing the child with a guardian. South Dakota imposed a means test on the guardian.

A number of states that already had subsidized guardianship programs used the new availability of GAP funds as an opportunity to alter the requirements of their existing state programs to accommodate the new federal requirements. Some of these changes allowed GAP to reach more children and families than their previous state programs by broadening the base of children who were eligible for GAP. For example, before applying for GAP six states and the District of Columbia expanded their definition of "relative" to include not only persons related by blood, marriage or adoption, but also persons who had a significant relationship with a child but who were not related to the child by blood, marriage or adoption, often referred to as fictive kin.

Most states implementing GAP also extend subsidies to additional children.

Of the jurisdictions with operating GAP programs for Title IV-E eligible children, 26 states and the District of Columbia also operate separate state-funded subsidized guardianship programs to meet the needs of children who do not meet all the GAP eligibility requirements (See Box 3). In most cases the state-funded programs offer guardianship assistance for children who are not eligible for Title IV-E foster care or who have not lived in foster care with the relative or in a licensed foster home for six months prior to moving to guardianship. In some states American Indian children are also funded through the state program. States operating both a federally-funded guardianship assistance program and a state-funded subsidized guardianship program are able to offer permanent families for more children and families, not just those who qualify for GAP.

BOX 3: States that Provide Subsidized Guardianship for Both Children Eligible for Title IV-E GAP and Those Ineligible for Title IV-E GAP

Alaska	Idaho	Missouri	Rhode Island
Arkansas	Illinois	Montana	South Dakota
California	Louisiana	Nebraska	Tennessee
Colorado	Maine	New Jersey	Texas
Connecticut	Maryland	New York	Vermont
District of Columbia	Massachusetts	Oklahoma	Wisconsin
Hawaii	Michigan	Pennsylvania	

States that Do Not Provide Subsidized Guardianship For Children Ineligible for Title IV-E GAP

Alabama
Oregon
Washington

Children are truly benefiting from GAP implementation.

GAP plans for the 29 states and the District of Columbia were approved by HHS between July 2009 and February 2012. Some states began implementation efforts before plans were finally approved, even though funding claims could not yet be made. Others started right after the plan was approved. Others had long delays between approval and implementation for many reasons including the need for additional field training, delays in securing updates to their Statewide Automated Child Welfare Information Systems (SACWIS) or challenges in getting Medicaid for the newly eligible children. All states with approved GAP plans also were given the opportunity to review the circumstances of children who already left care to live with relative guardians to determine if they met all the GAP requirements and might be eligible for GAP assistance. See Appendix H for the approval and effective dates for the GAP program in individual states. States like Illinois and Montana that operated subsidized guardianship programs under federal Child Welfare Demonstration

Waivers were allowed to grandfather into GAP those children who were eligible for guardianship assistance under their waiver programs even if these children did not meet all the new GAP eligibility requirements.

GAP implementation efforts are having a positive impact in states. In some states there are several thousand children, and in others, hundreds of children, being cared for by relative guardians who are benefiting from federally- and state-funded subsidized guardianship assistance programs. In a number of states, a decision to apply for GAP funds increased attention to subsidized guardianship and in some resulted in more children being eligible for the existing state-funded guardianship assistance program as well as the new GAP program. Certain categories of children, such as sibling groups and older youth, are especially benefiting in states.

Siblings are kept together

Four young children, ages 9-12, were placed in foster care in 2008. They were moved about and separated at times because of lack of space in the homes or behavior problems. Two years later an older brother, Arnold, age 27, came forward with his girl friend as a placement resource, and all of his four siblings were placed in his home. Arnold is now licensed and GAP is the plan for the family. The four young children are excited that they are all together.

The role of GAP in helping to keep siblings together was highlighted by a number of states. The Fostering Connections Act requires that all states make reasonable efforts to place siblings together in foster care or to maintain sibling connections when it is not in the best interest of the children for them to live together. It makes clear that siblings of an eligible child may be placed together in a guardian's home and become eligible for GAP even if the siblings do not meet the GAP eligibility requirements. Federally-supported guardianship assistance payments may be made on behalf of each sibling placed with the guardian. In Illinois, for example, a high percentage of sibling groups of three to five children are placed together with the same guardian with GAP assistance and the state is considering even larger groups of six to seven. Montana noted that 90 percent of its new tribal cases under GAP are sibling groups being placed together. Texas and Washington also noted that GAP allows more relatives to provide long-term permanence for children, especially sibling groups.

Older youth receive additional benefits

While most children benefiting from GAP are under the age of 18, the Fostering Connections Act gives states two options to extend care to youth age 18 and older. States may choose to extend care to age 21 for children with a mental or physical disability which warrants the continuation of assistance. States may also opt to extend guardianship assistance to age 19, 20 or 21 for certain youth who were age 16 or older when their kinship guardianship assistance agreement became effective. These are youth who are completing high school or an equivalent program, enrolled in a post-secondary or vocational education program, working or preparing for work, and youth with medical conditions that prevent them from doing any of these activities. There are also a few states that continue guardianship assistance for children to age 19 who are expected to graduate by that time. (See Box 4, page 9.)

Eighteen states and the District of Columbia extend GAP to age 21 either because the youth have disabilities and/or are engaged in school, working and/or preparing for work. Several of the nine states that stop GAP at 18 mentioned during the interviews that they would like to extent GAP to older youth.

The Fostering Connections Act also allows states to offer additional aid to youth who leave foster care for kinship guardianship at age 16 or older. These youth are eligible for independent living services to age 21. They are also eligible for educational and training vouchers (ETVs) to age 21 and, if eligible at 21 may

BOX 4: States that Extend GAP Beyond Age 17

Extend GAP Until 21		Extend GAP Until 19
For the five categories of youth listed in the Fostering Connections Act[1]	***For youth with mental or physical disabilities that warrant continued assistance***	***For youth in high school or equivalent educational program and expected to graduate by age 19***
Alabama	Alabama	Illinois
Arkansas	Arkansas	Oklahoma
California*	California	South Dakota
District of Columbia	District of Columbia	Wisconsin
Maryland	Hawaii	
Massachusetts	Illinois	
Michigan	Maine	
Nebraska (only to age 19)	Massachusetts	
New York	Oregon	
Oregon*	South Dakota	
Pennsylvania*	Vermont	
Tennessee*	Washington	
Texas	Wisconsin	
Vermont		
Washington*		

States that Do Not Extend GAP Beyond 17

Alaska	Idaho	Montana
Colorado	Louisiana	New Jersey
Connecticut	Missouri	Rhode Island

[1] Under Fostering Connections, states may choose to extend Title IV-E GAP to a child 18 or older who is in foster care under responsibility of the state, was age 16 before a guardianship assistance agreement took effect, has not attained 19, 20 or 21 years of age as the state may elect, and is:

1. completing secondary education or a program leading to an equivalent credential;
2. enrolled in an institution which provides postsecondary or vocational education;
3. participating in a program or activity designed to promote, or remove barriers to, employment;
4. employed for at least 80 hours per month; or
5. incapable of doing any of the activities described in subclauses (1) through (5) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

(§475(8)(B), ACYF-CB-PI-08-007 p. 5)

* State has more limited coverage. For more detailed information about the state's coverage, see the state's fact sheet in Appendix I.

remain eligible to age 23 as long as they are enrolled in a post-secondary education or training program and are making satisfactory progress toward completion of that program. Independent living services often include life skills preparation classes, youth conferences and similar services designed to prepare youth for adulthood. The ETV program provides vouchers of up to $5,000 per student annually for post-secondary education or training. (See Appendix G.)

"Hard to place"

Several states mentioned that they were targeting, although not exclusively, special groups of children through GAP. Maryland, for example, is targeting children with a permanency goal of Another Planned Permanent Living Arrangement (APPLA) in order to reduce the number of children who remain a long-term foster care. Idaho is paying special attention to promoting permanency for older youth and tribal youth. Vermont is hoping that GAP will help provide permanency to a specific group of children—those with strong attachments to parents who are recovering from substance abuse. Several states noted that GAP has helped increase the number of younger children who are in permanent families.

What the numbers show

A look at the reported numbers of children benefiting from guardianship assistance programs in states, starting with states with the most children in those programs, highlights important progress being made for children[1]:

- California had 5,852 children in its Title IV-E KinGAP program and another 9,848 children in state-funded KinGAP.
- Illinois had 4,184 children in its KinGAP program and 550 of the children entered guardianship since KinGAP began in November 2009. Of these 550 children, 437 are Title IV-E eligible.
- Missouri estimated it had between 3,500 and 4,000 children in its subsidized guardianship program; about 28 percent of them are Title IV-E eligible.
- New Jersey had a total of 2,229 children in its previous subsidized guardianship program and 478 children in its GAP program since October 1, 2009. The others continue to get state assistance.
- Pennsylvania had 2,165 children in subsidized permanent legal custody but it could not differentiate between children in its federal, state or local programs.
- Seventeen hundred children were being served by Maryland's GAP program. The state noted that number actually "doubled or tripled" when subsidized guardianship payment rates were increased to make them closer to foster care rates.
- Hawaii had approximately 1,000 children in its subsidized guardianship program, but it could not say how many were in the federal Title IV-E-funded program.
- Four hundred fifty-nine children in Texas had exited foster care at the end of March 2012 and were approved for Permanency Care Assistance (PCA). This number included both Title IV-E-funded children and state-funded children who were ineligible for Title IV-E funds.
- Tennessee had established 492 guardianships since the beginning of GAP.
- There were 316 children receiving guardianship assistance in Rhode Island in April 2012; there had only been approximately 20 active guardianships prior to implementation of GAP.

Some states with small numbers of children in subsidized guardianships are in the very beginning stages of implementation. A number of these are states that did not previously have subsidized guardianship programs. In Alabama, for example, only two children had received GAP assistance at the time of the interview. However, when Alabama was initially deciding whether to apply for GAP funding, it projected 190 children might be eligible for the new program, so the number of children in the program is likely to increase. Louisiana also did not have a previous subsidized guardianship program, and had 85 children in the program, which was approved in October 2011 but was effective October 2010. Even some states with previous subsidized guardianship programs have found start-up slow. For example, about four months after Idaho implemented GAP, the state had three children who were awaiting final approval for Title IV-E GAP assistance.

At the time of the interview, Wisconsin had 217 children receiving Title IV-E guardianship assistance payments statewide, 195 of whom were children grandfathered in from the state's previous guardianship waiver program.

[1] All estimates were as of the time of the interview.

Alaska had 149 children receiving guardianship assistance subsidies, eight of whom have become eligible for GAP. Montana had finalized 28 guardianships since its GAP plan was approved in May 2010, and 20 of those were eligible for Title IV-E GAP assistance. Montana noted an increase in the number of Title IV-E eligible children going into guardianship rather than remaining in permanent foster care.

GAP helped a paternal grandmother, Mrs. Y, who had previously taken custody of a 17-year-old grandchild, the oldest child in his family, to also take legal custody of two younger siblings and have the support of the monthly GAP payments.

Children in American Indian Tribes are benefiting from Title IV-E Guardianship Assistance Programs.

Before the Fostering Connections Act, Indian tribes could not access federal Title IV-E funds directly to administer their own foster care or adoption assistance programs, but instead had to have an agreement with a state government to access Title IV-E funds. The Fostering Connections Act enables tribes or tribal consortia to apply directly to HHS for Title IV-E funds and also allows states and tribes to continue to operate or create state/tribal agreements to administer the Title IV-E program. At the time of this publication one Indian tribe, the Port Gamble S'klallam Tribe, had applied to and been approved by the Department of Health and Human Services for federal funding for Title IV-E GAP. More than a third of the states interviewed had state/tribal Title IV-E GAP agreements or had arranged for tribal children to benefit from GAP. (See Box 5.)

Box 5: States Interviewed that had State/Tribal Title IV-E Guardianship Assistance Program Arrangements

California	Montana	Oregon
Connecticut	Nebraska	South Dakota
Michigan	Oklahoma	Washington

Tribes in Montana are taking advantage of implementation of Title IV-E GAP. All seven American Indian tribes in the state now have state/tribal agreements. Only three of the seven participated in Montana's previous subsidized guardianship waiver program. State staff note sibling groups are specifically benefiting from GAP, with sibling groups making up 90 percent of Montana's new tribal cases.

Oregon is facilitating the state/tribal GAP agreement process by assigning a specific staff person within the Office of Child Welfare Programs to work directly with tribes submitting applications for GAP and to negotiate with tribal families. Washington has state/tribal GAP agreements with four tribes, and had its Children's Administration staff present about GAP to the statewide Indian Policy Advisory Committee (IPAC) and the Children's Administration subcommittee of IPAC. Connecticut works closely with tribes and has regular joint meetings between local tribes and the local Department of Children and Families.

There are 12 federally recognized tribes in Michigan, and Michigan's Department of Human Services is currently working with the Keweenaw Bay Indian Community on operating a guardianship assistance program. Michigan cited challenges operating state/tribal GAP agreements with some tribes because their territories span across state lines, which would require Michigan to work with other states' jurisdictions in order to operate a guardianship assistance program.

GAP helps highlight the importance of permanency and kin to a range of stakeholders.

In addition to the growing number of children who achieve permanency through GAP a number of the states interviewed noted that the introduction of the new federal assistance provided an additional opportunity to educate staff and the community about the importance of relative placements in the continuum of permanency options for children. Texas, which did not have a subsidized guardianship program before GAP, said GAP helped to demystify the use of kin as a permanency option. Staff there also noted that implementation has helped the community and the judiciary better understand that relatives cannot be expected to care for children without financial support. Rhode Island noted that now that GAP is part of the continuum, the state is working with staff to look at its suitability on a case-by-case basis and taking steps to ensure that return home and adoption are ruled out before guardianship may be considered a permanent plan for a child. Implementation efforts have helped staff recognize and be responsive to the needs of individual family members. Tennessee cited the importance of ensuring that the philosophy of kinship care is clearly embedded in practice. California noted that GAP was more "guardian friendly" than its state-funded program. Benefits can follow a family if it moves out of state and the guardians can renegotiate the assistance payment based on the changing needs of the child and the guardian.

Some states cited the importance of GAP as an alternative to adoption, especially in those situations where caregivers do not want to terminate parental rights because they are hopeful that their adult children will later be able to resume their parenting responsibility. Other states noted that somewhat unexpectedly GAP has become a bridge to help more guardians consider and decide on adoption. In Maine, for example, an

Box 6: Maximum Guardianship Assistance Program (GAP) Payment Compared to Foster Care Payment in States

Less Than Foster Care	Equal to Foster Care	May Not Exceed Foster Care	Other
Colorado	Alabama	Alaska	Massachusetts*
Louisiana	Maine	Arkansas	Tennessee**
Montana	New Jersey	California	
Texas	Rhode Island	Connecticut	
Washington		District of Columbia	
		Hawaii	
		Idaho	
		Illinois	
		Maryland	
		Michigan	
		Missouri	
		Nebraska	
		New York	
		Oklahoma	
		Oregon	
		Pennsylvania	
		South Dakota	
		Vermont	
		Wisconsin	

* Massachusetts – Benefit computation is linked to child's foster care maintenance cost (including supplements to base rate). Actual benefit amount will be net of income singularly available to the child.

** Tennessee – Equal to the foster rate minus 5 cents a day plus an enhanced rate where appropriate not to exceed $60 per day

estimated 20 or 30 children moved from guardianship to adoption during the first two years of GAP. Montana also experienced children moving from guardianship to adoption.

Fiscal benefits of GAP are being reviewed.

At this early stage of implementation, interviewers reported that few data were yet available on the different fiscal impacts of guardianship. While in most states the maximum GAP payment cannot exceed the state's foster care payment (see Box 6, page 12), data on the actual GAP expenditures were not yet available. However, states that had guardianship programs before GAP was approved anticipated state savings now that new federal Title IV-E dollars are available to help with the cost for guardianship assistance. They anticipated that some state dollars for administration as well as subsidies will be freed up with federal dollars now available. California, for example, believes that there is a 20 to 30 percent decrease in state funds used for guardianship assistance payments because the federal dollars are offsetting the need for state funds. Rhode Island said that GAP has helped reduce the number of children in foster care, which is a much more expensive option than guardianship. Hawaii expects to experience savings from implementation of GAP given that it was previously supporting guardianship assistance exclusively through state funds. It estimates having up to $1.5 million in state savings after the first full year of implementation. At the time of the interview the state had not yet determined what will be done with the anticipated state savings realized through GAP.

A couple states had mixed reviews of GAP fiscal benefits. In Maryland, for example, the state is saving money by moving more children into guardianships rather than keeping them in more expensive foster care placements. However, at the same time Maryland increased its guardianship payment, which has drawn more families to foster care and guardianship than there were before GAP.

Key Elements of GAP Implementation

As states began to implement GAP, most reported when interviewed that there are at least four key elements to implementing GAP effectively. First, it is critical to ensure GAP is used appropriately as permanency decisions are being made for individual children. Careful attention should be given to defining "relative" in a way that GAP can reach all the children who can benefit from guardianship. Licensing rules should be examined so they are not a barrier to GAP implementation. Finally, all staff and stakeholders must be helped to understand how guardianship and GAP fit in the permanency continuum and engaged to ensure all eligible children truly benefit from GAP.

Ensuring appropriate use of GAP among other permanency options

The Fostering Connections Act requires that the state child welfare agency must determine that reunification and adoption are not appropriate options for a child before kinship guardianship assistance may be offered to a family. In most of the states interviewed, consideration about permanency options is addressed as part of a permanency staffing process, often including child protective services staff, family resource specialists and permanency specialists as well as the child's family. Before guardianship may be considered, some states require a specific finding that reunification is not in the child's best interest or that adoption is not in the child's best interest because the child does not want to be adopted or lives with kin who do not want to adopt. Several states require a determination that termination of parents' rights is not in the child's best interest. In New York, the focus is on a determination, first by the agency and then the court, as to whether there are compelling reasons for the child not to be returned home or adopted. In Vermont, a court must find, by clear and convincing evidence, that neither return home nor adoption are likely permanency results "within a reasonable amount of time." In states where permanency committees or conferences are used, they generally must recommend guardianship and the plan for guardianship must be reviewed and signed off on by the court.

Relative caregivers who were interviewed emphasized the importance of states making clear to relative foster parents that financial assistance is available with guardianship. They said that often potential guardians were not aware subsidies were available and moved ahead toward guardianship without first completing a guardianship assistance agreement, thus denying them needed financial and other assistance. The Fostering Connections Act requires that the guardianship assistance agreement specifying payment and services must be in place before the court awards guardianship.

In some states, a higher level of review is required before guardianship becomes the permanency plan for children under a certain age. These states want an additional level of certainty that reunification and adoption have been ruled out. One state, drawing on the narrow interpretation in the Children's Bureau guidance on GAP, restricts GAP eligibility to children over a certain age. Doing so misses the caution from Bryan Samuels, Commissioner of the Administration on Children, Youth and Families, that such a policy may not serve an individual child's best interest. Some states require that children as young as 12 be consulted about guardianship, even though federal law only requires consultation at age 14.

As federal law requires, states noted the need to document efforts to discuss guardianship arrangements with the child's birth parents and to discuss adoption with the prospective guardian as a more permanent legal alternative than guardianship.

As will be mentioned later in the discussion of training, some states have done an especially good job in preparing written materials that differentiate permanency options for a child. These materials can help workers, birth families and prospective guardians determine which option is most appropriate in an individual case.

As mentioned earlier in this Overview, several states have seen a positive impact of guardianship on adoption and a few states have seen children move out of foster care more quickly. However, generally the interviews made clear that it is too early to determine how the availability of additional federal assistance is impacting children's length of stay in foster care, reunification or adoption. Although a number were collecting relevant data, no state yet had a formal analysis of these outcomes.

Broadening the pool of relatives eligible for guardianship

The Fostering Connections Act requires guardians to be relatives of the child in order to be eligible for federally-supported guardianship assistance. However, federal law does not specify how "relative" must be defined or even require the state to define "relative." If a state chooses to define "relative," it could be defined as a person related by blood, marriage or adoption and/or a godparent or family friend with whom the child has a close relationship. The latter is often referred to as "fictive kin." The states' definitions of "relative" used for purposes of GAP are included in the state fact sheets and narratives in Appendix I. See also Box 7 on page 15 for a list of states that include some variation on fictive kin in their definition of relative.

Several of the states with approved GAP plans did not require a guardian to be a relative under their previous subsidized guardianship program. And among the states that did require a guardian to be a relative in their previous programs, most used a narrow definition of "relative," defining it in terms of blood, marriage or adoption, and in some cases specifying a godparent.

The interviewers found that a number of states expanded their definitions of "relative" when GAP was enacted and are using the expanded definitions in their new GAP programs. Alaska, the District of Columbia, Louisiana, Maine, Maryland, New Jersey, Oregon and Rhode Island expanded the definition used in their earlier subsidized guardianship programs to include fictive kin. California also broadened its definition of relative to include fictive kin in late September 2012. Fictive kin generally includes anyone who has familial-type relations with the child or family of the child but is not related by blood, marriage or adoption. In South Dakota, fictive kin must be approved by the Foster Care/Kinship Program Specialist and the Division Director before the kin can

BOX 7: States that Include Fictive Kin in their Definition of Relative

Alaska	Massachusetts	South Dakota
California*	Montana	Tennessee
Colorado	Nebraska	Texas
District of Columbia	New Jersey	Vermont
Hawaii	Oklahoma	Washington**
Louisiana	Oregon	Wisconsin
Maine	Pennsylvania	
Maryland	Rhode Island	

States that Do Not Include Fictive Kin in their Definition of Relative

Alabama	Idaho	Missouri
Arkansas	Illinois	New York
Connecticut	Michigan	

*Federal approval pending

**Only for tribal children. The state of Washington's definition of "relative" includes language for "extended family members," which is defined by the law or custom of a tribe. The state includes fictive kin for tribal children if the tribe defines "extended family members" that way.

be the child's guardian. Some fictive kin definitions, like those used in D.C. and Louisiana, specifically state that the relationship or emotional tie must predate the child's placement or the child's entry into care. This precludes a foster parent from becoming a relative guardian unless the foster parent had a relationship with the child prior to becoming the child's foster parent. Although Tennessee did not expand its definition of "relative," its definition has always stated that it "does not include traditional Resource Parents unless the Resource Parent had a pre-existing significant relationship with the child/youth." Oregon, in its revised definition of relative, states that a foster parent may only be considered a relative when he or she has cared for the child for at least the past 12 consecutive months, there is a compelling reason adoption is not an achievable plan, the child has a plan of guardianship and the foster parent has been recommended by a special committee for consideration as a guardian.

Other states were explicit in their discussions that their definition of fictive kin was expanded specifically to include foster parents, regardless of whether they had a preexisting relationship with the child or the child's family. For example, Alaska, which broadened its definition of relative, explicitly states that it may include foster parents.

Montana's earlier Title IV-E child welfare waiver program was not limited to relatives, and, as the state prepared to implement GAP, it chose a definition of "relative" that reflects the needs of tribal children. Indian tribal representatives in Montana wanted to ensure that children could be placed with those with whom they had significant emotional ties. Montana's definition specifies that a "child or family's tribe, godparents, person to whom the child, child's parents and family ascribe a family relationship and with whom the child had a significant emotional tie that existed prior to the agency's involvement with the child or family" is eligible to become a child's guardian and potentially receive funding through GAP.

Some of the states that do not include fictive kin still extend the definition of "relative" beyond children related by blood, marriage or adoption. In Illinois, for example the definition includes godparents, spouses of relatives, step-fathers, step-mothers, and adult step-brothers and sisters. The term "relative" also includes a person related in any of the ways specified to a sibling of the child, even though the person is not related to the child, where the child and their siblings are placed together with that person. Michigan includes putative fathers in its definition and also goes to the fifth degree of relationship.

A few states with new guardianship assistance programs reported challenges with the narrow definition of "relative" they chose for GAP. Alabama, for example, which did not have a subsidized guardianship prior to GAP, limited its definition to individuals related by blood, marriage or adoption, within the fourth degree of kinship. This definition, the state said, makes children who are half-siblings with no biological connection to the prospective guardians, ineligible for GAP, even though the children might benefit from being placed together.

In discussions with state staff, interviewers heard that a number of states that define "relative" broadly for purposes of GAP eligibility use a narrower definition when requiring identification and notification of relatives in situations where a child is removed from the custody of his or her parents. Maine, for example, expanded the definition to include fictive kin for GAP, but defined it as those related by blood or marriage for purposes of the identification and notification to relatives that must be given within 30 days of a child's removal. Texas also uses a narrower definition of relative for notice than it does for GAP and it was noted in the interview that such a distinction may limit the early involvement of some potential relative guardians for the child and, as a result, slow down later permanency efforts for the child.

Addressing challenges in licensing homes

To qualify for GAP, the Fostering Connections Act requires that children be in licensed relative foster homes. Some states with approved GAP plans had previous subsidized guardianship programs that did not require the guardians' homes be licensed. In several states there has been recent positive attention to different licensing issues as a result of GAP.

Illinois is one good example. The subsidized guardianship program it operated under its earlier federal Title IV-E child welfare waiver did not require that the guardian's home be licensed. Under GAP, however, Illinois has seen an increase in the number of licensed relative homes. The fiscal pressure to license homes to receive federal reimbursement has spurred attention to some of the barriers that made licensing difficult for the state in the past, such as staff shortages and high caseloads. Although the requirement for background checks can still delay the licensing process in Illinois, nearly 60 percent of all relative caregivers in the state are currently licensed, compared with only 29 percent of caregivers two years ago.

Texas is another interesting example. There, the number of "verified" (licensed) relative homes has increased significantly from 39 to 737 since GAP was implemented. The licensing standards are the same for relatives and non-relatives, but staff may request variances, which take into account the relationship between the applicant and the child. Some training and capacity standards can also be waived for relatives. The training curriculum, for example, was modified for relatives so they are only required to complete 12 hours instead of 30 hours of training. It is also important to note that the Fostering Connections Act clarified the ability of states to waive non-safety related licensing standards for relative foster homes on a case-by-case basis because it recognized that often certain licensing standards, such as the square footage requirements in the home, may create barriers to approval for prospective foster parents who are related to the child.

There seemed to be an increased awareness among interviewees of the need to license relatives early in the process, in order to avoid delays when a permanency plan is being prepared and guardianship appears to be the best option for a child. Washington state set up a special licensing unit to focus on the unique strengths and benefits of relatives who are caring for children involved with the state's public child welfare system. Agency leadership and staff are trying to be clear to relatives who may be hesitant to be licensed that if they care for a child in foster care the state will be in their lives regardless of whether they are licensed or not. The state is also implementing a unified home study for licensing, during which staff will discuss all permanency options with every out-of-home care provider, including relatives. The same approval standards will be used for foster parents, guardians and adoptive parents.

Engaging staff and stakeholders in GAP implementation

In interviews, state staff were asked about the steps they took to train and prepare agency staff for GAP and how other stakeholders were included in the development and implementation of the GAP program. Not surprisingly, these efforts were most limited in some of the states that had been operating subsidized guardianship programs for some time and felt staff and other stakeholders were already familiar with the program. In other states, however, even some that had been operating guardianship programs, staff saw GAP as an opportunity to reengage staff and the broader community about a commitment to guardianship as part of the permanency continuum.

Several states that were offering guardianship assistance for the first time undertook significant efforts at training and outreach. For example:

- New York started off with a KinGAP teleconference in March 2011 and a special email mailbox was set up for questions regarding GAP. An Administrative Directive was issued that included the relative notification letter and a series of forms including the application, guardianship assistance agreement and certification forms, as well as fair hearing notices. A KinGAP Practice Guide for Caseworkers, aimed at those who will be working directly with KinGAP, describes how to decide if KinGAP is appropriate, explains the steps in a KinGAP case and assists districts and agencies in assessing their implementation readiness. An "iLinc" computer-based KinGAP eligibility course was developed, as was a KinGAP Frequently Asked Questions publication. A forum was held for foster care providers in New York City to explain GAP and answer questions about policies and procedures. The state also developed helpful materials for kin and for youth to compare KinGAP with adoption and foster care and to learn about its benefits. The state Office of Children and Families Services also worked closely with the Office of Health to ensure Medicaid coverage for non Title IV-E children, as well as Title IV-E eligible children, receiving guardianship payments. Efforts have been made to ensure that all local social service districts know about the children's eligibility for Medicaid as well as to facilitate the continuation of Medicaid when children in guardianships move in and out of the state. Special materials were developed for the Department of Health on Medicaid coverage for Title IV-E eligible and non Title IV-E eligible children.

- Texas set up an on-line training program for its Department of Family and Protective Service (DFPS) staff. It initially trained state office and regional leadership staff, then expanded to regional kinship staff and foster home development staff. It created a website for the public with information about the Fostering Connections Act and has worked closely with the legislature, the legislative budget board and with the Texas Court Appointed Special Advocate (CASA) Program and the Permanent Judicial Commission for Children, Youth and Families to train CASAs, attorneys and judges.

- Michigan sent letters to all county offices and private agencies describing the new requirements, released publications and hosted several webinars to reach staff and court personnel. Michigan thought it was critical to engage the courts and other kinship advocates. Their State Court Administration Office also conducted a webcast before GAP was implemented and posted the policy and other handouts online for others to reference. The state also engaged advocates at the Kinship Care Resource Center, a statewide program authorized through the School of Social Work at Michigan State.

Other states conducted onsite and teleconference training. Some asked all workers carrying cases and their supervisors to participate. Idaho and several other states reached out to foster care licensing staff so they could share information about the program up front with foster parents and potential guardians. In several

states, a strong case was made for close follow-up with workers after the training. Illinois established a Central Advocacy Office where people can call with questions about KinGAP. The state also emphasized the need for a champion for guardianship policies in each region. Other states emphasized the importance of having guardianship experts available to consult with staff. Links to all these and other useful training and implementations materials are included in the state narratives in Appendix I.

Montana actually pushed back full implementation of GAP by a few months to ensure all field staff were properly trained. During that time, it also conducted training with CASAs and other court officials. Work continues to help staff understand how to ensure that guardianship is the appropriate option for a child. The state wants to encourage staff to recognize guardianship as an available option for ensuring permanent families for children.

Montana has also been doing special outreach to tribes, by including them in the state training webinars and doing onsite training. Only three out of the seven tribes participated in Montana's previous subsidized guardianship waiver program; however, since implementation of GAP, all seven tribes in Montana have state/tribal agreements. In South Dakota, where GAP is just getting underway, the Indian Child Welfare Act specialist and Foster Care/Kinship specialist will conduct special trainings with the tribes.

Several states engaged foster and adoptive parents and the kinship care community. However, many of those states already operating guardianship programs did not because they believed these stakeholders were already familiar with the program and viewed GAP as just a new funding source for their ongoing support for relative guardians. Some states that reached out to stakeholders believed it was important to do separate targeted training with different groups given their separate interests, but others believed that all stakeholders should be present at the same training so they could understand the specifics of the program, including its benefits and limitations.

In Louisiana, planning meetings were held with judges; attorneys for birth parents, children and kinship caregivers; the Grandparents Raising Grandchildren Council; the Law Institutes' Children's Code Committee; the Louisiana State University Law School; mental health attorneys; and tribal members. Vermont also convened a Subsidized Permanent Guardianship Subcommittee, consisting of a parents' attorney, juvenile defenders, the Department of Children and Families Adoption Chief, and the Department of Children and Families Deputy Commissioner, a judge, a legislator, and several local non-profits. Idaho used the statewide foster care conference held each spring as an opportunity to discuss the program with resource families. Idaho also made sure that the trainers for the Parent Resources for Information, Development, and Education (PRIDE) foster parents had information about GAP.

Washington state is sharing information about GAP through its Department of Social and Health Services (DSHS) Statewide Kinship Work Group, which includes staff from the Children's Administration, other state agencies including Aging and Disability Services Administration, Economic Services, Department of Health, and Department of Early Learning, and community-based agencies that closely collaborate on kinship issues. Washington also connected GAP to its eight-and-a-half full-time Kinship Navigators who cover 30 of the state's 39 counties and help kinship care families in and out of the child welfare system connect to the supports they need. The Rhode Island Foster Parent Association received a Family Connection Grant for a Kinship Navigator Program that helps to educate kinship families about the guardianship option. The Grand Divas, a group of kinship caregivers in Rhode Island, also provide support to kinship families and educate them about guardianship.

Challenges in Implementation

When interviewers asked state staff and stakeholders about challenges faced in implementing GAP, a number of challenges emerged:

- **Demystifying guardianship as a permanency option.** Texas talked about the importance of "demystifying" guardianship; other states raised the same challenge. However, a number of states noted there was not enough time, given other demands on staff, to familiarize staff or caregivers with guardianship and its differences from other permanency options. One state said stakeholders sometimes found it difficult to comprehend the differences between guardianship with and without assistance attached. Another state expressed concern that guardianship was not really permanency when the birth parent could petition to regain custody, a fact that adds to the confusion in seeing guardianship as a permanency option. In another state, there was concern at first among some staff that relatives could "sit on the fence" and keep children in a quasi-permanent state. Work still needs to be done.

- **Finding time to familiarize all staff with GAP and run the program smoothly.** At least one state raised the need to ensure that staff at the front and back ends of the system are adequately trained about guardianship, but noted that this is challenging when front line staff already are overwhelmed by multiple demands. Another state noted time as the biggest challenge – the number of staff assigned to the program is very limited and revising forms, training staff and implementing new eligibility procedures are all challenging and time consuming.

- **Tracking the programmatic and fiscal impact of GAP.** Little formal tracking was being done at the time of the interviews. However, states seemed interested in what was happening to individual children, what patterns there were, and what impact GAP and the state-funded guardianship programs were having on other parts of the child welfare system. On a related note, a number of states were unable to use the data they did collect to differentiate children eligible for or receiving federally-funded GAP from those receiving state-funded assistance.

- **Aligning different data systems and administrative rules with GAP.** Several states mentioned problems in aligning Statewide Automated Child Welfare Information System (SACWIS) with the new GAP rules. Other states described challenges in working with their Medicaid agencies or offices to make sure GAP children could receive Medicaid. A couple of states were trying to get Medicaid for children in their state-funded guardianship assistance programs.

- **Requiring six continuous months in foster care for GAP eligibility.** Some states believed that reunification and adoption could be ruled out in less time than six months and that it was wrong in those cases to delay permanence. Other states complained that the six month rule created a specific barrier for relatives who did not want to go into the formal child welfare system. On the other hand, some states previously had a requirement of twelve months and wanted to ensure enough time to rule out other permanency options. The Fostering Connections Act does allow states to require children to spend more than six months with a licensed relative in foster care.

- **Requiring relative homes to be licensed.** Some states said the licensing requirement created a specific barrier for adults who did not want to be involved in the child welfare system or for some non-safety reason could not be licensed by their state. They asked for more education about the use of waivers and variances when licensing relatives.

- **Covering non-recurring costs related to guardianship.** A number of states expressed problems with the $2,000 cap in GAP on expenses related to establishing guardianship. Most often the concern raised by states was that guardians normally incurred only minimal costs (especially in states that applied for guardianship for the family) or much lower costs then $2,000 and that the higher cap might result in higher claims. At least one state mentioned that its cap for adoption-related expenses was lower and it wanted the two to be the same. Oklahoma resolved its concern by requiring a written justification and approval for expenses above $500. Missouri, on the other hand, was concerned that the limitation was too low for some families, especially guardians from out of state, and said that it had been told by federal regional office staff that it could not use even state-only funds to pay expenses above $2,000.

- **Limiting GAP eligibility only to a select group of children who have been in foster care.** Several states raised concern that GAP is limited in the number of kinship families it can reach. Community stakeholders believe the federal GAP dollars should be available to a broader group of children raised by guardians and not just to children raised in foster care by certain relative foster parents. Children with relatives in non-Title IV-E eligible foster homes are not eligible for GAP. Neither are relatives raising children to keep them out of foster care. Some states also mentioned that caregivers or potential caregivers aren't always told up front about the limitations in the program.

- **No provision in GAP for coverage of successor guardians.** States that were interested in establishing successor guardian programs that allow the designation of a new guardian should the current guardian no longer be able to continue in that role, were sometimes discouraged from doing so because of the lack of ongoing federal financial assistance. They noted that federal GAP eligibility would not continue automatically for these guardians, as it would for adoptive parents under the federal adoption assistance program.

- **Additional challenges.** Finally, several challenges or barriers came up only once or twice, but they are mentioned here because they seemed to be issues that might be of concern in other states as well. Idaho had issues with caregivers relating to collection of back child support. Sometimes caregivers refused to share information about birth parents and have been uncooperative in helping the agency locate them, although there have been improvements. Another state, where compulsory school attendance ends at age 16, was working to clarify the obligation imposed on guardians by the Fostering Connections Act to ensure that children are enrolled in school.

Lessons Learned

When asked about lessons learned, the state staff interviewed for the GAP implementation survey had a number of recommendations for other states. Some will be especially helpful for states still considering GAP or those that have just applied, although many are helpful for states already in the early stages of implementing GAP or those struggling with specific implementation concerns. The state fact sheets and narratives in Appendix I. also elaborate on many of these.

1. **Build support for the importance of permanent families and relatives for children as a way to build support for GAP.** It is essential to see GAP within the bigger context of permanency and support for kin. Several states emphasized how important it is to improve your kinship system first, or while establishing a guardianship program. Staff have to value kin, understand their unique concerns, be willing to take the extra steps that kinship placement may require, and want to see children gain permanency with kin. This may mean dealing with staff attitudes and values within the agencies, the courts and legal communities first. Help staff to understand the department's philosophy about kin and to reconcile it with

their own beliefs. Interviewees believe it is important to educate staff and stakeholders about the benefits of guardianship as a permanency option and to ensure they understand the differences between guardianship and adoption. At the same time, some states cautioned how important it is to ensure that there is a careful assessment of the appropriateness of guardianship in individual cases and a thorough review of the safety and capacity of the relative caregivers and the presence of the protective factors that are key to the child's well being.

2. **Distribute information about GAP and its benefits early to staff, the courts, state legislators, relative caregivers and other stakeholders and keep them engaged throughout the process.** Those interviewed, state staff and stakeholders, recommend that states begin educating about GAP while they are preparing their GAP plan and waiting for it to be approved. Ensure that agency staff, court staff and other stakeholders get continuous education on GAP. Once engaged, these stakeholders can be effective advocates at family team meetings and other events where planning for the child is being addressed. Specific suggestions include:

    - Centralize assistance on guardianship for staff; designate a kinship contact for follow up.
    - Ensure caseworkers, court staff and families are clear on the differences between the paths to guardianship and adoption.
    - Distribute outreach materials directed at kinship caregivers explaining the legal and financial ramifications of each permanency option.
    - Keep explaining how reunification, guardianship and adoption differ, and the differences between guardianship for children who have been in foster care and guardianship for children who are not in state custody.
    - Include front-line staff in the GAP work throughout development of state policies and procedures.
    - Involve the judiciary as soon as possible to prevent families from being awarded guardianship prior to the families meeting the six-month placement requirement, which would preclude them from entering into the subsidized guardianship agreement and receiving a guardianship subsidy.
    - Bring kinship caregivers and kinship care organizations to the table so they can help the agency plan, gain support for the plan and do the outreach necessary to ensure relative caregivers know about and take advantage of the plan.
    - Engage foster and adoptive parent groups, as they can become strong advocates for the program when they are brought in early.
    - Partner with child advocacy groups to help raise awareness about the issue and assist with implementation.

3. **Be direct with all involved, including birth parents, and especially caregivers and others stakeholders about the limitations of GAP.** Several states recommended using child and family team meetings and other established forums to discuss options with families and prospective guardians. These settings are valuable because they allow families to comfortably ask questions. There is usually a system already in place in these settings to record the results of the discussion. Make sure state agencies are realistic with caregivers about the application process and the time it takes. Inform foster parents and kinship caregivers about specific eligibility requirements. It is easy for stakeholders to be frustrated because not all relatives raising children permanently are eligible for GAP assistance, not even all of those relatives raising children in foster care. In some states foster parents with no prior relationship to a child will be eligible for GAP, in others they will not.

4. **Find ways to promote licensing so it becomes less of a barrier to placing children with relatives.** Build on the experience of Illinois and Texas. Commit the staff resources necessary to get relative homes licensed early in the process, rather than beginning only when guardianship becomes the plan. Streamline systems for background checks and use waivers and variances as appropriate to avoid non safety-related requirements from preventing children from being placed in relatives homes.

5. **Don't try to reinvent the wheel. Look at what other states have done. Follow the Children's Bureau guidance and try to work within processes already in place.** A number of states mentioned how helpful it was to be able to borrow from policies, guidance and materials from other states. Links to useful state materials are included at the end of each state narrative in Appendix I. Contacts for states implementing GAP are in Appendix B. Additional materials for states considering the GAP option are in Appendix D. At the same time, states mentioned the importance of trying to implement GAP within a state's current policy framework so the agency does not have to reorient everyone on every detail of the new plan. For example, a state agency might modify its assessment tool for foster homes so it can be used to both assess the home as a safe and appropriate foster care placement for the child and a permanent placement should the foster parent later choose guardianship.

6. **Capture the information in the state's data system that will be needed to track the impact of GAP and to ensure that those in the program receive all the services and assistance for which they are eligible.** Few of the states interviewed had yet implemented extensive tracking systems to monitor the impact of GAP on children, on permanency and on their state budgets. However, a number emphasized their importance, suggested collecting as much data as possible from the beginning, and emphasized the importance of helping staff understand how valuable such data can be to them. Several states talked about making changes to SACWIS so they could assess whether the timeliness of permanency decisions is impacted by GAP and whether more relatives become licensed foster parents. Other states are tracking age, race/ethnicity, length of time in care, and sibling placements. In New York, the agency must submit data annually to the governor, as well as leaders in the Senate and the Assembly, detailing the implementation and progress of KinGAP. Data required in New York include: the number of children entering KinGAP during the year and since implementation by age; those applications that were denied; the number of fair hearings and their outcomes; changes seen since implementation of KinGAP in the percentage of foster care children adopted, reunified and released to other permanency outcomes; changes since implementation in the percentage of children directly placed with relatives; and changes in the average length of stay for children in foster care.

Conclusion

> *GAP helps children by: enabling them to stay connected to family and to their culture, reuniting them with siblings from whom they were separated, alleviating their concerns about being moved from kin to another foster home, preventing the need to give up on a birth parent by terminating parental rights, maintaining a connection with birth parents with whom they have a relationship, eliminating the need for agency approval to spend the night with a friend or travel out of state, allowing them to apply for a driver's license when they reach age 16, and the list goes on.....*

Making It Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care reinforces, through experiences of jurisdictions implementing the GAP program, the importance of permanent families for children and kin and the role that GAP can play to move children in foster care who cannot return home or be adopted to permanent homes with relative guardians. The findings reported are from interviews with staff from public child welfare agencies in the 30 jurisdictions that as of September 2012 were implementing the Title IV-E Guardianship Assistance Program.

The good news is that even in difficult economic times, more than half the states, eight of which had no prior experience with subsidized guardianship, have implemented help for children because they understand its value to children, even though it means new costs for some of them. Many of the states opting to implement GAP highlighted its benefits in promoting permanency for children and youth in foster care, maintaining family connections, helping sibling groups stay together, and respecting cultural and tribal norms. A number also cited the opportunity for financial benefit in the future as fewer children remain in foster care for long periods of time.

Most of the states that are implementing GAP have also taken advantage of options that increase the reach of subsidized guardianship. All but three, for example, are providing state-funded guardianship assistance to children who are not eligible for the federally-funded GAP program. Twenty-three states and D.C. have taken the option to define "relative" broadly for purposes of eligibility for assistance and to include fictive kin – generally meaning individuals who have a family-type relation with the child or family of the child but who are not related by blood, adoption or marriage. Eighteen states and District of Columbia have taken the option to extend GAP beyond the age of 17. Twenty-two states have availed themselves of the option to offer independent living services and/or education and training vouchers for higher education to youth who leave foster care for guardianship at age 16 or older.

Most states recognize that for GAP to work it must be part of a broader plan to ensure all children in foster care permanent families. Specific attention must be paid to kin not only at the back end of the system when children are preparing to leave foster care but also at the front end when placement is first being considered. The groundwork for guardianship must be laid when a child first comes to the attention of the child welfare system.

To make permanence real for children, agency and court staff and also relative caregivers and foster and adoptive parents must believe in the importance and effectiveness of guardianship assistance as one of the avenues to permanence. GAP is an important piece, but only a piece, of the continuum of family-centered options for children. Continuing efforts to demystify GAP are needed to ensure it is used appropriately and seen as a permanency option when reunification and adoption assistance are not appropriate. Myths about relative placements must be debunked. Broad-based education is essential to ensure as many children as possible benefit from GAP. Education, training, and awareness building for staff and a broad range of stakeholders can help make permanency efforts successful and ensure that GAP is used only when appropriate for individual children.

For kin to become part of the permanency continuum and GAP to be fully utilized there must be more intensive outreach to relative caregivers and potential relative guardians. Relatives must be educated about the child welfare agency's obligation to exercise due diligence to identify and provide notice to adult relatives when a child has been or is being removed from his or her parents' custody and to tell relatives about their right to participate in the care and placement of the child if they choose. Staff must be trained to have conversations about the importance of permanence for children so they can decide, with caregivers, the best permanency options for children in their care. Individual members of the extended family must be called in to assist with decision-making about related children and to better understand the roles they can best play in ensuring permanence for them. Judges and attorneys representing children and parents also must be engaged.

As a group, relative caregivers in states must be involved in the development and implementation of GAP, helped to understand the financial and legal ramifications of guardianship and engaged to help spread the word about the importance of kinship care to children and the opportunities that GAP provides. Older youth who are alumni of kinship care can be important advocates for GAP. Legislative staff, legislators and others involved in the development of budget and policy proposals and reviews also must be engaged.

Next Steps

All states should take full advantage of GAP. A number of states interviewed spoke to the benefits of building on what other states have done. Hopefully this report will help states not yet implementing GAP move ahead and encourage those with GAP programs to increase their outreach efforts, recognizing the benefits to children and the state that can result. Strong involvement of the courts, relative caregivers and other stakeholders is essential to build support for GAP in a state. This report highlights various ways that stakeholder support can help GAP reach more children. Broad enthusiasm for permanent families for children and for GAP can also help build good will for supports in the future for an even broader group of children with relative caregivers in need of permanency support.

States must begin early to conduct data gathering, monitoring and analysis to document how GAP truly impacts permanence for children. These data can help answer a variety of questions: What is the effect of GAP on the length of time children spend in foster care? What is its effect on the reunification and adoption of children in foster care? How many children are exiting foster care to federally-funded GAP? To a state-funded guardianship assistance program? What is the fiscal impact or projected fiscal impact of these changes? When there are savings, how are states taking dollars no longer needed for foster care or guardianship and investing them in other ways to promote the safety, permanence and well-being of children who come to the attention of the child welfare system? Such data can also help predict what the impact might be of broader permanency initiatives. States and relative caregivers together can make the numbers come alive with stories of children who are now in permanent families. There is no better way to dramatize the immense value of permanence for children.

At the policy level, there must be attention to broadening financial support for children placed permanently with kin. Assistance should be provided to more children with relative foster parents and to children whose relatives have stepped in to care for them early and kept them out of foster care. As indicated above, GAP does not currently reach all children in need of permanent placements with relative guardians, often because they do not meet the Title IV-E eligibility requirements. GAP requires that children must be Title IV-E eligible and in licensed foster family homes for at least six continuous months with a prospective relative guardian. GAP funds cannot be used for children in foster care who are not Title IV-E eligible or for children who are being cared for by relatives who stepped in to care for children when their parents were not able to and are preventing them for entering more costly foster care. The reach of GAP should be expanded.

There needs to be increased attention to the licensing of relatives as foster parents and to whether and how it continues to be a barrier to moving children to permanency with relative guardians, and how those barriers can best be addressed. While some states use waivers and variances to reach more children with kin; others never do. Core health and safety protections are essential for relative foster parents, but those should be sufficient.

Federal policy should also provide for the appointment of a successor guardian for a child and allow GAP payments to continue when the guardian appointed for a child dies or is no longer able to serve in that role. There is already a similar provision in federal law for children adopted with federally-supported adoption assistance payments. A successor adoptive parent may assume care of the child and continue to receive adoption assistance payments without reapplying for such assistance. There is no parallel provision in the federal guardianship assistance program.

It has been four years since the Fostering Connections to Success and Increasing Adoptions Act, which established GAP, was enacted. Important progress has been made. Since then, new opportunities for federal child welfare waiver demonstration programs and other federally-supported activities to promote permanence and well-being for children have been established. There is much to build on. We must make all these work for children. Further action is needed now—children have only one childhood. They cannot wait.

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Appendix A. Methodology

In the fall and winter of 2011, the partner organizations involved in this study contacted by email correspondence child welfare directors in each of the 23 states and the District of Columbia that had an approved Title IV-E Guardianship Assistance Program (GAP) by September 2011. The letter served as an introduction to this collaborative project and explained its goals of identifying and sharing information about state approaches to GAP and in facilitating the exchange of information among state child welfare agencies and stakeholders working to promote permanent families for children and youth in foster care. The letter included a request for a phone interview with a child welfare staff member who could provide background and information about the agency's planning and/or implementation efforts related to GAP. The letter described the project's intent to prepare summaries of approved Title IV-E GAP plans and publish them on the www.fosteringconnections.org website, an online resource center that offers tools and information to support the implementation of the Fostering Connections to Success and Increasing Adoptions Act of 2008. Finally, the letter requested copies of the state's GAP policies and other available materials such as training protocols, Guardianship Assistance Agreements, and other tools or forms.

Subsequent to sending the introductory letter to child welfare directors, individuals from the partnering organizations scheduled and conducted phone interviews with state child welfare agency staff, following a common set of interview questions that covered a range of topics, including information about GAP's benefits to children and families, implementation strategies, challenges and opportunities in developing a Title IV-E Guardianship Assistance Program and other topics. Prior to the interview, individuals conducting the interviews reviewed the state's policies and statutes to find basic information about the state's GAP program. Following the initial interview, one or more phone and email exchanges occurred between the state child welfare contact and the interviewer to clarify and confirm information. The interviewer then drafted a written narrative and fact sheet for each state, which were then shared with the interviewee. In some cases, written revisions and corrections were made to the drafts. After further review and editing, state fact sheets and narratives were provided to the interviewees and the states for final review prior to publication. In some states interviews were also held with relative caregivers and other stakeholders. All individuals and organizations involved in the development of the report (see Acknowledgements) were provided an opportunity to review and comment on the report prior to publication.

In the spring of 2012, staff from Child Trends and Children's Defense Fund expanded the project to include the six additional states with more recently approved Title IV-E GAP plans. Outreach and information gathering with these state child welfare agencies followed the same methodology as described above.

The authors of this report are especially grateful to all the state child welfare staff and stakeholders for their time and generosity, and to the interviewers who continued to provide input into the narratives and fact sheets and this final report.

Appendix B. GAP Contacts in State Child Welfare Agencies[2]

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Appendix D. Fostering Connections Kinship Toolkit: Materials to Help States That Are Considering Taking the GAP Option or Are Implementing GAP

Below are selected pieces from the Fostering Connections Kinship Toolkit developed by the Children's Defense Fund and Child Focus that are designed to assist states considering whether to apply for Guardianship Assistance Program (GAP) funding and those engaged in implementation of GAP. It describes how to make the case for the investment and offers resources to help states implement the GAP option. These resources can be found on the FosteringConnections.org website as noted below and also at http://www.childrensdefense.org/policy-priorities/child-welfare/fostering-connections/toolkit.html

Five Key Questions to Assess the Fiscal Impact of the Guardianship Assistance Program, available at http://www.fosteringconnections.org/tools/tools_analysis_research/files/Five-Key-Questions-to-Assess-the-Fiscal-Impact-of-the-Guardianship-Assistance-Program.pdf

Making the Case for the Guardianship Assistance Program, available at http://www.fosteringconnections.org/tools/tools_analysis_research/files/Making-the-Case-for-the-Guardianship-Assistance-Program-2.pdf

Sample State Legislation to Implement the Guardianship Assistance Program, available at http://www.childrensdefense.org/child-research-data-publications/data/sample-state-legislation-kinship-guardianship-assistance.pdf

Sample Guardianship Assistance Agreement, available at http://www.fosteringconnections.org/tools/assets/files/Sample-Guardianship-Assistance-Agreement.pdf

Guide to Using the Guardianship Assistance Agreement, available at http://www.fosteringconnections.org/tools/tools_analysis_research/files/A-Guide-to-Using-the-Guardianship-Assistance-Agreement.pdf

Checklist for Guardianship Assistance Program, available at http://www.childrensdefense.org/child-research-data-publications/data/guardianship-assistance-program-checklist.pdf

Appendix E. Eligibility Criteria for the Federal Title IV-E Guardianship Assistance Program (GAP)

Child Eligibility:
(§473(d)(3); P.L. 110-351, §101(b); ACYF-CB-PI-10-01; ACYF-CB-PI-10-11)

- The child has been removed from his or her family's home pursuant to a voluntary placement agreement or as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child's welfare.
- The child is eligible for federal foster care maintenance payments under Title IV-E of the Social Security Act for at least six consecutive months while residing in the home of the prospective relative guardian who was licensed or approved as meeting the licensure requirements as a foster family home.
- Return home or adoption are not appropriate permanency options for the child.
- The child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child.
- If the child is age 14 or older, the child must be consulted regarding the guardianship arrangement.
- Eligibility may not be limited due to the age of a child under 18 years old or to a child's special needs.

Sibling Eligibility:
(§473(d)(3)(B); P.L. 110-351, §101(b); ACYF-CB-PI-08-007; ACYF-CB-PI-10-11)

- Siblings of a GAP eligible child may be placed in the same relative guardianship arrangement if the department and the relative agree on the appropriateness of the arrangement for the siblings, even if the siblings do not meet the eligibility requirements for kinship guardianship assistance payments listed above. Federally supported guardianship assistance payments may be made on behalf of each sibling so placed.

Guardian's Eligibility:
(§471(a)(20)(D); 473(d); P.L. 110-351, §§101(b) & (c)(2)(A); ACYF-CB-PI-08-007; ACYF-CB-PI-10-11)

- The guardian is the eligible child's relative.[3]
- The guardian is a licensed foster parent and approved for guardianship assistance by the department after the guardian has undergone fingerprint-based criminal record checks and child abuse and neglect registry checks and all adults in the guardian's home have undergone child abuse and neglect registry checks;
- The eligible child has resided with the prospective relative guardian in the prospective guardian's residence for at least six months;
- The guardian has a strong commitment to caring permanently for the child; and
- The guardian has obtained legal guardianship of the child after the guardianship assistance agreement has been negotiated and finalized with the department.

[3] Title IV-E does not define relative or require the state to define relative for purposes of GAP. If a state chooses to define relative, it can define relative as a person related by blood, marriage or adoption or a godparent or more broadly to describe a family friend with whom the child has a close relationship

Agency Responsibilities:

(§473(d)(3)(B); P.L. 110-351, §§101(b) & (c)(4)(F); ACYF-CB-PI-10-01; ACYF-CB-PI-10-11)

- Conduct fingerprint-based criminal record checks of the relative guardian and child abuse and neglect registry checks of the relative guardian and all adults in the guardian's home.
- Negotiate and enter into a written, binding guardianship assistance agreement with the prospective relative guardian (and provide a copy of the agreement to the prospective relative guardian prior to guardianship being awarded) that specifies:
    - the amount of the guardianship assistance to be provided under the agreement for each eligible child, which may not exceed the foster care maintenance payment the child received or would have received if he had remained in a foster family home, and 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 that the child and relative guardian will be eligible for under the agreement; (children eligible for Title IV-E GAP are eligible for Medicaid)
    - the procedure by which the relative guardian may apply for additional services as needed;
    - the department 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; and
    - the guardianship assistance agreement shall remain in effect without regard to state residency of the relative guardian;
- Include a description of the following in the child's case plan:
    - the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
    - the reasons for any separation of siblings during placement;
    - the reasons why a permanent placement with a fit and willing relative through a guardianship assistance arrangement is in the child's best interests;
    - the ways in which the child meets the eligibility requirements for a guardianship assistance payment;
    - the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption why adoption is not being pursued;
    - the efforts made by the agency to discuss with the child's parent or parents the guardianship assistance arrangement, or the reasons why efforts were not made;
- Consult with children 14 years and older about the guardianship arrangements;
- Make clear that a child who is eligible for Title IV-E adoption assistance when he or she receives GAP will be eligible for Title IV-E adoption assistance if the child is later adopted by the guardian as if he or she had never been in guardianship.

Appendix F. Selected Federal Programs that Offer Opportunities to Promote Permanent Families with Relatives for Children

The Fostering Connections to Success and Increasing Adoptions Act of 2008 Offers Assistance to States to Help Children Being Raised by Relatives

(P.L. 110-351; ACYF-CB-PI-10-01; ACYF-CB-PI-10-11)

- Federal assistance for states that opt for the Title IV-E Guardianship Assistance Program (GAP)
- Coverage under GAP for siblings even if they are not eligible individually
- Identification of relatives for children about to enter care
- Notice to relatives when a child is about to enter care, with exceptions for situations of family or domestic violence.
- Help to locate relatives through the Federal Parent Locator Service
- Family Connection Grants for kinship navigator programs, intensive family finding activities, family group decision making meetings and residential family substance abuse treatment program, all of which engage family members
- Eligibility for Independent Living Services and Education and Training Vouchers for children who leave foster care after age 16 for kinship guardianship
- Reasonable efforts to place siblings in the same foster care, kinship, or adoptive home or to maintain connections among siblings, unless it would be contrary to their safety or well being to do so
- Assurance that every school-age child in foster care or receiving kinship guardianship or adoption assistance is enrolled full time in school
- Clarification that states may waive non-safety related licensing standards for relative homes on a case-by-case basis

The Child Welfare Waiver Demonstration Program Gives States Flexibility To Do More for Kinship Families

(P.L. 112-34; ACYF-CB-IM-12-05)

- Federal government may provide up to ten states a year with waivers to promote permanency for children including expanded activities to help keep children safely at home, return home or move to adoption or guardianship

The Federal Adoption Assistance Program Promotes Adoption for Certain Children with Special Needs by Relatives and Others

(§473(d)(3)(B); P.L. 110-351, §402)

- Federal government provides federally-supported adoption assistance payments to Title IV-E eligible children with special needs

Appendix G. States that Offer Additional Aid to Youth Who Enter Guardianship After Age 16

State	Educational Training Vouchers	Independent Living Services
Alabama	X	
Alaska	X	X
Arkansas	X	X
California	X	X
Colorado	X	X
Connecticut		
District of Columbia	X	X
Hawaii	X	X
Idaho	X	X
Illinois	X	
Louisiana	X	X
Maine	X	X
Maryland	X	
Massachusetts	X	
Michigan	X	
Missouri	X	X
Montana	X	X
Nebraska	X	X
New Jersey	X	X
New York	X	X
Oklahoma	X	X
Oregon	X	X
Pennsylvania	X	X
Rhode Island		
South Dakota	X	X
Tennessee	X	X
Texas	X	
Vermont	X	X
Washington	X	X*
Wisconsin	X	X

* Youth are eligible for Independent Living Services as long as the youth was dependent and in foster care through the state or tribe for at least 30 days after turning age 15.

Appendix H. Approval and Effective Dates for States Implementing Title IV-E GAP

State	Approval Date*	Effective Date**
Alabama	April 2011	October 2010
Alaska	June 2011	October 2010
Arkansas	December 2011	November 2011
California	November 2011	January 2011
Colorado	November 2010	October 2009
Connecticut	November 2011	July 2009
District of Columbia	August 2010	January 2009
Hawaii	June 2011	April 2011
Idaho	July 2011	October 2010
Illinois	June 2010	November 2009
Louisiana	October 2011	October 2010
Maine	December 2010	January 2009
Maryland	March 2011	October 2009
Massachusetts	September 2011	July 2009
Michigan	January 2011	October 2009
Missouri	April 2011	January 2009
Montana	May 2010	October 2009
Nebraska	May 2011	October 2009
New Jersey	June 2010	October 2009
New York	April 2011	October 2010
Oklahoma	January 2012	July 2010
Oregon	June 2010	January 2009
Pennsylvania	September 2009	April 2009
Rhode Island	July 2009	January 2009
South Dakota	May 2011	January 2010
Tennessee	November 2009	April 2009
Texas	April 2011	October 2010
Vermont	February 2012	July 2010
Washington	July 2011	October 2009
Wisconsin	November 2011	August 2011

* Date of the Department of Health and Human Services' letter approving the state's Title IV-E Guardianship Assistance Program state plan amendment.

** Date back to which states can claim federal reimbursement for children eligible for the Title IV-E Guardianship Assistance Program.

Appendix I. Title IV-E GAP Fact Sheets and Narratives for State Surveyed

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Alaska 41
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Maryland 80
Massachusetts 83
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Missouri 90
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ALABAMA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Kinship Guardianship Program

Previous Subsidized Guardianship Program: No
Primary Funding: N/A

Approval Date: April 2011
Effective Date: October 2010

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "An individual who is legally related to the child by blood, marriage or adoption within the fourth degree of kinship, including only a brother, sister, uncle, aunt, first cousin, grandparent, great grandparent, great aunt, great uncle, great-great grandparent, niece, nephew, grand niece, grand nephew, or a stepparent."

Alabama Policy Manual on Permanency & Concurrent Planning § H: Kinship Guardianship Program Requirements, citing Alabama Stat. § 12-15-301(11)

Definition of Relative Includes Fictive Kin: No

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that require continued assistance and also for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: Equal to the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Juvenile Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: No

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: No
How Eligibility Differs from Title IV-E GAP: N/A
Medicaid or CHIP Eligibility is Automatic: N/A

GAP POLICIES AND RESOURCES

State Statute: Ala. Code Ann. § 38-12-2 and Ala. Code Ann. § 12-15-301, available at http://alisondb.legislature.state.al.us/acas/ACASLoginie.asp

State Guardianship Policy: Alabama Policy Manual on Permanency & Concurrent Planning, available at http://www.nrcpfc.org/fostering_connections/state_gap/AL%20GAP%20policy%20-%20Permanency%20Concurrent%20Planning%208-2010.pdf

ALABAMA
Title IV-E GAP Narrative

Overview

Alabama's Title IV-E GAP, known in the state as the Kinship Guardianship Program, was approved by HHS in April 2011 and was effective as of October 2010. Alabama did not have any subsidized guardianship program prior to implementation. The state agency believes that GAP is and will continue to be an opportunity to achieve permanency for its children. Alabama's state code specifically addresses the reasons for creating this program, including: "an increasing number of relatives, including grandparents, find themselves wanting to provide care to related foster children on a long-term basis to prevent the children from remaining in foster care with unrelated caregivers yet these relatives are either unable or unwilling to seek termination of the legal relationships between the parent and the child, particularly when it is the caregiver's own child or sibling who is the parent."[1] The Kinship Guardianship Program is only available for Title IV-E eligible children.

Benefits of GAP

Impact on Children and Families
Only two children in Alabama have been approved for the Kinship Guardianship program thus far. There are approximately seven more children in the state that the agency believes will be approved in the next few months. The impact of GAP on children and families has been small so far, given the small number of children who have gone through the process and because Alabama had no prior subsidized guardianship program. However, it is anticipated that the numbers will grow as more people learn about the program. When Alabama was considering the GAP option, it was estimated that about 190 children would be eligible for the program. The state also determined that participation in GAP would be cost neutral.

Selected Characteristics of GAP

Definition of "Relative"
For Title IV-E GAP in Alabama, "relative" is defined as

> "an individual who is legally related to the child by blood, marriage or adoption within the fourth degree of kinship, including only a brother, sister, uncle, aunt, first cousin, grandparent, great grandparent, great aunt, great uncle, great-great grandparent, niece, nephew, grand niece, grand nephew, or a stepparent."[2]

This definition of relative is identical to the definition used to notify relatives when a child is removed from his or her home. The state decided to use the same definition to maintain consistency.

Determining that Return Home and Adoption are Not Appropriate Options
In Alabama, the determination that reunification and adoption are not appropriate permanency options is part of the Individualized Service Plan (ISP) process. The ISP must document the steps that the caseworker has taken to determine that adoption and reunification are not appropriate. It must also describe why kinship guardianship is in the child's best interest. Efforts to discuss adoption with the prospective guardian and the reasons why adoption was not pursued must also be documented.

Implementing GAP

Training Strategies
Alabama used PowerPoint trainings for agency staff, which worked well. There has been no outreach or training with American Indian tribes.

Methods for Tracking Benefits
Alabama is revising its SACWIS system to generate reports on children who are eligible for GAP, pending cases, annual review dates, and extension dates for youth who are eligible beyond their eighteen birthday. The state will also be able to track for children who enter GAP their length of stay, race/ethnicity, and other socio-demographic characteristics of children and their birth families.

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[1] Alabama Stat. § 38-12-31-2
[2] Alabama Policy Manual on Permanency & Concurrent Planning § H: Kinship Guardianship Program Requirements, citing Alabama Stat. § 12-15-301(11)

Impact of GAP Implementation on Licensing Relatives
GAP implementation has not resulted in any revisions to Alabama's licensing policy. In order to qualify for the Kinship Guardianship Program, a relative must be a fully licensed foster parent. At the time this interview was conducted, at least two relative caregivers requested foster care licensure for purposes of taking part in the guardianship assistance program.

Stakeholder Involvement
The Alabama Foster and Adoptive Parents Association is involved in the implementation of GAP. The provider community and county staff have also been involved.

Challenges and Opportunities

Due to a tight timeframe to get its kinship guardianship legislation developed, stakeholders (aside from legislators) received relatively little information about GAP before it was enacted. Therefore, the program was slow in building momentum after enactment. Revising the SACWIS system to accommodate GAP has also been a challenge, resulting in some glitches that have slowed case processing.

There have been some misunderstandings of the GAP policy at the county level. There was no subsidized guardianship program in place prior to the implementation of Title IV-E GAP. In addition to the newness of the program, the policy is rather complex. Additional training is needed in the state.

Advice to Other States

Alabama believes it is important to lay the groundwork for GAP with external stakeholders as early as possible. It also stresses the importance of thinking through as many case-specific issues as possible before the program is implemented. For example, states should consider issues like whether or not half-siblings with no biological connection to a relative caregiver are eligible for guardianship assistance. The earlier these issues are resolved, the smoother the implementation process will go.

Helpful Policies and Implementation Tools

- Alabama Stat. § 38-12-30, available at http://alisondb.legislature.state.al.us/acas/CodeOfAlabama/1975/coatoc.htm
- Alabama Policy Manual on Permanency & Concurrent Planning, available at http://www.nrcpfc.org/fostering_connections/state_gap/AL%20GAP%20policy%20-%20Permanency%20Concurrent%20Planning%208-2010.pdf
- State of Alabama, Department of Human Resources, Office of Permanency: Alabama Kinship Guardianship Agreement, available at http://www.nrcpfc.org/fostering_connections/state_gap/Alabama%20Kinship%20Guardianship%20Agreement.pdf
- PowerPoint on policy, available at http://www.fosteringconnections.org/tools/assets/files/KinGuardianship-powerpoint2011rev-AL.ppt

GAP Contact in Alabama

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Date of Interview with Alabama: November 2011

ALASKA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Title IV-E Guardianship Assistance Program

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: June 2011
Effective Date: October 2010

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "Related to a child by blood, marriage, fictive kin, or tribal custom." "'Fictive kin' means an individual who is unrelated by birth or marriage, but has an emotionally significant relationship with a child that has the characteristics of a family relationship."

Alaska Admin. Code tit. 7 § 53.299

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: No

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: No
Provision for Successor Guardian: No

Court Granting Guardianship: Superior Court (same court that handles state custody)

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments.
Medicaid or CHIP Eligibility is Automatic: No

GAP POLICIES AND RESOURCES

State Statute: Alaska Stat. § 25.23.200, available at http://www.legis.state.ak.us/basis/folio.asp

State Guardianship Policy: Alaska Office of Children's Services Manual 6.2.2.6.B: Guardianship Subsidies, available at http://www.nrcpfc.org/fostering_connections/state_gap/Alaska%20CPS%20Manual%20Guardianship%20Subsidies.pdf; 6.2.1.3: Federal Support – Title IV-E and Medicaid

ALASKA
Title IV-E GAP Narrative

Overview

Alaska had a subsidized guardianship program for more than 20 years before it submitted its GAP state plan amendment. It viewed the availability of new federal funds as a way to help more children reach permanency through guardianship. Alaska's GAP state plan amendment was approved by HHS in June 2011, effective October 1, 2010. Implementation of Title IV-E GAP began when the state's policy and administrative code relating to the program became effective.

Alaska's original subsidized guardianship program began in the early 1990s using state general funds and differed in several ways from the new Title IV-E Guardianship Assistance Program. The original program required that a child meet the definition of "hard-to-place" in order to be eligible for a subsidy. "Hard-to-place" was defined as "a minor who is not likely to be adopted or to obtain a guardian by reason of physical or mental disability, emotional disturbance, recognized high risk of physical or mental disease, age, membership in a sibling group, racial or ethnic factors, or any combination of these conditions."[1] The previous program also did not require the child to be in state care for a particular number of months to be eligible for the subsidy, nor did it require that the prospective guardian be a relative of the child.

Benefits of GAP

Impact on Children and Families
Alaska law requires that for all adoptions and guardianship assistance agreements, including Title IV-E guardianship assistance, the child meet the definition of "hard-to-place" in order to be eligible for a subsidy. While the state administrative code seems to allow relief from the "hard-to-place" requirement for GAP eligible children, the interviewee noted that this requirement has not acted as a barrier for GAP because children for whom reunification and adoption are ruled out are considered "hard-to-place."

As of March 31, 2012, there were 149 children and youth receiving guardianship assistance subsidies. Eight of the 149 children became eligible for the Title IV-E Guardianship Assistance Program when implementation began. The remaining 141 children are receiving state-funded guardianship assistance. Children are eligible for GAP until age 18 and may also receive continuing Medicaid when they leave the program for up to 12 months or until they reach age 19.

Selected Characteristics of GAP

Definition of "Relative"
When Alaska submitted its GAP plan amendment, it broadened the definition of "relative" to include "fictive kin." Alaska's administrative code includes the following definition of relatives eligible for relative guardianship:

> "related to a child by blood, marriage, fictive kin, or tribal custom; for purposes of this paragraph, 'fictive kin' means an individual who is unrelated by birth or marriage, but has an emotionally significant relationship with a child that has the characteristics of a family relationship."[2]

Fictive kin may include anyone with an emotionally significant relationship with whom the child has lived for at least six months, including foster parents.

Determining that Return Home and Adoption are Not Appropriate Options
Alaska's policy requires that adoption and reunification be ruled out as permanency options. The permanency planning conference must also recommend guardianship as the permanent goal for the child, instead of adoption, and recommend a guardianship subsidy to meet the ongoing special needs of the child.

After the permanency planning conference recommends a goal of guardianship and the need for a guardianship subsidy, the Regional Adoption Specialist must document in writing why adoption or reunification is not in the child's best interest and why guardianship is the appropriate permanency goal for the child and in the child's best interest. An additional review and approval by the Agency Director is required for a child under the age of 10 to be eligible for a subsidy. The state agency wants documentation to be very clear that return home and adoption have been ruled out for these younger children.

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[1] Alaska Stat. § 25.23.240, available at http://touchngo.com/lglcntr/akstats/Statutes/Title25/Chapter23/Section240.htm
[2] Alaska Admin. Code tit. 7 § 53.299, available at http://www.nrcpfc.org/fostering_connections/state_gap/Alaska%207AAC53__REGULATIONS-Article_2.__Subsidized_Adoption_and_Subsidized_Guardianship_Payments..pdf

Implementing GAP

Training Strategies
Alaska had a state subsidized guardianship program that began in the 1990s, so extensive training on Title IV-E GAP was not necessary since many of its staff were already familiar with guardianship.

Methods for Tracking Benefits
Alaska has not yet established a system to track the data specific to children placed in guardianship (i.e. age, race/ethnicity, length of time in care). It has also not yet completed a fiscal analysis of the impact of the new guardianship assistance program.

Stakeholder Involvement
Alaska engaged many stakeholders when it first implemented its guardianship program in the 1990s. It continues to engage stakeholders today at a less frequent and rigorous level. A majority of the implementation work for GAP has been an internal process within Alaska's Department of Health and Social Services. For example, specific work was done with the Medicaid agency to ensure that the state administrative code for Medicaid was amended to expand Medicaid eligibility to include children eligible for Title IV-E guardianship assistance. Alaska's Medicaid agency is located within the same department as the Office of Children's Services, which made the coordination between the two agencies easier as they worked to implement the changes.

Challenges and Opportunities

One challenge Alaska faced during implementation of GAP was amending its administrative code to include the requirements of the federal program. Although Alaska's GAP state plan amendment was approved by HHS in June 2011, implementation of GAP was delayed due to this challenge. Changes were required to Alaska's Medicaid program to ensure Medicaid eligibility for children receiving Title IV-E guardianship assistance, and eligibility requirements for Title IV-E guardianship assistance needed to be added to the administrative code. Children in the state-funded guardianship assistance program are not automatically eligible for health insurance. This has been the case ever since the state-funded guardianship assistance program was implemented. Some of the children receiving state-funded guardianship assistance are eligible to use the U.S. Public Health Service (Alaska Area Native Health Service, or "AANHS") or the Indian Health Service (IHS), but this has no connection with their eligibility for guardianship assistance.

A second challenge, which is ongoing for the state, is extending guardianship assistance to youth beyond age 17. This extension would require changing its state statute, which was not feasible at the time the GAP state plan was being reviewed.

Advice to Other States

Alaska recommends states be efficient in amending state administrative codes to reflect the changes required by Title IV-E GAP. The process for amending the state administrative code took longer than anticipated, which resulted in delayed implementation of GAP.

Helpful Policies and Implementation Tools:

- Alaska Admin. Code tit. 7 § 53.226 at page 27, available at http://www.nrcpfc.org/fostering_connections/state_gap/Alaska%207AAC53__REGULATIONS-Article_2.__Subsidized_Adoption_and_Subsidized_Guardianship_Payments..pdf
- Alaska Office of Children's Services Policy Manual 6.2.2.6.B: Guardianship Subsidies, available at http://www.nrcpfc.org/fostering_connections/state_gap/Alaska%20CPS%20Manual%20Guardianship%20Subsidies.pdf
- Alaska Department of Health and Social Services Office of Children's Services Title IV-E Guardianship Subsidy Agreement (06-9779A), available at http://www.nrcpfc.org/fostering_connections/state_gap/Alaska%20Title_IV-E_Guardianship_Subsidy_Agreement.pdf
- Alaska Office of Children's Services Website: "What is Guardianship?" available at http://hss.state.ak.us/ocs/Adoptions/aboutGuardianship.htm
- Alaska Office of Children's Services Policy Manual 6.2.1.3: Federal Support – Title IV-E and Medicaid, available at http://www.fosteringconnections.org/tools/assets/files/Alaska-CPS-Manual-6.2.1.3.doc

GAP Contact in Alaska

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Date of Interview with Alaska: January 2012

ARKANSAS
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Subsidized Guardianship Program

Previous Subsidized Guardianship Program: No
Primary Funding: N/A

Approval Date: December 2011
Effective Date: November 2011

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "A person within the fifth degree of kinship by virtue of blood or adoption. The fifth degree is calculated according to the child."

(Division of Children and Family Services, Policy and Procedure Manual.) Policy VIII-L: Subsidized Guardianship.

Definition of Relative Includes Fictive Kin: No

Age Child Must be Consulted about Guardianship: Age 12 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that require continued assistance and also for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: Permitted, but automatic transfer of guardianship is not guaranteed

Court Granting Guardianship: Juvenile Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP:
The child is not eligible for Title IV-E foster care payments but all other GAP criteria are met and adequate state funding is available.
Medicaid or CHIP Eligibility is Automatic: No

GAP POLICIES AND RESOURCES

State Statute: Ark. Code Ann. § 9-8-204, available at http://www.lexisnexis.com/hottopics/arcode/Default.asp

State Guardianship Policy: Division of Children and Family Services Policy & Procedure Manual, Policy VIII-L: Subsidized Guardianship, available at http://humanservices.arkansas.gov/dcfs/dcfsDocs/Master%20DCFS%20Policy.pdf

ARKANSAS
Title IV-E GAP Narrative

Overview

The Subsidized Guardianship Program in Arkansas, funded through Title IV-E, is the state's first guardianship assistance program. It was approved by HHS in December 2011 and was effective as of November 2011. Staff at the state's Division of Children and Family Services (DCFS) have worked hard to build a strong foundation for this new form of permanency. Through intensive training, stakeholder involvement, and targeted messaging, DCFS has been raising awareness about the program and clarifying policies and procedures.

When the Fostering Connections Act created this option for states, Arkansas decided to pursue GAP to provide another permanency option for children and youth, so that more children could transition out of foster care and into permanent homes. Arkansas particularly anticipates older youth benefiting from the new guardianship program. Many older youth in the state do not want to be adopted because it severs familial ties, but also do not want to linger in foster care until they age out. Although the youth's wishes are not the only factor to consider when ruling out adoption, the Subsidized Guardianship Program is a permanency option for them when appropriate. Arkansas also provides subsidized guardianship using state funds for children who are not Title IV-E eligible.

Benefits of GAP

Impact on Children and Families
Because Arkansas did not have a previous subsidized guardianship program and just began implementing its new program in November 2011, the state is very much in the beginning stages of implementation. A set of siblings were the first to benefit from subsidized guardianship in late June 2012. Several more potential guardianships are under review. DCFS will have a better idea of the impact of GAP on families once the program is more established and reaches more children. It anticipates that subsidized guardianship will be a great resource, particularly for older children.

Selected Characteristics of GAP

Definition of "Relative"
For the purpose of the Subsidized Guardianship Program, defines "relative" as:

> "A person within the fifth degree of kinship by virtue of blood or adoption. The fifth degree is calculated according to the child."[1]

Fictive kin are not included within the definition of "relative."

Determining that Return Home and Adoption are Not Appropriate Options
Arkansas conducted extensive trainings for staff about how to determine that return home and adoption are not appropriate permanency options. Because the idea of guardianship and where it fits within the range of permanency options is so new in Arkansas, trainings covered examples of when guardianship is appropriate and how to document the steps taken to rule out reunification and adoption. Arkansas' policy requires that caseworkers document in writing the steps taken and efforts made to discuss adoption with the relative foster parent. Arkansas has enhanced its case management system, the Children's Reporting and Information System or CHRIS, to assist in the documentation process.

In addition to the steps taken by individual caseworkers, supervisors and a permanency specialist must review the documentation and subsidy application. Finally, the Subsidized Guardianship Oversight Committee audits the guardianship application process to ensure that both adoption and reunification have been genuinely considered before guardianship is decided upon.

Implementing GAP

Training Strategies
Since guardianship assistance is new in Arkansas, significant training has taken place on the value and purpose of the subsidy program as well as the specific processes and paperwork involved for the subsidy. DCFS Central Office staff have traveled around the state to do in-person half-day trainings for caseworkers, resource workers, adoption specialists, and supervisors. Supervisors have been kept apprised of implementation tools and policies at regular meetings.

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[1] Division of Children and Family Services Policy & Procedure Manual, Policy VIII-L: Subsidized Guardianship.

DCFS is also in the process of creating other messaging about the Subsidized Guardianship Program. It includes communicating about the program in the staff newsletter, creating a brochure for staff and families about the program and designing a flowchart to assist staff in navigating permanency options.

Stakeholder Involvement
Several stakeholders were involved in carefully planning and implementing Arkansas' new permanency program. Initial meetings to discuss the program brought together agency managers, staff from the agency's financial section, court representatives, and the Arkansas Advocates for Children and Families, a nonprofit advocacy group. The agency also received technical assistance from the Children's Defense Fund. This group worked together to discuss and build policies for each stage of the guardianship process.

Tribal Involvement
There are no federally-recognized tribes in Arkansas.

Challenges and Opportunities

The main challenge for Arkansas was educating agency staff about what a subsidized guardianship program means for children and families within the range of available permanency options. Historically, guardianship (i.e., standard guardianship, which is not supported by subsidy) has rarely been used in the Arkansas child welfare system, so staff are unfamiliar with how to properly approach and utilize this option. In addition, some were initially concerned that guardianship was not a true permanency option. They were concerned it would allow relatives to "sit on the fence" and keep children in a quasi-permanent state rather than allowing them true permanency. The state had to educate staff about the benefits of guardianship and how it could be a true route to permanency. The agency had to train staff to think of guardianship as one of an array of permanency options, not a whole separate program and remind them it could only be considered after reunification and adoption were determined not appropriate for the child. It had to teach staff to consider first whether guardianship is in the best interest of the child and rule out adoption and reunification. After that determination, the discussion of whether or not there would be a subsidy could begin.

Advice to Other States

Arkansas is excited about the children who will potentially benefit from this program and encourages other states to go through the process. It also encourages states to partner with state advocacy groups like Arkansas Advocates for Children and Families to raise awareness about the issue and help with implementation.

Helpful Policies and Implementation Tools

- Division of Children and Family Services Policy & Procedure Manual, Policy VIII-L: Subsidized Guardianship, available at http://humanservices.arkansas.gov/dcfs/dcfsDocs/Master%20DCFS%20Policy.pdf
- Ark. Code Ann. § 9-8-204, available at http://www.lexisnexis.com/hottopics/arcode/Default.asp
- Subsidized Guardianship Frequently Asked Questions, available at http://humanservices.arkansas.gov/dcfs/dcfsDocs/FAQ%20Subsidized%20Guardianship.pdf
- Finding More Homes for Foster Children, Arkansas Foster Care System Implements a New Program: Subsidized Guardianships for Children Placed in Relative Foster Homes. Policy brief by the Arkansas Advocates for Children and Families, available at http://www.aradvocates.org/assets/PDFs/Child-Welfare/CW-AACF-Guardianship-2011-web.pdf

GAP Contact in Arkansas

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Date of Interview with Arkansas: June 2012

CALIFORNIA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Kinship Guardianship Assistance Payment Program (Kin-GAP)

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: November 2011
Effective Date: January 2011

State/Tribal Title IV-E GAP Agreement: Yes

ELIGIBILITY FOR GAP

Definition of Relative: "An adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of those persons even if the marriage was terminated by death or dissolution; (2) An adult who meets the definition of an approved, nonrelated extended family member, as described in Section 362.7; (3) An adult who is either a member of the Indian child's tribe, or an Indian custodian, as defined in Section 1903(6) of Title 25 of the United States Code; (4) An adult who is the current foster parent of a child under the juvenile court's jurisdiction, who has established a significant and family-like relationship with the child, and the child and the county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1 identify this adult as the child's permanent connection.

Section 362.7: "A "nonrelative extended family member" is defined as any adult caregiver who has an established familial or mentoring relationship with the child. The county welfare department shall verify the existence of a relationship through interviews with the parent and child or with one or more third parties. The parties may include relatives of the child, teachers, medical professionals, clergy, neighbors, and family friends."

§ 11385-11393, available at http://www.leginfo.ca.gov/calaw.html

*New definition signed by governor on September 30, 2012

Definition of Relative Includes Fictive Kin: Yes. (Federal approval pending)

Age Child Must be Consulted about Guardianship: Age 12 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that warrant continued assistance and phased in to age 21 by 2014 for youth 16 or older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: May not exceed the payment the child would have received in foster care.

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Every two years
Provision for Successor Guardian: No (although state-funded program does provide for successor guardian)

Court Granting Guardianship: Juvenile Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP:
The child is not eligible for Title IV-E foster care payments and the guardianship agreement does not have to be signed before the guardianship is finalized.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Cal. [Welf. & Inst.] Code § 11360-11376, and § 11385-11393, available at http://www.leginfo.ca.gov/calaw.html

State Guardianship Policy: Department of Social Services All County Letter No. 11-15, available at http://portal.countyofventura.org/portal/page/portal/VCHSA/ILP/ExtendedFosterCare/ACL11_15_Kin_GAP.pdf

CALIFORNIA
Title IV-E GAP Narrative

Overview

California has a long history of offering guardianship assistance to relatives through its Kinship Guardianship Assistance Payment (Kin-GAP) Program. Originally established by Senate Bill 1901, the program became available on January 1, 2000 and was paid for with state funds. California received HHS approval of its Title IV-E GAP plan (also called Kin-GAP) in November 2011 and it was effective as of January 2011. California continues to provide parallel state-funded Kin-GAP to children who do not qualify for Title IV-E payments.

California decided to pursue Title IV-E GAP because of the many benefits that come with the program. There is a financial benefit to the state, as many of the previously state-funded guardianships will be converted into federally-funded guardianships. Also, California finds the new eligibility requirements streamline the process and are more "guardian friendly" than the state's previous guidelines. For example, guardians can now continue receiving the subsidy when they move out-of-state and can renegotiate their subsidy payment amounts based on the changing needs of the children and the circumstances of the guardians. Kin-GAP is particularly beneficial for older youth (eligible youth may receive a subsidy up to age 21) and large sibling groups (only one sibling is required to meet the Title IV-E eligibility requirements).

Benefits of GAP

Impact on Children and Families
As of June 2012, there were 5,852 Title IV-E funded Kin-GAP cases and 9,848 state-funded Kin-GAP cases.

Because Kin-GAP has been such a strong permanency option in California since 2000, participation in Title IV-E GAP has not caused a significant increase in numbers of participating families. However, the agency believes there is a 20 to 30 percent decrease in state funds used for guardianship assistance payments because the federal dollars are offsetting the need for state funds.

Selected Characteristics of GAP

Definition of "Relative"
For purposes of the Kin-GAP program, "relative" is defined as

> "An adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is proceeded by the words "great," "great-great," or "grand," or the spouse of any of these persons, even if the marriage was terminated by death or dissolution."[1]

New legislation signed by the governor on September 30, 2012, significantly broadens the definition of "relative" to include "fictive kin," members of a child's tribe and current foster parents.

Determining that Return Home and Adoption are Not Appropriate Options
Kin-GAP has been a permanency option for over a decade in California. The previous program required that reunification and adoption be ruled out, so caseworkers in the state are already knowledgeable about and comfortable with the process. Both return home and adoption are frequently discussed in court and in meetings with the family and the caseworker. The state also requires regular interagency meetings and reviews during which these options are discussed. The guardianship study/assessment must also document that return home and adoption are not appropriate permanency options.

Implementing GAP

Training Strategies
Some aspects of training are easy in California because of the state's long tradition of offering guardianship assistance. Caseworkers are comfortable with the idea of guardianship and understand where it fits in the array of permanency options.

[1] Department of Social Services, Kinship Care Webpage, available at http://www.childsworld.ca.gov/pg1351.htm

The implementation of Title IV-E GAP required some changes to the previous program, which in turn required additional training. The Department of Social Services (DSS) provided information to counties that detailed the new program's expansions and requirements. Included were sample letters for guardians whose payments would now be funded by Title IV-E and an Agreement Amendment to be signed for federal program eligibility. DSS has a Kinship Care Policy contact who provides technical assistance and notices of changes to the counties.

Impact of GAP Implementation on Licensing Relatives
With the implementation of Title IV-E GAP, California changed its rules to reduce the length of time a child must live in a relative guardian's home from 12 months to six months. This change allows earlier permanency planning and a quicker exit from foster care for eligible families. There is a concern that the shorter timeline may rush permanency and push cases out of foster care before they are ready, but the state has not seen that materialize yet.

Stakeholder Involvement
The implementation process in California involved tremendous stakeholder involvement. The particulars of Title IV-E GAP were laid out in Assembly Bill 12, an expansive piece of state legislation that was introduced in response to the federal Fostering Connections Act and covered many issues for children and families in the child welfare system. Over 100 stakeholders participated in weekly discussions on this bill which encompassed all aspects of state implementation for the Foster Connections Act, including the content of the legislation, the policies and procedures for specific programs and implementation strategies. Representatives from county agencies and the courts, along with advocates, were involved in this work.

Tribal Involvement
California has a state/tribal Title IV-E GAP agreement with one tribe and is working on creating an agreement with another. California does provide information on Kin-GAP to tribes so they are aware of availability of the program.

Challenges and Opportunities

California faced a challenge in moving eligible children who were receiving guardianship assistance through state-funded Kin-GAP over to the new Title IV-E funded Kin-GAP. This process was very administratively difficult. In order to convert to the federal funding stream, the state had to provide certain required documentation to show that the child and guardian were qualified for the new assistance. However, some guardianships dated back to 2000 and not all of the required documentation had been saved or could be located. A significant portion of California's policy, found in All County Letter No. 11-15, lays out the steps local departments must take to complete the conversion.

California also worked with the Department of Health and Human Services (HHS) to implement provisions regarding nonrecurring cost reimbursement for guardians. HHS requires a $2,000 reimbursement cap, which the state had not provided for in its previous policy. The state issued instructions to counties about it and the guardianship agreements advise about reimbursement for nonrecurring costs associated with obtaining guardianship, including a reimbursement form for the guardian to use.

Because California had a state-funded guardianship assistance payment program prior to Fostering Connections, it was important to ensure that existing state funded Kin-GAP recipients would receive the same benefits as the federally-funded recipients. California was careful to create equity between the state-funded and the federally-funded guardianship subsidies as much as possible and to have the state-funded program be the "safety net" for those who were not federally eligible. Therefore, there are slight differences in eligibility requirements and benefits. For example, in the state-funded program, a child does not have to return to the child welfare system if his or her guardian dies. The child can stay in the successor guardian's home while the assessment and approval process is conducted. However, a child in the same situation in the federally-funded program will be returned to the child welfare system during this process.

Advice to Other States

California encourages states to network with each other and learn from each other's programs. It also encourages states to establish a good open dialogue with their federal HHS partners. States should ask questions and get responses and directives in writing. California particularly encourages states with current guardianship programs to be very open with HHS so that neither side makes assumptions about the federal program that could be difficult to fix later in the process.

Helpful Policies and Implementation Tools

- [Welf. & Inst.] Code § 11360-11376 (state-funded program), § 11385-11393 (federally-funded program), available at http://www.leginfo.ca.gov/calaw.html
- Department of Social Services All County Letter No. 11-15, available at http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2011/11_15.pdf
- All County Letter 11-15E New Kinship Guardianship Assistance Payment (Kin-GAP) Program Requirements, available at http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2011/11-15E.pdf
- Department of Social Services All County Letter No. 11-86, available at http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2011/11-86.pdf
- Giving a Child a Permanent Home-Choices for Relatives, available at www.cdss.ca.gov/cdssweb/entres/forms/English/pub344.pdf
- A Guide to Permanency Options for Youth, available at http://calswec.berkeley.edu/CalSWEC/OtherTraining_b.html
- Department of Social Services, Kinship Guardianship Assistance Payment Program (Kin-GAP) Webpage, available at http://www.childsworld.ca.gov/PG1354.htm

GAP Contact in California

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Date of Interview with California: June 2012

COLORADO
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Relative Guardianship Assistance Program (RGAP)

Previous Subsidized Guardianship Program: No
Primary Funding: N/A

Approval Date: November 2010
Effective Date: October 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "A relative through the fifth degree of kinship."

Code of Colorado Regs. tit. 14 § 2509-1(7.311.1).

Senate Bill 12-66 expanded eligibility for the program to include "relatives, persons ascribed by the family as having a family-like relationship with the child, or persons who have had a prior significant relationship with the child." The state is currently in the process of revising its administrative rules to reflect this change.

Definition of Relative Includes Fictive Kin: Yes, with passage of Senate Bill 12-66

Age Child Must be Consulted about Guardianship: Age 12 or older

Extends GAP to age 19, 20, or 21: No

GAP PAYMENT

Maximum Payment: Maximum payment is the foster care payment minus the respite payment

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: Yes

Court Granting Guardianship: Probate Court and judicial districts which handle probate matters

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments. Also, the child was placed in foster care through a court order or a voluntary placement agreement with the county and: a. there was no subsequent petition with the court and a court order within 180 days of living with the specified relative that includes "best interest" or "contrary to the welfare" language; or b. there was no foster care payment made while in care under the voluntary placement agreement.
Medicaid or CHIP Eligibility is Automatic: No

GAP POLICIES AND RESOURCES

State Statute: Colo. Rev. Stat. Ann. § 26-5-110, available at http://www.state.co.us/gov_dir/leg_dir/olls/sl2012a/sl_86.pdf

State Guardianship Policy: Code of Colorado Regs. tit. 14 § 2509-1(7.311), available at http://www.nrcpfc.org/fostering_connections/state_gap/Colorado_%207.311%20Relative%20Guardianship%20Assistance%20Program%20Volume_7_pg_20.pdf

COLORADO
Title IV-E GAP Narrative

Overview

Colorado's Title IV-E GAP plan was approved by HHS in November 2010 and became effective October 2009. The program is called the Relative Guardianship Assistance Program, or RGAP, and it is Colorado's first guardianship assistance program. The state regards guardianship as a "plan C alternative" for a child or youth. The agency sees guardianship as not as permanent an option as adoption or reunification, but it is an ideal opportunity for youth who are in care and may have had a disrupted adoption or do not want to be adopted so that they can remain connected to family although reunification is not possible. Guardianship is also a good fit for youth who otherwise would be in long-term foster care or Another Planned Permanent Living Arrangement.

Youth who are not eligible for Title IV-E-funded RGAP can receive state/county-funded guardianship assistance. The state/county-funded program is 80 percent state-funded and 20 percent county-funded. It does not provide automatic eligibility for Medicaid, although discussions with the state's Medicaid agency lead the department to believe that 99 percent of the children would be eligible if the guardian applied on their behalf.

Preparing for the Title IV-E GAP state plan amendment was a slow process for Colorado as it worked with the Children's Bureau in HHS to create the necessary policies for the program. Colorado is still in the final stages of crafting its definition of "relative" for RGAP. After much debate and guided by later HHS instruction, Colorado changed its definition of "relative" in law to include "fictive kin." Receiving HHS approval for this new definition is a lengthy process, particularly because even though the new law passed, the state must approve its new rules before HHS will approve the plan.

Benefits of GAP

Impact on Children and Families
At the time of the interview, 11 children were receiving Title IV-E guardianship assistance and no children were receiving state/county-funded guardianship assistance. Of these children, there is one set of four siblings, one set of three siblings and one set of two siblings. Two of the children are older youth.

Colorado believes that the recent passage of Senate Bill 12-66 will generate greater use of the program because it expands the definition of "relative" to include those not related by blood. Colorado is hopeful that more older youth will become involved in the program.

One reason for low participation is that counties are focusing their efforts on adoption, because they find that relatives are often willing to adopt. Relatives in Colorado can also receive TANF money if they demonstrate that they are the primary caretaker of the child, which also draws potential families from RGAP.

Selected Characteristics of GAP

Definition of "Relative"
Originally, to be eligible for RGAP a prospective guardian had to be "a relative through the fifth degree of kinship."[1] However, with new HHS policy guidance, Colorado decided to expand the definition of "relative" to include "fictive kin." It did so through Senate Bill 12-66, which expanded the definition to include:

> "persons ascribed by the family as having a family-like relationship with the child, or persons who have had a prior significant relationship with the child."[2]

Determining that Return Home and Adoption are Not Appropriate Options
Before a guardianship can be finalized, reunification and adoption efforts must be exhausted and both must be ruled out. The administrative code specifically requires that the guardianship program "shall not supplant diligent reunification or adoption efforts."[3] County departments must also explain the differences between adoption and guardianship to prospective guardians, so that they can make informed decisions.

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[1] Code of Colorado Regs. tit. 14 § 2509-1(7.311.1)
[2] Colo. Rev. Stat. Ann. § 26-5-110
[3] Code of Colorado Regs. tit. 14 § 2509-1(7.311.)

The determination that reunification and adoption are not appropriate is first made by the county department and then documented in the case plan. As a final review, the determination is approved by the court.

Implementing GAP

Training Strategies
In order to train counties on RGAP, Colorado developed a series of agency letters. The initial letter alerted counties about the plan and let them know that additional information would be forthcoming. Subsequent letters identified the relevant rules and provided updates on the rules. There are also several forms available online at http://www.colorado.gov/cs/Satellite/CDHS-ChildYouthFam/CBON/1251588037674.

A guide was developed by Colorado Trails (the state's case management system) staff to explain how to enter the information required to open an RGAP case to trigger payment to guardians. A report in Colorado Trails is also available to alert county departments when a youth is nearing age 18.

Colorado developed a PowerPoint presentation and conducted several onsite and video-conference trainings for county staff, county attorneys and local courts. It also provided one-on-one technical assistance. Colorado has a kinship brochure that identifies RGAP as a permanency option. Because Colorado is county-administered, all of the forms and materials are completed by the county departments.

Methods for Tracking Benefits
Colorado tracks age, race/ethnicity, length of time in foster care, length of time with relative in foster care, and sibling(s) placed with children in foster care. The state is not yet conducting special tracking for RGAP, due to the small number of participants to date, but can access the data when needed.

Impact of GAP Implementation on Licensing Relatives
County departments have been working to engage and educate kinship families about RGAP. All counties have block funding allocations from the state to operate their child welfare programs. Some of the larger counties are using those funds to engage in intensive family finding. Other counties, particularly the smaller counties with lower caseloads, are able to pursue family using fewer funds.

Recently, the number of certified kinship foster parents has been going down. Colorado attributes this to the greater emphasis on in-home services and a trend for relatives to step in to care for children before they are placed in county custody. House Bill 12-1047 may raise the number of kinship foster parents as it allows the waiver of some non-safety certification standards for kinship foster parents when certain conditions are met.

Stakeholder Involvement
The bill creating the statute that established RGAP was signed in May 2009. After the statute was created, there was a six-month long process to get the administrative rules written and finalized. Colorado engaged the County Directors Association, the Policy Advisory Committee and its Subcommittee that represents county departments in regional areas in planning and implementation. In addition, the Court Improvement Project and the steering committee for the Child and Family Services Review (CFSR) were updated on the process. The state's Medicaid agency, Health Care Policy and Financing, assisted in writing the rules related to Medicaid, was consulted during implementation and is supportive of the program. The state developed rules for county departments and other stakeholders to review and provide feedback.

The rules were sent to the State Board of Human Services in November and December 2009. During the writing process, the rules were sent to stakeholders for their feedback as part of that process.

Tribal Involvement
The only two federally recognized tribes in the state do not participate in Title IV-E. They are revising their foster care programs. The tribes traditionally use uncertified kinship homes for children and youth in their care.

Challenges and Opportunities

Colorado is just beginning to consider whether or not it wants to expand RGAP to include current foster parents in the definition or relative. Although there are foster parents in the state who would like to be eligible for RGAP, the state wants to ensure all children who can be adopted are adopted. Thinking through the pros and cons of the decision and looking at the way other states have handled this issue are next steps for the state.

Colorado has also had concerns that children receiving Supplemental Security Income (SSI) payments while in foster care saw their SSI payment reduced when they moved to a subsidized guardianship or received adoption assistance. This creates a significant disincentive for relatives to pursue guardianship and is a barrier to permanency for all children.

Advice to Other States

Colorado recommends that states just beginning to prepare their GAP plans talk to other states that have been through the process. Colorado was one of the first states to develop a state plan amendment and was not able to benefit from other states' experiences.

Colorado also found that providing one-on-one technical assistance was the best way to provide training on RGAP.

Helpful Policies and Implementation Tools

- Colorado Kinship Connection Website, available at http://cokinship.org/
- Code of Colorado Regs. tit. 14 § 2509-1(7.311), available at http://www.nrcpfc.org/fostering_connections/state_gap/Colorado_%207.311%20Relative%20Guardianship%20Assistance%20Program%20Volume_7_pg_20.pdf
- Senate Bill 12-66, available at http://www.leg.state.co.us/CLICS/CLICS2012A/csl.nsf/fsbillcont3/B8867FB8189DA85E87257981007DBEC3?Open&file=066_enr.pdf
- Colorado Child Welfare Forms, available at http://www.colorado.gov/cs/Satellite/CDHS-ChildYouthFam/CBON/1251588037674

GAP Contact in Colorado

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Date of Interview with Colorado: August 2012

CONNECTICUT
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Subsidized Guardianship Program

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: November 2011
Effective Date: July 2009

State/Tribal Title IV-E GAP Agreement: Yes

ELIGIBILITY FOR GAP

Definition of Relative: "Relative caregiver means a person who is caring for a related child or a related child's sibling because the parents of the child have died or have become otherwise unable to care for the child and neither reunification with the parent nor adoption are appropriate permanency options. A relative caregiver may be related to the child through blood or statutory or common law marriage, descended from a common ancestor not more than five generations removed from the child."

Foster and Adoptive Services Policy Manual: Subsidized Guardianship # 41-50-1

Definition of Relative Includes Fictive Kin: No

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: No

GAP PAYMENT

Maximum Payment: Cannot exceed the amount that would have been paid had the child remained in foster care

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: Yes, but no Title IV-E reimbursement

Court Granting Guardianship: Superior Court for Juvenile Matters

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: No
Independent Living Services: No

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Conn. Gen. Stat. § 17a-126, available at http://www.cga.ct.gov/2011/pub/chap319a.htm

State Guardianship Policy: Foster and Adoptive Services Policy Manual: Subsidized Guardianship # 41-50-1, available at http://www.ct.gov/dcf/cwp/view.asp?a=2639&Q=329058

CONNECTICUT
Title IV-E GAP Narrative

Overview

Connecticut has a long history of providing guardianship assistance to families. It began its state-funded Subsidized Guardianship Program in 1998. The state's Title IV-E Subsidized Guardianship Program, funded with federal GAP funds, was approved in November 2011 and implemented in February 2012. Children who currently receive state-funded guardianship assistance and are eligible for Title IV-E foster care payments are in the process now of being transferred to the Title IV-E Subsidized Guardianship Program funded under GAP. The only difference between eligibility for the state- and federally-funded programs is the requirement that a child be eligible for Title IV-E foster care payments. Children not eligible for Title IV-E foster care payments will only be eligible for the state-funded program. The similarities between the two programs made for a very smooth transition to the new Title IV-E GAP program.

Benefits of GAP

Impact on Children and Families
Connecticut has approximately 2,200 children in its two Subsidized Guardianship Programs. The new GAP program is another valuable permanency option for children in the state, but given the state's ongoing vigorous commitment to guardianship, it does not anticipate significant growth as a result of the new Title IV-E funds.

Selected Characteristics of GAP

Definition of "Relative"
Connecticut's definition of "relative" is included in its definition of "relative caretaker." Fictive kin are not included in the definition. A relative caretaker is:

> "A person who is caring for a related child or a related child's sibling because the parents of the child have died or have become otherwise unable to care for the child and neither reunification with the parent nor adoption are appropriate permanency options. A relative caregiver may be related to the child through blood or statutory or common law marriage, descended from a common ancestor not more than five generations removed from the child."[1]

Determining that Return Home and Adoption are Not Appropriate Options
Connecticut's Department of Children and Families (DCF) policy manual outlines the process social workers must go through in determining the appropriateness of return home and adoption. In the case plan, the social worker must document steps taken to make the determination, reasons why subsidized guardianship is in the child's best interest, efforts to discuss adoption with the relative caretaker, and reasons why adoption was rejected by the relative caretaker as the permanency plan. Documentation of why neither reunification nor adoption is appropriate is required at the preliminary eligibility assessment period. Only after the child is determined preliminarily eligible for subsidized guardianship may the social worker move on to the assessment and recommendation phase of the process. The final step in the process is a review of the entire application by the Guardianship Subsidy Review Planning Team. The team, which must include an area office manager, the child's social worker, a permanency specialist, and a representative from the Office of Foster and Adoption Services, must approve the guardianship application before a guardianship is finalized. The team may also include a community representative or a member-at-large.

Since February 2012, training has occurred in the 15 DCF area offices covering eligibility criteria and processing paperwork for the Department's Subsidized Guardianship program.

Implementing GAP

Methods for Tracking Benefits
Through its required annual reviews, Connecticut is able to track where children and families are, any changes in their circumstances, and whether they are still receiving benefits.

GAP Implementation of Licensing Relatives

[1] Foster and Adoptive Services Policy Manual: Subsidized Guardianship # 41-50-1

Subsidized guardianship in Connecticut has always required full licensure of relatives. No changes were required with the implementation of the Title IV-E GAP program.

Stakeholder Involvement
DCF worked with area offices and local community providers of therapeutic foster care during the implementation of GAP. DCF made sure that both groups were prepared to implement the program. Also, whenever changes are made to DCF programs, administration from the courts meet with DCF administration to discuss the changes and troubleshoot any potential problems.

On March 13, 2012, Joette Katz, Commissioner of the Department of Children and Families, issued a Report on Kinship Care. The report was required by statute and outlined the Department's efforts to encourage and support relative caretakers and the placement of children with relatives. Although these efforts were not exclusively focused on guardianship, Commissioner Katz reported that relative care increased from 15.3 percent to 22.7 percent over the last year. This work was done in partnership with the Annie E. Casey Foundation's Child Welfare Strategy Group.

Tribal Involvement
It has always been the practice in Connecticut to work very closely with tribes. Local DCF offices deal directly with tribal leaders and have built strong relationships over time. There are regular joint meetings between local tribes and local DCF offices. State-funded guardianship assistance was available for tribes and Title IV-E-funded guardianship assistance is now available as well.

Challenges and Opportunities

Connecticut has been offering guardianship assistance for over a decade and experienced its "growing pains" back when the program was first implemented. Because there were very few changes required in transitioning to the new federally-funded program, Title IV-E GAP implementation has been very smooth. The state does not cite any challenges with the process.

Advice to Other States

Connecticut encourages states to have a strong and organized administrative system in place to deal with the many timelines and administrative requirements of a subsidized guardianship program. States will need to collect documents and sign forms at specific times in the process. Paying attention to such detail and building a system to ensure such requirements are met will help states avoid problems when they later receive federal funds.

Connecticut also advises states to prepare relatives for how lengthy these permanent guardianships may likely end up being. During the state's long history with subsidized guardianship, DCF noticed that some relatives entered into guardianship agreements believing that the children's parents would soon become able to reunify with the child. Unfortunately, Connecticut finds that is usually an unrealistic expectation, and more often than not the guardianship remains in place until the child ages out. Connecticut urges states to prepare relatives for that possibility, and to offer supportive services post transfer of guardianship to relative families.

Helpful Policies and Implementation Tools

- Foster and Adoptive Services Policy Manual: Subsidized Guardianship # 41-50-1, available at http://www.ct.gov/dcf/cwp/view.asp?a=2639&Q=329058
- "Are You Raising a Relative Child?" Pamphlet, available at http://www.ct.gov/dcf/lib/dcf/agency/pdf/grandparents_brochure.pdf
- Conn. Gen. Stat. § 17a-126, available at http://www.cga.ct.gov/2011/pub/chap319a.htm
- Report on Kinship Care from Commissioner Joette Katz, available at http://www.ct.gov/fosteradopt/lib/fosteradopt/pdf/kinship_care_report.pdf

GAP Contact in State

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Date of Interview with Connecticut: August 2012

DISTRICT OF COLUMBIA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Permanent Guardianship Program

Previous Subsidized Guardianship Program: Yes
Primary Funding: Local funds

Approval Date: August 2010
Effective Date: January 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "'Kinship caregiver' means an individual who: (A) Is approved by the Division to provide kinship care; (B) Is at least 21 years of age; (C) Is providing, or is willing to provide for, the day-to-day care of a child; and (D) Either: (i) Is a relative of the child by blood, marriage, domestic partnership, or adoption; or (ii) Is a godparent of the child. 'God parent' means an individual identified by a relative of the child by blood, marriage, domestic partnership, or adoption, in a sworn affidavit, to have close personal or emotional ties with the child or the child's family, which pre-dated the child's placement with the individual."

D.C. Stat. § 4-1301.02

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that require continued assistance and also for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: Yes

Court Granting Guardianship: Family Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments and/or did not live with the prospective guardian for six months.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: D.C. Stat. § 16-2381, available at
http://government.westlaw.com/linkedslice/default.asp?SP=DCC-1000

State Guardianship Policy: D.C. Child and Family Services Policy Manual: Permanent Guardianship Policy, available at
http://cfsa.dc.gov/DC/CFSA/About+CFSA/Policy/CFSA+Policy+Manual+Table+of+Contents/Program+Policies/Program+-+Permanent+Guardian+Subsidy

DISTRICT OF COLUMBIA
Title IV-E GAP Narrative

Overview

The District of Columbia (D.C.) began offering guardianship assistance through its Permanent Guardianship Subsidy Program in March 2003. Its Title IV-E GAP plan was approved in August 2010, and GAP funding was available effective January 2009. The eligibility criteria for the Title IV-E program are very similar to the locally-funded program. The locally-funded program is still available to children who are not Title IV-E eligible.

D.C. pursued a GAP state plan amendment to receive additional federal funds to support their existing program. D.C. only needed minor tweaks to its locally-funded program to comply with federal requirements.

Benefits of GAP

Impact on Children and Families
When D.C. went through the Title IV-E GAP process, it made several changes to its locally-funded program that broadened eligibility for children. The Permanent Guardianship Program now provides assistance for children up to age 21. The definition of "relative" was also broadened.

Selected Characteristics of GAP

Definition of "Relative"
In D.C., Permanent Guardianship Subsidies are available for kin and non-kin caregivers.

> "'Kinship caregiver' means an individual who: (A) Is approved by the Division to provide kinship care; (B) Is at least 21 years of age; (C) Is providing, or is willing to provide for, the day-to-day care of a child; and (D) Either: (i) Is a relative of the child by blood, marriage, domestic partnership, or adoption; or (ii) Is a godparent of the child. 'Godparent' means an individual identified by a relative of the child by blood, marriage, domestic partnership, or adoption, in a sworn affidavit, to have close personal or emotional ties with the child or the child's family, which pre-dated the child's placement with the individual."[1]

Determining that Return Home and Adoption are Not Appropriate Options
In the child's case plan, the social worker is required to describe all steps taken to determine if adoption and reunification are not appropriate options, why the guardianship placement and subsidy are in the child's best interest, the efforts made to discuss adoption as an alternative to guardianship, and the reason why adoption was not pursued. D.C. law also requires that the court make a specific finding that "the permanent guardianship is in the child's best interest" and that "adoption, termination of parental rights, or return to parent is not appropriate for the child."[2]

Implementing GAP

Training Strategies
D.C. has executed trainings for and discussed program/implementation changes with judges, courts, attorneys, foster parent associations, advocates, and caseworkers (agency staff). It found that targeted population trainings and conversations about guardianship are much more effective and can be more thorough than trainings with larger groups of stakeholders with different backgrounds. In the latter, each profession (judges v. attorneys v. caseworkers, etc.) sees the program through a different lens and has a different degree of program knowledge.

Methods for Tracking Benefits
D.C. is not specifically tracking impact but may be able to pull data on age, race, ethnicity, and length of stay from their SACWIS (FACES) System.

Impact of GAP Implementation on Licensing Relatives
D.C.'s locally-funded guardianship program does not require a child to live with a relative for six months before finalization. D.C. is working to change this requirement to make it consistent with the Title IV-E requirement in order to maximize federal funds.

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[1] D.C. Stat. § 4-1301.02
[2] D.C. Code § 16-2383

Stakeholder Involvement
Although no other agencies were directly involved in GAP plan implementation, other stakeholders (courts, kinship providers, advocates, D.C. Council) were kept apprised of the process.

Challenges and Opportunities

D.C.'s biggest challenge was working with the federal government to develop the plan and the "bottleneck" created when receiving information from HHS. It delayed approval of the plan and caused some angst among stakeholders.

D.C. did not face any specific challenges in the implementation of Title IV-E GAP. D.C. was fortunate to have an existing permanent guardianship program that only required minor changes. This allowed the city to focus on communication strategies with federal partners and stakeholders to make all parties aware of the steps the agency had taken to apply and implement Title IV-E GAP. D.C. described this as a very smooth process.

Advice to Other States

D.C. advises states to have realistic expectations about the application process (e.g., know if state funds are needed, take into consideration the time the approval process takes, etc.) and to share expectations with stakeholders. It also advises states to promote permanence and the benefits of permanency as a way of building support for GAP.

Helpful Policies and Implementation Tools

- Administrative Issuance: CFSA-09-02. Guardianship and Grandparent Subsidies, available at http://cfsa.dc.gov/DC/CFSA/Publication%20Files/Policy%20Manual/AIs/AI%20-%20Guardianship%20and%20Grandparent%20Subsidies%20(final)(H).pdf
- Administrative Issuance: CFSA-09-04. Case Planning for Guardianship, available at http://cfsa.dc.gov/DC/CFSA/Publication%20Files/Policy%20Manual/AIs/AI%20-%20Case%20Planning%20for%20Guardianship(H).pdf
- D.C. Child and Family Services Agency Policy: Permanent Guardianship Subsidy, available at http://cfsa.dc.gov/DC/CFSA/About+CFSA/Policy/CFSA+Policy+Manual+Table+of+Contents/Program+Policies/Program+-+Permanent+Guardian+Subsidy
- Agency Recommendation of Permanency Goals in Administrative Reviews available at http://cfsa.dc.gov/DC/CFSA/About+CFSA/Policy/CFSA+Policy+Manual+Table+of+Contents/Quick+Reference+Guide/QRG+-+Permanency+Goal+and+Administrative+Reviews Quick Reference Guide
- D.C. Stat. § 16-2381, available at http://government.westlaw.com/linkedslice/default.asp?SP=DCC-1000

GAP Contact in the District of Columbia

Debra Porchia-Usher, Principal Deputy Director, Agency Programs
Child and Family Services Agency
202-727-1935
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Date of Interview with the District of Columbia: October 2011

HAWAII
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Kinship Guardianship Assistance (KinGAP)

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: June 2011
Effective Date: April 2011

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "1. A member of the child's extended family; 2. The child's godparents; 3. A "hanai relative" which means an adult, other than a blood relative, whom the court or department has found by credible evidence to perform or to have performed a substantial role in the upbringing or material support of a child, as attested to by the written or oral designation of the child or of another person, including other relatives of the child; or 4. A person to whom the child, child's parents, and family ascribe a family relationship and with whom the child has had a significant emotional tie that existed prior to the agency's involvement with the child or family."

Policy Manual Part 5: Permanency Assistance § 5.2.3 (B)

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that warrant continued assistance

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: Yes

Court Granting Guardianship: Family Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments, and permanency assistance ends at age 20.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Hawaii Rev. Stat. § 17-11-1621, available at
http://hawaii.gov/dhs/main/har/har_current/17-1621%20-%20Final%2012-9-10.pdf

State Guardianship Policy: Policy Manual Part V: Permanency Assistance, available at
http://www.nrcpfc.org/fostering_connections/state_gap/Hawaii%205.2.3_Permanency_Assistance.pdf

HAWAII
Title IV-E GAP Narrative

Overview

Hawaii offered guardianship assistance for approximately 20 years prior to the implementation of federal Title IV-E GAP. The initial state-funded program, called Permanency Assistance, is run by the Department of Human Services (DHS).

Hawaii decided to pursue Title IV-E GAP to draw down federal funding for the Title IV-E eligible children it has been supporting through its Permanency Assistance Program. The state's GAP plan was approved in June 2011 and implementation of the plan began in July 2011. The effective start date for Hawaii's GAP was April 2011. Hawaii continues to offer state-funded Permanency Assistance as well as Title IV-E Kinship Guardianship Assistance (KinGAP).

Benefits of GAP

Impact on Children and Families
The implementation of KinGAP is not expected to have a significant impact on children or families because the state-funded Permanency Assistance Program has been in place for years and has helped many populations of children achieve permanency. The program has worked especially well for Hawaiian native children and families because termination of parental rights is not required for guardianship, which is easier for native families to embrace than adoption.

There are approximately 1,000 children in Hawaii's subsidized guardianship programs. The majority of these children entered guardianship before implementation of Title IV-E KinGAP. The state is currently reviewing each case to determine eligibility for federal funding. At the time of the interview, the agency did not know exactly how many children had entered the program since implementation KinGAP or the breakdown between Title IV-E eligible and Title IV-E-ineligible children.

Selected Characteristics of GAP

Definition of "Relative"
Hawaii uses the following definition of "kin" for KinGAP:

> "1. A member of the child's extended family; 2. The child's godparents; 3. A "hanai relative" which means an adult, other than a blood relative, whom the court or department has found by credible evidence to perform or to have performed a substantial role in the upbringing or material support of a child, as attested to by the written or oral designation of the child or of another person, including other relatives of the child; or 4. A person to whom the child, child's parents, and family ascribe a family relationship and with whom the child has had a significant emotional tie that existed prior to the agency's involvement with the child or family."[1]

Determining that Return Home and Adoption are Not Appropriate Options
The Department of Human Services (DHS) is responsible for determining if return home and adoption are appropriate permanency options for children. In a child's case plan, the caseworker must describe what steps were taken to determine that adoption and return home are not appropriate. The case plan must also document the efforts made to discuss adoption with the guardian and the reasons why adoption was not pursued.

Implementing GAP

Training Strategies
Because there are differences between state-funded Permanency Assistance and Title IV-E KinGAP, agency staff were trained on how to determine eligibility for the Title IV-E program.

Methods for Tracking Benefits
Hawaii is tracking the children it assists through both the state- and federally-subsidized guardianship programs. The data system was updated to track the savings achieved by drawing down federal dollars through GAP for Title IV-E eligible children. Hawaii anticipates approximately $1.5 million in savings to state funds in the first full year of implementation of GAP. DHS has not determined what will be done with the state savings realized from GAP.

[1] Policy Manual Part V: Permanency Assistance §5.2.3 (B)

Impact of GAP Implementation on Licensing Relatives
Under both the state-funded program and Title IV-E KinGAP, guardians must be licensed resource parents to qualify for assistance. Because these policies are the same, Hawaii has not had to revise its licensing policy.

Stakeholder Involvement
Since Hawaii has had a state-funded subsidized guardianship program for two decades, DHS worked independently of other agencies to amend the Title IV-E state plan. Stakeholders were already familiar with the importance and benefits of subsidized guardianship.

Challenges and Opportunities

The biggest challenge for Hawaii is finding the time to implement the program. Revising forms, training staff and implementing new eligibility procedures requires a significant time commitment from the state. The number of staff assigned to the program is very limited.

Advice to Other States

Hawaii suggests that other states include program staff in the planning and implementation of GAP. Because program staff use the forms regularly, they are particularly helpful in providing advice on developing forms and policies.

Hawaii also recommends that other states work carefully with HHS to clarify requirements as early in the process as possible.

Helpful Policies and Implementation Tools

- Policy Manual Part V: Permanency Assistance, available at http://www.nrcpfc.org/fostering_connections/state_gap/Hawaii%205.2.3_Permanency_Assistance.pdf
- Hawaii Rev. Stat. § 17-11-1621, available at http://hawaii.gov/dhs/main/har/har_current/17-1621%20-%20Final%2012-9-10.pdf
- Haw. Admin. Code §17-1621, available at http://hawaii.gov/dhs/main/har/har_current/17-1621%20-%20Final%2012-9-10.pdf

GAP Contact in Hawaii

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Department of Human Services
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Date of Interview with Hawaii: December 2011

IDAHO
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Guardianship Assistance Program

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: July 2011
Effective Date: October 2010

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "A relative is an individual having a relationship with a child by blood, marriage or adoption. Such individuals include grandparents, siblings and extended family members such as aunts, uncles and cousins."

(Idaho Standard for Guardianship Assistance)

Definition of Relative Includes Fictive Kin: No

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: No

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Probate Court, or other (in rural areas)

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: State-funded guardianship program includes non-relatives and requires that parental rights be terminated.
Medicaid or CHIP Eligibility is Automatic: No

GAP POLICIES AND RESOURCES

State Statute: Idaho Code § 15-5-212A http://legislature.idaho.gov/idstat/Title15/T15CH5SECT15-5-212A.htm; Idaho Code § 56-805 http://legislature.idaho.gov/idstat/Title56/T56CH8SECT56-805.htm

State Guardianship Policy: Standard for Guardianship Assistance, available at http://www.healthandwelfare.idaho.gov/Portals/0/Children/AdoptionFoster/Guardianship_Assistance_Standard.pdf

IDAHO
Title IV-E GAP Narrative

Overview

Idaho began offering guardianship assistance in the mid-1990s. The original program was not restricted to children placed with relative guardians, but did require that the parental rights of the child be terminated before the guardianship could be granted. The guardianships were entirely state-funded and available on a limited basis.

Idaho decided to pursue Title IV-E GAP funding to achieve permanency for older youth. Idaho's GAP plan was approved by HHS in July 2011 and implemented on October 1, 2011. It was effective as of October 2010.

The state currently operates both the Title IV-E GAP and the state-funded guardianship programs. Each program has different eligibility requirements. The child is first considered for Title IV-E-funded assistance and only considered for state-funded assistance if ineligible for the other. To be eligible for Title IV-E GAP, the guardian must be a relative and the child must be 14 years of age or older. Fictive Kin do not qualify under the definition of "relative" for Title-IV-E GAP. As stated above, the state-funded program requires the termination of parental rights but does not limit "guardian" to relatives of the child.

Benefits of GAP

Impact on Children and Families
As of February 2012, three guardianship assistance applicants have been approved for Title IV-E GAP. None of these guardianships have been finalized. There are less than 10 children in the state-funded guardianship assistance program. It is too early to tell what the impact of Title IV-E GAP will be on children and families.

Selected Characteristics of GAP

Definition of "Relative"
For the Title IV-E GAP program, "relative" is defined as:

> "an individual having a relationship with a child by blood, marriage or adoption. Such individuals include grandparents, siblings and extended family members such as aunts, uncles and cousins."[1]

For the state-funded guardianship assistance program, the guardian is not required to be a relative of the child.

Determining that Return Home and Adoption are Not Appropriate Options
To be eligible for Title IV-E GAP, a child must be 14 years of age or older. Due to the child's age, adoption and reunification can be ruled out if the youth is not amenable to adoption or reunification. Reasons why adoption and reunification are not appropriate must be written up in the Alternate Plan Addendum and documentation must be provided for how they were ruled out. Reasons include a court finding that reunification is no longer a primary goal, and/or a child's desire to maintain a connection with his birth family.

Implementing GAP

Training Strategies
The agency conducted on-site and teleconference training for each state office about Title IV-E GAP. It asked that all workers carrying cases and their supervisors participate. It had foster care licensing staff participate to make sure they could effectively share information about the program with foster parents and potential guardians. Casey Family Programs, which provides case management assistance in the state, participated in the training.

The annual statewide foster care conference provided an opportunity to discuss the program with resource families. The agency started the conversation about GAP early in the process and ensured that the Parent Resources for Information, Development, and Education (PRIDE) trainers, who are responsible for training all foster and adoptive parents, had information about the program.

Idaho has a 2-1-1 CareLine, located at http://www.211.idaho.gov/kincare/Kincare.html. This website provides support and resources for KinCare placements both through the child welfare system and informally. The services include community resources, legal resources, statewide kincare support group information, and a kincare resource directory.

[1] "Standard for Guardianship Assistance"

Information was provided to Idaho's tribal relations specialist to pass on to the tribes. Agency staff do not recall any tribe being represented in any trainings.

Methods for Tracking Benefits
Implementation of GAP is in the very beginning stages in Idaho. There are no current plans to systematically track its impact.

Tribal Involvement
State-funded guardianship assistance requires that parental rights be terminated before a guardianship qualifies for a subsidy. The "Standard for Guardianship Assistance" explains that this requirement effectively disqualifies tribes from the guardianship program because of tribe members' reluctance to terminate parental rights. The agency believes that the federal Title IV-E funding will make subsidized guardianship available to children who are members of tribes. One tribe in Idaho has applied for direct Title IV-E funding.

Challenges and Opportunities

The Idaho Department of Health and Welfare has a good relationship with its HHS contacts. Idaho representatives considered the GAP application process and conversations with Region X HHS very smooth. However, there was some slow down in the approval/administration process when national HHS became involved in the process.

Initially, the state agency faced a challenge with relatives applying for both GAP and TANFI (Temporary Assistance for Needy Families in Idaho) grants. The agency had to inform staff and families that it was not possible to participate in both programs.

Idaho also faced a challenge in getting caseworkers, staff and supervisors to think about guardianship without termination of parental rights (TPR) as a permanency option. Earlier permanency meetings with children and permanency roundtables have helped.

Another challenge has been child support. Because no TPR is required for federally-funded guardianship assistance, the agency is having issues related to the collection of overdue child support for children with relatives. Guardians have been refusing to share information about biological parents or have been uncooperative in helping the agency locate them. There has, however, been improvement in this area.

Advice to Other States

Idaho offers the following advice to states in the initial stages of GAP: Look at what other states have done; don't try to reinvent the wheel. Stay as close to current processes, such as forms, protocol, and subsidies, as is possible; consistency will make implementation easier. Make your program worker and family friendly.

The agency also wanted to highlight this practice for other states: When the agency assesses a foster home for licensing, it also goes through the home assessment process it uses for permanency. This dual assessment process streamlines the permanency process if/when foster parents choose guardianship.

Helpful Policies and Implementation Tools

- Matrix for resource families looking at comparing the legal benefits and differences between adoption and guardianship
- Standard for Guardianship Assistance, available at http://www.healthandwelfare.idaho.gov/Portals/0/Children/AdoptionFoster/Guardianship_Assistance_Standard.pdf
- Idaho Administrative Code 16.06.01 § 702 (Conditions for Guardianship Assistance), § 703 (Federally-Funded Guardianship Assistance Eligibility, Requirements, and Benefits), and § 704 (State-Funded Guardianship Assistance Eligibility, Requirement, and Benefits), available at http://adminrules.idaho.gov/rules/current/16/0601.pdf
- Idaho 2-1-1 CareLine, available at http://www.211.idaho.gov/kincare/Kincare.html.

GAP Contact in Idaho

Stephanie Miller, GAP and Adoption Assistance Coordinator
Department of Health and Welfare
208-334-5697
MillerS2@dhw.idaho.gov

Date of Interview with Idaho: February 2012

ILLINOIS
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Kinship Guardianship Assistance Program (KinGap)

Previous Subsidized Guardianship Program: Yes
Primary Funding: Title IV-E waiver

Approval Date: June 2010
Effective Date: November 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "Currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined of this Section), great-uncle, or great-aunt; or is the spouse of such relative; or is the child's step-father, step-mother, or adult step-brother or step-sister. Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, where the child and its sibling are placed together with that person."

20 Ill. Comp. Stat. 505/7(b)

Definition of Relative Includes Fictive Kin: No

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that warrant continued assistance; to age 19 for youth in school or equivalent programs who are expected to graduate by then

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Illinois Juvenile Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: No

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: Children must be age 14 or older and the guardian can be a non-relative.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: 20 Ill. Comp. Stat. 505/7(b), available at http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=242&ChapterID=5

State Guardianship Policy: Illinois Policy Manual Chapter 15: Kinship Guardianship Assistance Program, available at http://www.nrcpfc.org/fostering_connections/state_gap/Illinois_Chapter_15_KinGap.pdf

ILLINOIS
Title IV-E GAP Narrative

Overview

Illinois began its subsidized guardianship program in 1997 using a Title IV-E waiver. The eligibility requirements under the waiver program differ from "KinGAP," the state's new Title IV-E-funded program. Illinois' subsidized guardianship waiver program required children to be in care for 12 months before entering guardianship. Children ages 12 and over could be placed with relatives or non-relative guardians. Guardians did not have to be licensed foster parents under the waiver program. In 2003, Illinois received an extension for its Title IV-E waiver, and developed an "enhanced" subsidized guardianship program that provided youth ages 14–18 with all the transitional services that youth aging out of foster care receive. Illinois' waiver program ended on October 31, 2009. Children benefiting from the waiver prior to October 1, 2008, were automatically grandfathered into the KinGAP program when the waiver ended and KinGAP began in November 2009 without meeting the new eligibility requirement. Only kin families covered under the last year of the waiver had to meet all the new KinGAP requirements.

During the more than 10 years it operated its waiver program, Illinois saw firsthand how children, youth and families benefit from the subsidized guardianship program and the state understands the value of continuing the program. The agency submitted a GAP state plan amendment because it believes the child welfare system as a whole will be embracing guardianship more as a permanency option in the future.

Benefits of GAP

Impact on Children and Families
All children receiving assistance through Illinois' Subsidized Guardianship Waiver program on or before October 1, 2008 were automatically eligible for KinGap, even if they did not meet all of the new program's requirements. These children also retained their eligibility for a subsequent subsidized guardianship in situations of death or incapacitation of a guardian or other voluntary transfer of the guardianship.

Of the children receiving guardianship payments, nearly 80 percent are Title IV-E eligible and federally funded; the remaining 20 percent are not Title IV-E eligible and the subsidies are paid with state funds. There were 4,184 children and youth in KinGap during the last quarter of 2011. Since the KinGAP program began November 2009, 550 children have entered into guardianship, and 437 of those children have been Title IV-E eligible.

One group that particularly benefits from guardianship assistance programs is siblings: a high percentage of sibling groups with three to five children are being placed together. Illinois is exploring placing larger groups of six to seven children into guardianships as well. Illinois is also considering enacting sibling rights legislation in the state. Children who benefit from GAP also are eligible for the State Scholarship Program that assists them with the costs of higher education.

Selected Characteristics of GAP

Definition of "Relative"
Illinois originally planned to expand its definition of "relative" for KinGAP to include "fictive kin." However, it was the consensus in the state that the definition was sufficient, so it did not make the change. This was the decision even though some non-kin caregivers previously eligible for subsidies under the states' waiver program are not eligible for the federally-funded KinGAP program.

Illinois statute defines "relative" as:

> "Any person, 21 years of age or over, other than the parent, who:
>
> - is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined of this Section), great-uncle, or great-aunt, or
> - is the spouse of such relative, or
> - is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, where the child and its sibling are placed together with that person."[1]

Determining that Return Home and Adoption are Not Appropriate Options

The agency must document in the child's service plan why return home and adoption are not appropriate permanency options for the child, including efforts made by the agency to discuss with the child's parent(s) the KinGap arrangement, or the reasons why the efforts were not made to do so. The service plan also needs to document efforts made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and the reason why adoption was not pursued.

Implementing GAP

Training Strategies
During the implementation of the waiver-funded subsidized guardianship program in the 1990s, the state held in-person training sessions with staff and others around the state. It moved to web-based training modules during the Title IV-E waiver extension in 2003 and has continued with that type of training for implementation of the new federally-funded KinGap. The state's strategy is to provide comprehensive training followed by close follow-up to guarantee a competent workforce. Another key strategy found useful is ensuring that each regional office across the state has one "champion" for the guardianship policies so that he or she can be the local contact person and local staff can reach out to the champion for guidance as questions arise. The Illinois Department of Children and Family Services also established a Central Advocacy Office that people can call with questions about KinGAP. The Office also posts answers to commonly asked questions about the program.

Impact of GAP Implementation on Licensing Relatives
Relative caregivers in Illinois' subsidized guardianship waiver program were not required to have foster parent licenses, and the new licensing requirement for relative caregivers in KinGap has been viewed by some as an obstacle to placing more children with kin. However, the fiscal pressure to license relatives so they could become eligible for the federal KinGAP assistance helped push forward special efforts to address barriers, such as staff shortages and high caseloads, which previously prevented relatives from becoming licensed. Although the criminal background check delayed the licensing process, nearly 60 percent of all relative caregivers are currently licensed, compared to only 29 percent of caregivers two years ago.

Stakeholder Involvement
When Illinois began its waiver-funded subsidized guardianship program in 1997, it engaged many stakeholders, including those involved in the courts, attorneys, community and private agencies, and other advocacy groups. Many of those groups continue to be engaged as the state implements KinGAP.

Challenges and Opportunities

One challenge for Illinois was that many staff involved in child welfare did not view guardianship as a permanency option. It was important to change that misperception and help staff understand how guardianship works and more about its benefits. Some workers, for example, believed that termination of parental rights was required before guardianship could be obtained. Illinois stressed that education and training are key to implementing the new federally-funded guardianship assistance program successfully. It is critical to disseminate information about the new requirements of the program and train appropriate staff on these changes and the importance of guardianship.

The state is also doing more to embrace the importance of relative caregivers overall. Illinois has a Family Connections grant and the Kin Connections group is doing deep family finding at the point of the temporary custody hearing so relatives can be engaged early and can become placement and support resources for children.

Advice to Other States

If a state is debating whether to take the GAP option, Illinois advises it to take the option. The program is so valuable because many grandparents are hopeful that their adult children (parents of the children they are caring for) will rectify their circumstances and be able to care for their children again, making grandparents hesitant to terminate parental rights.

[1] 20 Ill. Comp. Stat. 505/7(b)

Illinois also encourages states to engage stakeholders early on and continue to engage them throughout implementation of the program.

Helpful Policies and Implementation Tools

- 20 Ill. Comp. Stat. 505/7(b), available at http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=242&ChapterID=5
- GAP Administrative Code: 89 Illinois Administrative Code 302.410: Section 302.410 Subsidized Guardianship (KinGap), available at http://www.ilga.gov/commission/jcar/admincode/089/089003020C04100R.htm
- GAP Policy: Eligibility Manual Chapter 15 Kinship Guardianship Assistance Program Guardianship Assistance Agreement, available at http://www.nrcpfc.org/fostering_connections/state_gap/Illinois_Chapter_15_KinGap.pdf

GAP Contact in Illinois

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Department of Children and Family Services
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Date of the Interview with Illinois: November 2011

LOUISIANA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Guardianship Subsidy Program

Previous Subsidized Guardianship Program: No
Primary Funding: N/A

Approval Date: October 2011
Effective Date: October 2010

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "Relative – an individual related to the child or family of the child through blood or marriage."

"Fictive Kin – related or connected to an individual child or family of that child through bonds of affection, concern, obligation, and/or responsibility prior to foster care entry. Additionally, they are considered by an individual child or family to hold the same level of relationship with an individual child or family as those individuals related by blood or marriage."

Department of Social Services Office of Community Services Policy Manual, Chapter 6, Section 2100 (C)(3) & (C)(11)

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: No

GAP PAYMENT

Maximum Payment: Payment is 80 percent of basic board rate for foster care, depends on child's age; special board rate also allowed for child with special care needs.

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Guardianships are granted in the court where the Child In Need of Care proceedings occur

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Louisiana Children's Code Article 718, available at http://www.legis.state.la.us/lss/lss.asp?doc=762587

State Guardianship Policy: Department of Social Services Office of Community Services Policy Manual, Chapter 6, Section 2100, available at https://stellent.dss.state.la.us/LADSS/outlineDocuments.do?agency=OCS&chapterID=118&partID=976&sectionID=3186

LOUISIANA
Title IV-E GAP Narrative

Overview

Louisiana's federal Title IV-E GAP plan was approved by HHS in October 2011 and was effective as of October 2010. Prior to submission of the GAP plan, Louisiana had to make a change in its civil code to allow guardianship instead of tutorship. To make this change, it used its administrative law rules and was assisted by the Law Institute Children's Code Committee. While awaiting the change in the civil code, the agency began planning submission of its GAP plan.

Louisiana did not have its own state-subsidized guardianship program prior to Title IV-E GAP for children in the child welfare system. However, the "Kinship Care Subsidy Program" (KCSP), funded through Louisiana's Temporary Assistance for Needy Families block grant, was established in Louisiana in 1999 for children being cared for by relatives outside of the child welfare system. In this program, grandparents, step-grandparents or other adult relatives are eligible to receive a subsidy if they satisfy the following requirements: (1) possess or obtain, within one year, legal custody or guardianship of the child who is living in the relative's home; (2) have an income of less than 150 percent of the federal poverty level; (3) apply for benefits through the state's Temporary Assistance for Needy Families (TANF) program; (4) have neither of the parents living in the household; and (5) agree to pursue the enforcement of child support obligations against the parents. Louisiana continues to finance this program through its federal TANF funds. Louisiana still offers the Kinship Care Subsidy Program for qualified relatives caring for children outside of the child welfare system.

Louisiana applied for Title IV-E GAP to help children in the child welfare system who, in the past, have not been able to achieve permanency and would otherwise age out of foster care. GAP provides these children with a viable permanency option with relatives who are willing to provide a permanent home but unwilling or unable to adopt and where there are no adoptive resources for the child.

Benefits of GAP

Impact on Children and Families
Louisiana's Guardianship Subsidy Program (Title IV-E GAP) provides permanency for children with relatives who cannot or do not wish to adopt. Currently 85 children benefit from the program. Although DCFS has always made diligent efforts to locate and establish relative placements for children, more relatives are now being located and used as placement resources and/or supportive resources. There has been no impact on the adoption of children by relatives. When Louisiana had relative foster parents in the past and parental rights were terminated, those relatives typically adopted. That trend has not changed even though subsidized guardianships are another permanency option in Louisiana.

Selected Characteristics of GAP

Definition of "Relative"
Louisiana's Guardianship Subsidy Program provides subsidies for relatives and fictive kin. The Office of Community Services policy manual provides the following definitions:

> "Relative – an individual related to the child or family of the child through blood or marriage."
>
> "Fictive Kin – related or connected to an individual child or family of that child through bonds of affection, concern, obligation, and/or responsibility prior to foster care entry. Additionally, they are considered by an individual child or family to hold the same level of relationship with an individual child or family as those individuals related by blood or marriage."[1]

The definition of "relative" was expanded to include fictive kin specifically for the purpose of Title IV-E GAP. The definition includes anyone that had a familial type of relationship with the child or family of the child prior to the child's initial entry into foster care, whether or not any type of blood or legal relationship existed.

[1] Department of Social Services Office of Community Services Policy Manual, Chapter Six, Section 2100: Guardianship Subsidy

Determining that Return Home and Adoption are Not Appropriate Options
DCFS caseworkers are carefully supervised to ensure that reunification and adoption are ruled out before guardianship is considered. Caseworkers meet with supervisors to staff cases at least quarterly. Every 90 days after foster care entry, for as long as the case goal remains reunification, staff must use a structured decision-making tool to conduct a reunification risk reassessment and determine if and when it would be appropriate to change the goal. Prior to every six-month Family Team Conference (case planning meeting), the worker and supervisor must specifically discuss the case plan goal, efforts to achieve that goal, family progress and the appropriateness of the case plan goal. At the nine month mark, there is a permanency staffing to prepare for any necessary changes to the permanency goal for the 12 month hearing. At these staffings, the caseworker must show efforts toward reunification and efforts to work with relatives to pursue adoption.

The program operations manager supervising the case supervisor must be a part of the initial case planning meeting, the nine month permanency staffing and every case staffing prior to a Family Team Conference after the 12 month permanency hearing until the child achieves permanency. Program operations managers may attend any other staffing as deemed necessary or appropriate.

Louisiana also requires that agency staff counsel families on the benefits of adoption when they express that they do not wish to adopt the child they are caring for.

Child welfare staff must first demonstrate that reunification and adoption efforts have been adequately provided but have not been achieved and are not feasible. They must then demonstrate that guardianship with this family is the best permanency goal at this point in time for this child.

Implementing GAP

Training Strategies
Training has been most effective when all stakeholders are present at the same training. Trainings included child welfare staff, courts, attorneys and other stakeholders before the policy was officially rolled out. More recently, a statewide web conference was held for Louisiana Department of Children and Family Services (DCFS) staff to discuss issues and provide policy clarifications through a FAQ document.

Methods for Tracking Benefits
DCFS is tracking the number of children exiting foster care to permanency in guardianship, the number of those children receiving a subsidy, the amount of time in foster care prior to achieving permanency, and the age at the time the guardianship is established.

DCFS is tracking the codes in the payment system to determine the number of children receiving guardianship subsidies and the amount that is paid monthly. It is also looking at how much of the money for the subsidies can be paid for with Title IV-E funds and how much is coming out of state general funds.

Impact of GAP Implementation on Licensing Relatives
In 2006, DCFS started a large effort to improve recruitment and retention of foster parents with a special emphasis on relative certification. GAP implementation has not resulted in any revisions in the state's licensing policies. About one-half of the foster care population is in a relative placement. However, some relative placements have trouble becoming "certified" (licensed), usually due to old criminal charges. Waivers can be used for some non-safety standards, such as space and capacity, but not criminal history. Since GAP implementation, there has not been an increase in the number of relatives certified.

Stakeholder Involvement
In Louisiana, the Supreme Court and the Court Appointed Special Advocates (CASA) were involved with GAP implementation. Juvenile court judges, attorneys for the agency, attorneys for parents, children's attorneys, the Grandparents Raising Grandchildren Council, the Law Institute Children's Code Committee, Louisiana State University Law School, mental health attorneys, and tribal members all participated in planning meetings.

Tribal Involvement
Tribal representatives have been invited to all planning meetings and trainings. Louisiana has very few American Indian children (less than .5% of foster care population) and often these children are not members of the in-state tribes and their tribes allow them to enter state foster care.

Challenges and Opportunities

One challenge Louisiana faced was creating specific and sufficient policy language for HHS requirements. Louisiana had to change its proposed policy language several times in order to obtain approval. Closer consultation with the federal liaison to ensure acceptable language may have helped smooth the process. Louisiana did note that HHS could only make suggestions about language and not direct the state to use specific language.

Louisiana's biggest challenge with implementation is ensuring that all stakeholders understand the limitations of the program. Stakeholders are frustrated because not all relatives are eligible for this subsidy, only relatives who are certified or licensed may receive a guardianship subsidy. Additionally, stakeholders are frustrated that people with no prior significant relationship, like foster parents, do not qualify for this subsidy.

Also, some stakeholders would like to use subsidized guardianship as an immediate goal from the beginning of the case, before reunification and adoption are ruled out and without waiting for placement with a certified relative for six months. The Agency has had to train stakeholders that this is not how the program is implemented.

Advice to Other States

Louisiana advises other states to meet with all partners, including judges, CASA, caseworkers, and attorneys, to complete an intense analysis of the requirements of the program and determine exactly what the program should look like from administrative, legal and fiscal perspectives prior to submitting the plan. Louisiana encourages other states to get the legal system stakeholders to "buy in" with the role of guardianship in the permanency options continuum and the eligibility requirements for the subsidy payments from the beginning so that stakeholders better understand the limitations of the program. It also encourages states to submit proposed language early and often to the federal liaison for feedback.

Helpful Policies and Implementation Tools

- Department of Social Services Office of Community Services Policy Manual, Chapter Six, Section 2100: Guardianship Subsidy, available at https://stellent.dss.state.la.us/LADSS/outlineDocuments.do?agency=OCS&chapterID=118&partID=976&sectionID=3186
- Louisiana Children's Code Article 718, available at http://www.legis.state.la.us/lss/lss.asp?doc=762587

GAP Contact in Louisiana

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Date of Interview with Louisiana: March 2012

MAINE
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Permanency Guardianship

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: December 2010
Effective Date: January 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "An individual who is related to the child by blood, marriage or adoption or an individual who is part of the family support system such as a non-related godparent, present or former caretaker, close family friend, neighbor or other adult who has a close and caring relationship with the child."

Child and Family Services Policy, IX. A: Permanency Guardianship

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: "Age appropriate" children encouraged to attend Family Team Meetings, which OCFS organizes with families to explore permanency options.

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that warrant continued assistance

GAP PAYMENT

Maximum Payment: Equal to the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: District Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The guardian does not need to be relative. Relative is not required to be licensed or child has not been living with relative as licensed foster parent for six months.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Maine Rev. Stat. Ann. tit. 22 § 4038-C, available at http://www.mainelegislature.org/legis/statutes/22/title22sec4038-C.html; and Maine Rev. Stat. Ann. tit. 22 §4038-D, available at http://www.mainelegislature.org/legis/statutes/22/title22sec4038-D.html

State Guardianship Policy: Maine Child and Family Services Policy, IX. A. Permanency Guardianship, available at http://www.maine.gov/dhhs/ocfs/cw/policy/index.html.

MAINE
Title IV-E GAP Narrative

Overview

In 2005, the Maine Legislature passed a state law establishing permanency guardianships. Since early 2006, this program used state funds to provide ongoing monthly subsidies to relatives and nonrelatives for youth who exit foster care to guardianship. Subsidized guardianship in Maine is called "Permanency Guardianship" to distinguish it from the short-term guardianship available through the state's probate court.

Maine decided to use state funds to pay for its Permanency Guardianship program, rather than follow through with an application for a Child Welfare Waiver Demonstration that would have allowed the state to use federal matching funds for the guardianship subsidies. Judges and tribes in Maine were vocal opponents of the waiver program because it required the random assignment of subsidies to some children and not to others, raising concerns about inequity.

When Title IV-E GAP funds became available, Maine's Office of Child and Family Services (OCFS) applied to maximize its Title IV-E funding to reach more families. The GAP plan was approved by HHS in December 2010 and was effective January 2009. Maine continues to use state funds for subsidies to tribal children and children who are ineligible for Title IV-E GAP. They include children whose guardians are nonrelatives, children whose guardians are not licensed, and children who have not lived with a licensed proposed guardian six months prior to guardianship. Since the approval of Gap, Maine uses Title IV-E funds for all children who meet eligibility requirements. It continues to use the name "Permanency Guardianship" to refer to both its state-funded and Title IV-E-funded subsidized guardianship programs.

Benefits of GAP

Impact on Children and Families
In November 2011, there were approximately 300 children in permanency guardianships. This included about 100 children who were grandfathered in from Maine's earlier program as it existed prior to the GAP plan. Of the 200 children enrolled since the GAP plan was approved, some are Title IV-E eligible and others are enrolled in the state-funded program.

According to OCFS, GAP has had a positive impact in the state. OCFS has seen more timely permanency for children. Permanency guardianship also provides an option for relatives who do not want to adopt, but otherwise wish to provide long-term care for children.

OCFS was also surprised to see that permanency guardianship offers a bridge to help more guardians move to adoption. As of November 2011, about 20 to 30 children have moved from permanency guardianship to adoption. The procedures for that transition are explicitly delineated in the state's law at Maine Rev. Stat. tit. 22 §4038-E, "Adoption from Permanency Guardianship."

Selected Characteristics of GAP

Definition of "Relative"
Maine's definition of "relative" for its permanency guardianship programs is:

> "[a]n individual who is related to the child by blood, marriage or adoption or an individual who is part of the family support system such as a non-related godparent, present or former caretaker, close family friend, neighbor or other adult who has a close and caring relationship with the child."[1]

When it implemented its first permanency guardianship program in 2006, OCFS expanded the definition of "relative" to include "fictive kin." Maine's state law definition of "relative" for the purposes of identifying and notifying relatives within 30 days of a child's removal from a parent's home is limited to relatives by blood or marriage.[2]

Determining that Return Home and Adoption are Not Appropriate Options
OCFS staff must do everything they can to either reunify parents with their children or have the children adopted before considering permanency guardianship. The OCFS policy manual requires that if "reunification for the child

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[1] Child and Family Services Policy, IX. A. Permanency Guardianship
[2] Maine Rev. Stat. tit. 22 §4036-B.
[3] Child and Family Services Policy, IX. A. Permanency Guardianship

is no longer a viable permanency option then a Cease Reunification Order must be signed by the court. Adoption must be fully explored as the preferred permanency option and determined not to meet the needs and best interest of the child."[3] Program administrator approval is required for all permanency guardianship determinations. OCFS must either terminate parental rights or obtain the consent of the birth parents in order to pursue permanency guardianship.

Implementing GAP

Training Strategies
In 2007, Maine had a "Court Forum" for permanency guardianship. The forum took place at 12 courthouses around the state and included caseworkers, foster parents, judges, guardian ad litems (GALs), attorneys for parents and other attorneys. According to OCFS, the Court Forum was very helpful since all the key stakeholders were engaged.

OCFS also has a section on permanency guardianship in its new caseworker training.

Methods for Tracking Benefits
Maine uses its SACWIS system (MACWIS) to track the number of permanency guardianships, length of time in care prior to the order, age, race, ethnicity, placement with siblings, and educational placement. Disruptions are identified in the MACWIS system, but other than that, OCFS is not able to track ongoing indicators after the permanency guardianship is awarded. However, the annual reviews required of guardians do inform OCFS of school attendance, any additional needs, and if the families have moved.

Maine conducted a fiscal cost benefit analysis when it was considering GAP. OCFS has a Title IV-E program specialist who is monitoring the fiscal impact of permanency guardianship, but there are no findings yet.

Stakeholder Involvement
When permanency guardianship began in 2006, Maine had a work group consisting of representatives from the attorney general's office, child welfare training institute, all four Indian tribes in Maine (five reservation representatives), private providers, OCFS staff, and district and probate court judges, in addition to the Indian Child Welfare Act (ICWA) liaison and the ombudsman. There were no caregivers or parents on the work group. For six months after implementation of the original program, OCFS had an oversight committee. The committee was discontinued because the state believed it was no longer needed.

OCFS currently partners with Maine Kids-Kin and Adoptive and Foster Families of Maine. They collaborate together on the Family Connection Grant that was awarded to OCFS in 2009. Maine Kids-Kin is responsible for the Kinship Navigator portion of the grant that serves approximately 100 families in two counties. Maine Kids-Kin provides a variety of resources and services for relatives caring for children, including providing information for guardians interested in receiving assistance.

Maine Kids-Kin occasionally has its staff participate in Family Team Meetings. These are OCFS-organized meetings with families to discuss permanency options, connect families to services, and assist families with exploring the options. OCFS is very open to Kids-Kin involvement in family team meetings. The barriers to Kids-Kin's participation are limited resources and extensive travel times in the state.

Much of Maine Kids-Kin's current work with families involves problem solving over the phone, due to the rural nature of the state. Maine Kids-Kin is also looking into other ways to reach the families, including grandparent to grandparent support by phone.

Tribal Involvement
All four tribes and the Indian Child Welfare Act (ICWA) liaison participated in the work group for the 2006 implementation of permanency guardianship. Maine continues to use state funds to provide guardianship subsidies to tribal children.

Challenges and Opportunities

Maine had to make two unanticipated changes to its policies. First, permanency guardianship was originally written to mirror adoption assistance. However, federal law did not allow the state to limit GAP to "special needs" children. Maine had to remove the "special needs" requirements to be in compliance with federal law. Second, permanency

guardianship did not pay nonrecurring costs for the families, and those costs must be covered as is required under the Fostering Connections Act. Both changes were made to the statute at Maine Rev. Stat. tit. 22 §4038D during Maine's last legislative session in summer 2011.

External stakeholders in Maine report the following challenges with implementation of permanency guardianship:

(1) Rather than focusing on permanency guardianship as a viable option, the stakeholders believe OCFS pushes adoption, particularly for young children, where arguably it is not most appropriate. One stakeholder provided an example of a family who wants permanency guardianship but feels pressure from OCFS to pursue adoption. The prospective guardian is a grandmother who is caring for a 2-year-old child whose parent has mental health issues. The grandmother is concerned about adoption because she does not want to traumatize the parent with termination of parental rights. The stakeholder believes that the potential guardian is not properly supported in her desire to become a guardian rather than adopt.

(2) OCFS outreach for permanency guardianship is limited, and could be improved by updating and distributing its "A Handbook for Relatives and Others Considering Permanency Guardianship."

(3) Some OCFS front line staff are reluctant to refer caregivers to community service providers who could help inform them of their permanency options and provide services. This reluctance is due to OCFS paperwork requirements, including the obligation to get the caregiver's signature allowing contact from the providers. On the other hand, there are many OCFS front line workers who are managing the paperwork and supporting the families. In particular, several OCFS regional offices have "kinship specialists" who specifically help kinship families.

Advice to Other States

OCFS suggests other states stick closely to the program instructions when preparing their state amendments. It suggests they use the Children's Bureau suggested language and format to smooth and expedite the process.

Helpful Policies and Implementation Tools

- Maine Rev. Stat. Ann. tit. 22 § 4038-C, available at http://www.mainelegislature.org/legis/statutes/22/title22sec4038-C.html
- Maine Rev. Stat. Ann. tit. 22 §4038-D, available at http://www.mainelegislature.org/legis/statutes/22/title22sec4038-D.html
- Maine Child and Family Services Policy, IX. A. Permanency Guardianship, available at http://www.maine.gov/dhhs/ocfs/cw/policy/index.html
- Agreement for Permanency Guardianship Assistance, available at http://www.nrcpfc.org/fostering_connections/state_gap/Maine_APPLICATION_AND_AGREEMENT_FOR_PERMANENCY_GUARDIANSHIP_ASSISTANCE.pdf
- OCFS has two handbooks about Permanency Guardianships, one for staff and the other for the families. Both were written prior to passage of the Fostering Connections Act and need updating, but other states may still be interested in them.
    - "Permanency Guardianship Handbook," March 2008 for OCFS staff, available at http://www.fosteringconnections.org/tools/assets/files/ME-PERMANCY-GUARDIANSHIP-HANDBOOK-3-1-08-2.doc
    - "Permanency Guardianship Option: A Handbook for Relatives and Others Considering Permanency Guardianship," June 2006. The type of chart in the handbook comparing permanency options can be particularly useful to caregivers. Available at http://www.fosteringconnections.org/tools/assets/files/ME-Permanency-Guardianship-4-5-06.doc

GAP Contact in Maine

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Date of Interview with Maine: November 2011

MARYLAND
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Guardianship Assistance Program

Previous Subsidized Guardianship Program: Yes
Primary Funding: Title IV-E waiver and state funds

Approval Date: March 2011
Effective Date: October 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "An adult related by blood, marriage or adoption, godparent, or strong kinship bond to a child for whom they have been designated by the Court as the guardian."

Guardianship Assistance Program, Policy # SSA#11-21

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Probate Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: No

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: State guardianship assistance program does not require the relative caregiver to be licensed
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Maryland Courts and Judicial Proceedings Section 3-819.2, available at http://law.justia.com/codes/maryland/2005/gcj/3-819.2.html

State Guardianship Policy: Guardianship Assistance Program, Policy # SSA#11-21, available at http://www.nrcpfc.org/fostering_connections/state_gap/MD%20SSA%2011-21%20Guardianship%20Assistance%20Program%20Policy.pdf

MARYLAND

Title IV-E GAP Narrative

Overview

Maryland began offering guardianship assistance in 1997 when it passed a law authorizing the program. The guardianship assistance program was created to increase permanency for children and to encourage relative caregivers to become legal guardians of children.

Maryland's Title IV-E GAP plan was approved in March 2011, and GAP funds can be used for eligible cases dating back to October 2009. Maryland pursued GAP to receive additional federal funding to support its existing state-funded program. The state continues to offer state-funded guardianship assistance for children who are not Title IV-E eligible or when the prospective guardian is not a licensed foster parent.

Benefits of GAP

Impact on Children and Families
Seventeen hundred children had been served by Maryland's guardianship assistance programs at the time of the interview. Maryland has found it challenging to address GAP's fiscal impact. While placing children in subsidized guardianships reduces the number of children in care and saves the state money through reductions in payments for maintenance and staff time, more children are receiving guardianship assistance payments, so the costs have increased. The state does expect a total savings over time. Maryland has not conducted a fiscal analysis of the guardianship program, but it knows that the cost of guardianship has increased because more children are in the program and the state is paying more in total subsidy money.

Several recent changes to Maryland's guardianship assistance program have made guardianship assistance available to a wider group of children. The definition of "relative" was broadened to include "fictive kin." The GAP payments were adjusted to make them more parallel to payments for foster care. Prior to April 2010, the state had a flat guardianship assistance payment of $585. It was then increased to range from $835 to $965. With this change alone, the state reports that the number of placements with guardians "doubled or tripled."

Selected Characteristics of GAP

Definition of "Relative"
In Maryland, a "relative guardian" is defined as

> "an adult related by blood, marriage or adoption, godparent, or strong kinship bond to a child for whom they have been designated by the Court as the guardian."[1]

The definition of "relative" did expand with Title IV-E GAP implementation to include "fictive kin." This change was made in an effort to allow foster parents to become legal guardians. The previous state-funded program used a narrower definition that did not include "fictive kin." The broadening of the definition is only for the purpose of Title IV-E GAP. The definition of "relative" for the purpose of notification when a child enters care for example, does not include "fictive kin."

Determining that Return Home and Adoption are Not Appropriate Options
The determination that return home and adoption are not appropriate options must be detailed in the case plan when the permanency plan is changed to subsidized guardianship.

Maryland first rules out reunification as a permanency option through the case plan, meetings with parents, court hearings, etc. If reunification is ruled out, the state focuses on adoption and explores the options. GAP is pursued only if adoption is not in the child's best interest. Some reasons why adoption is not in the child's best interest include: the child does not want to be adopted; the child has a strong bond with a parent but reunification is not an option; or a child lives with a relative who does not want to adopt the child. The court also must agree to the guardianship placement.

Implementing GAP

Training Strategies
The state shares information on changes to guardianship assistance, such as alternatives to the definition of "relative" and any other updates at the regional supervisors' meetings. It communicates any changes to policy

[1] Alabama Stat. § 38-12-31-2

with local departments through memos and provides technical assistance as requested by local departments. It conducted a training on the SACWIS system and how GAP was incorporated into the system.

Methods for Tracking Benefits
The state does not track GAP benefits. It does not perceive guardianship assistance as affecting adoption or reunification numbers. While there have been increased numbers of children reunifying with parents, Maryland attributes that increase to renewed efforts to strengthen reunification services. With GAP, Maryland is targeting children who have the goal of Another Planned Permanent Living Arrangement (APPLA) and it hopes to decrease the number of children in long-term foster care.

Impact of GAP Implementation on Licensing Relatives
Implementation of Maryland's GAP plan has not resulted in any revisions to licensing policies.

Stakeholder Involvement
The agency did some information sharing with the courts to let them know that the agency was submitting the state plan amendment and that the program would include a broader definition of relative. Because Maryland had a state-funded guardianship assistance program since 1997, it did not believe it needed to involve stakeholders in the planning for or implementation of GAP.

Challenges and Opportunities

Maryland reported some challenges in working with HHS on the application. It was particularly difficult to modify the appropriate language on forms and in the policy. The language needed to be very precise, especially as it related to fictive kin and "relative caregivers."

At the time of the interview, the state was awaiting comments from the public on the regulations for GAP that had been recently posted. Maryland does not expect many comments, considering the information in the regulations is similar to what is already approved and implemented.

Advice to Other States

Maryland advises states that are starting guardianship assistance programs from scratch to invest significant time in training.

Helpful Policies and Implementation Tools

- Maryland Courts and Judicial Proceedings Section 3-819.2, available at http://law.justia.com/codes/maryland/2005/gcj/3-819.2.html
- Guardianship Assistance Program, Policy # SSA#11-21, available at http://www.nrcpfc.org/fostering_connections/state_gap/MD%20SSA%2011-21%20Guardianship%20Assistance%20Program%20Policy.pdf
- Guardianship Assistance Agreement 2039 Form (2/11), available at http://www.nrcpfc.org/fostering_connections/state_gap/MD%20GAP%20Agreement%20Form.pdf

GAP Contact in Maryland

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Date of Interview with Maryland: November 2011

MASSACHUSETTS
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Guardianship Assistance Program (GAP)

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: September 2011
Effective Date: July 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "Related by blood, marriage or adoption or may be no relation to the child, but have family ties based on culture, affection or family values."

Massachusetts Kinship Care Brochure

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that require continued assistance and also for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: Benefit computation is linked to child's foster care maintenance cost (including supplements to base rates). Actual benefit amount will be net of income singularily available to the child.

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: Yes

Court Granting Guardianship: Not evidenced in policy or agreement

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: No

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: Wait period may be less than six months; case plan recitations are not required; criminal background disqualifications for guardians are only those associated with foster home licensing; may be established after creation of guardianship in extenuating circumstances.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Code of Mass. Regs. tit. 110 § 7.300 – 7.304: Policy on Guardianship
http://www.lawlib.state.ma.us/source/mass/cmr/cmrtext/110CMR7.pdf

State Guardianship Policy: Massachusetts Kinship Care Brochure, available at
http://www.mass.gov/eohhs/docs/dcf/c-kinship-brochure.pdf

MASSACHUSETTS
Title IV-E GAP Narrative

Overview

Massachusetts has offered a state-funded guardianship subsidy program since 1971. It provides subsidies to children whose prospective guardian is a licensed kinship, child-specific or unrestricted family resource. The program was viewed in the early 1970s as a way to provide permanency for children placed in child-specific foster care, with relatives, or with foster parents who did not want to adopt due to the child becoming ineligible for some needed services.

In September 2011, Massachusetts' Title IV-E GAP plan was approved. Title IV-E GAP provides subsidies to children whose prospective guardian is a licensed kinship family resource. The impetus for applying for GAP was to maximize federal funding opportunities for eligible families.

Massachusetts currently has both state-funded and Title IV-E-funded guardianship assistance programs. The Title IV-E GAP criteria are stricter than those in the state-funded program. For example, Title IV-E GAP requires that the child reside in the home of the proposed guardian for at least six months prior to the guardianship. For the state-funded program, a shorter residential requirement is permitted with the approval of the Director of Areas. The state, rather than the family, covers expenses that are incurred during the guardianship award process for families in both programs. The amount covered is up to $2,000 for Title IV-E GAP or $400 for state-funded guardianship assistance.

Benefits of GAP

Impact on Children and Families
The guardianship assistance program in Massachusetts is currently serving 3,000 children. A small number of the children benefiting from subsidies that were in place before Title IV-E GAP implementation are now transitioning to the federally-supported program. However, the state's focus now is on the prospective entry of children into Title IV-E GAP.

In terms of family perception, the new federally-funded guardianship subsidy program has created no impact, as families were previously assisted by the state-funded program. In Massachusetts, the hope is that over time the Title IV-E guardianship program, which benefits from federal funds, will allow for greater availability of community-based resources for families.

Selected Characteristics of GAP

Definition of "Relative"
For the guardianship subsidy program, relatives are given preference as guardians. If there are no appropriate relatives available, individuals from the child's network of adults who have been identified as potential child-specific guardianship families are considered. The third and final option is the foster parent with whom the child has lived and who is committed to caring for the child. The state-funded guardianship assistance program has broader eligibility than the Title IV-E program.

In Massachusetts, kinship families are defined as

> "related by blood, marriage or adoption or may be no relation to the child, but have family ties based on culture, affection or family values."[1]

Determining that Return Home and Adoption are Not Appropriate Options

When determining whether or not the child is eligible for guardianship, the Department of Children and Families (DCF) in Massachusetts must determine in permanency planning conferences that the child cannot return home. That determination is "based upon the history of the case and the clinical judgment of Department social work staff."[2]

The department also must determine that "there is no reasonable likelihood that the child will be adopted." The department can make this determination when the child does not want to be adopted or when the social worker staff determines that adoption is not in the child's best interest.[3]

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[1] Massachusetts Kinship Care Brochure
[2] Code of Mass. Regs. tit. 110 § 7.301
[3] Ibid.

Implementing GAP

Training Strategies
DCF conducted training on completing guardianship subsidy applications. Specific training on permanency planning conferences and the ruling out of other permanency options was provided through statewide managers meetings and a webinar.

Methods for Tracking Benefits
Some fiscal analysis of the program has been completed. The first year has not seen a huge fiscal benefit but the state expects that the benefit will grow as a larger portion of guardianships shift from state funded to federally funded.

Impact of GAP Implementation on Licensing Relatives
Prior to implementation of the Title IV-E guardianship assistance program, Massachusetts permitted variances on licensing policies for kin with regard to non-safety concerns. A few kinship caregivers had not been fingerprinted because the state had not been doing that prior to 2008.

In Massachusetts' policy manual, a Title IV-E GAP criterion specifically requires that the proposed guardian has not been convicted of "1. a felony for child abuse or neglect, spousal abuse, a crime against a child or a crime involving violence, such as rape, sexual assault or homicide, but not including simple assault and battery; or 2. a felony for physical assault, battery or a drug or alcohol related offense committed in the five years prior to being licensed."[4] Although the policy manual requires the proposed guardian be licensed as a foster home, it does not specify whether the above convictions would prevent a guardian from qualifying for state-funded guardianship assistance.

Stakeholder Involvement
Since Massachusetts had a guardianship assistance program for years, the implementation work for the new program was mostly an internal process within the DCF. An internal DCF team, including staff from its budget, legal, and claims contracting departments, worked together with the federal liaison.

Massachusetts provided information to the courts about how the guardianship assistance program would be implemented. Court reports now document much of the information required by the state and federal guardianship assistance programs in terms of ruling out other permanency options.

Challenges and Opportunities

Massachusetts faced no major challenges in the implementation of Title IV-E GAP. The smooth process can be attributed to the strong guardianship assistance program already in place when the state decided to pursue federal funding. Federal interactions with the state require significant staff time and the process can be lengthy.

Advice to Other States

Massachusetts has an internal online application process which workers use to apply, on behalf of kin, for the subsidy. Workers must complete the application regardless of whether they are applying for an adoption or guardianship subsidy. The application is mandatory and is viewed as a critical step in the process as it involves specialized staff as decision-makers in this process.

Helpful Policies and Implementation Tools

- *Code of Mass. Regs. tit. 110 § 7.300 – 7.304,* available at http://www.lawlib.state.ma.us/source/mass/cmr/cmrtext/110CMR7.pdf
- Massachusetts Department of Health and Human Services Website: "Subsidies," available at http://www.mass.gov/eohhs/consumer/family-services/adoption/subsidies.html
- Massachusetts Kinship Care Brochure, available at http://www.mass.gov/eohhs/docs/dcf/c-kinship-brochure.pdf

GAP Contact in Massachusetts

Mary Gambon, Assistant Commissioner
Massachusetts Department of Children and Families
617-748-2248
marygambon@state.ma.us

Date of Interview: January 2012

[4] Id.

MICHIGAN
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Guardianship Assistance Program (GAP)

Previous Subsidized Guardianship Program: No
Primary Funding: N/A

Approval Date: January 2011
Effective Date: October 2009

State/Tribal Title IV-E GAP Agreement: Yes

ELIGIBILITY FOR GAP

Definition of Relative: "'Relative' means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, or the spouse of any of the above, even after the marriage has ended by death or divorce. The parent of a man who the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child may be considered a relative under this act but this is not to be considered as a finding of paternity and does not confer legal standing on the putative father."

Michigan's Guardianship Assistance Act, M.C.L.A. Ch. 722

Definition of Relative Includes Fictive Kin: No

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Probate Court; however, some counties handle guardianships in Dependency and Juvenile Courts

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: No

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The guardian does not need to be a relative, and the guardian is not required to be licensed for the prior six months that the child was in his or her care.
Medicaid or CHIP Eligibility is Automatic: No, Medicaid eligiblity is determined by the DHS Subsidy Office.

GAP POLICIES AND RESOURCES

State Statute: Guardianship Assistance Act, M.C.L.A., available at http://www.legislature.mi.gov/(S(do12zjfmnhnv3p55y1c3lf55))/mileg.aspx?page=getObject&objectname=mcl-act-260-of-2008

State Guardianship Policy: The State of Michigan Department of Human Services: Child Guardianship Manual, GDM, available at http://www.mfia.state.mi.us/olmweb/ex/gdm/gdm.pdf

MICHIGAN
Title IV-E GAP Narrative

Overview

In August 2008, right before passage of the Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act), the state of Michigan enacted state-subsidized guardianship legislation. Implementation of Michigan's subsidized guardianship program was delayed in order to conform it to the federal requirements of the new Fostering Connections Act. The funds authorized for subsidized guardianship were later used as the state match for the new federal Guardianship Assistance Program (GAP) and to cover guardianships for non Title IV-E eligible children.

Michigan submitted a state plan amendment to operate a GAP program because it viewed guardianship as essential to helping children achieve permanency. The state already had a large number of children placed with relative caregivers and wanted to maximize the available federal dollars.

Michigan's state plan amendment was approved in January 2011 and became effective as of October 2009.

Benefits of GAP

Impact on Children and Families
GAP has had a positive impact on children and families in Michigan. As of March 31, 2012, 264 children have been approved for guardianship assistance. Approximately 67 percent are eligible for Title IV-E guardianship assistance and the remaining 33 percent for state-funded guardianship assistance. These families are eligible for post-permanency services in the same manner as adoptive families. Children will be eligible for a Michigan medical subsidy based on certified diagnosed conditions. Youth who enter into guardianship after age 16 are eligible for Education and Training Vouchers, which are critical to improving outcomes for youth involved in the child welfare system. These children are also eligible for guardianship assistance until their 21st birthday if they are in school, in job training, employed or incapable of doing any of these activities due to a documented medical condition. Continued eligibility for the extension program is reviewed by the Michigan Department of Human Services (DHS) Subsidy Office every three months.

Selected Characteristics of GAP

Definition of "Relative"
Michigan's definition of "relative" includes relatives to the fifth degree; however, it does not include fictive kin:

> ""Relative" means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, or the spouse of any of the above, even after the marriage has ended by death or divorce. The parent of a man who the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child may be considered a relative under this act but this is not to be considered as a finding of paternity and does not confer legal standing on the putative father."[1]

Determining that Return Home and Adoption are Not Appropriate Options
Michigan classifies children whose parental rights have not yet been terminated as "temporary court wards," and their permanency goals are reviewed by the guardianship program office for appropriateness. Children whose parental rights have been terminated are classified as "state wards" and those cases are reviewed by the Michigan Children's Institute, which has to consent to permanent guardianship of the child.

Before the child's permanency goal can be guardianship, it must be determined that reunification and adoption are not appropriate permanency options. A "permanency planning conference" is held between the caseworker, guardian ad litem, foster parents or relative, the child and any other interested parties. The purpose of the permanency planning conference is for those participating to look at all aspects of the case and work together to make the decision around permanency and guardianship. The case plan must describe the reasons why permanent placement with the prospective guardian is in the child's best interest. Additionally, if the child is legally free for adoption

[1] Michigan's Guardianship Assistance Act, M.C.L.A. Ch. 722

the agency needs to discuss adoption as a more permanent legal alternative to guardianship with the prospective guardian(s) and document the reasons why the prospective guardian has not chosen adoption as the option. The DHS publication, "Making the Decision to Become a Child's Permanent Family," is utilized to provide an explanation of the differences between permanent guardianship and adoption to the prospective guardians and youth and determine the choice that is in the child's best interest. Although Michigan's policy does not specifically include language about notifying the prospective guardian that a child eligible for GAP is also eligible for Title IV-E Adoption Assistance, this procedure is used.

Implementing GAP

Training Strategies
After Michigan's state plan amendment was approved in 2011, Michigan sent letters to all county offices and private agencies notifying them of the new requirements of the federally-funded program. Michigan released publications and hosted several webinars in order to ensure all appropriate workers and court personnel were properly trained on the new program. The State Court Administration Office conducted a webcast before the program was launched and posted the policy and other handouts online for others to reference. Michigan held local trainings for judges, court personnel, DHS staff, and private agency staff, and created comparison charts to highlight the differences between legal guardianship, guardianship for children in foster care and adoption, which they found to be areas of confusion for many workers. Michigan continues to conduct follow-up research through additional trainings, phone calls and e-mails.

Impact of GAP Implementation on Licensing Relatives
GAP is centrally administered through the DHS Subsidy Office. When Michigan's GAP state plan amendment was approved there were several discussions to reconcile the differences between the state-authorized program and the new federally-funded program. The biggest difference between the two was the requirement that children must be in a *licensed* kinship home for six months with the prospective guardian to be eligible for federally-funded guardianship assistance. For state-funded guardianship assistance, the prospective guardian must become a licensed foster parent prior to certification of eligibility for guardianship assistance, but it is not required that the home be licensed for the full six consecutive months that the child has resided in the home.

Michigan is now working to license relative caregivers earlier in the process in order to prevent delays in permanency if a relative is not licensed and guardianship is determined to be the appropriate permanency goal. Michigan recognizes the fiscal incentive to license all relative caregivers in order to maximize the federal dollars available for guardianship.

Stakeholder Involvement
The state thought it was critical to engage the courts and other kinship advocates when implementing GAP. Michigan worked closely with the State Court Administration Office to ensure the courts were well prepared and educated on the new program and understood the importance of guardianship in achieving permanency. The state also engaged advocates at the Kinship Care Resource Center, a nonprofit statewide organization in the School of Social Work at Michigan State University, which provides a centralized location where relative caregivers for children and professionals can receive assistance.

Tribal Involvement
There are 12 federally-recognized Indian tribes in Michigan. Each tribe has their own constitution, bi-laws and tribal codes, which govern their services and programs. Some of the tribes' territories span across state lines, which further complicates the state and tribal relationship since Michigan would need to work with the other states' jurisdictions if they were to operate a guardianship assistance program. Michigan's Department of Human Services is currently working with the Keweenaw Bay Indian Community (KBIC), which will be operating a GAP program.

Challenges and Opportunities

The Michigan Department of Human Services has had to work with the courts to make them more comfortable with allowing relatives to adopt, rather than to use guardianship, when adoption is the preferred plan. Some courts prefer to use guardianship and to keep the case open so continuing services can be provided, even if the relative prefers to adopt the child. The Department also spent considerable time trying to get the state- and federally-funded programs to mirror each other.

Advice to Other States

Michigan underscored the importance of educating all staff who will be involved in guardianship, particularly caseworkers and the court personnel. Workers require continuous education about when GAP is appropriate and the importance of educating families about adoption and guardianship when reunification has been ruled out. Courts and workers can also be confused about the differences between guardianship for children in foster care and guardianship for children who are not in state custody.

Helpful Policies and Implementation Tools

- Michigan's Guardianship Assistance Act, M.C.L.A., available at http://www.legislature.mi.gov/(S(do12zjfmnhnv3p55y1c3lf55))/mileg.aspx?page=getObject&objectname=mcl-act-260-of-2008
- The State of Michigan Department of Human Services: Child Guardianship Manual, GDM, available at http://www.mfia.state.mi.us/olmweb/ex/html/
- Making the Decision to Become a Child's Permanent Family Brochure, available at http://www.michigan.gov/documents/dhs/DHS-Pub-0140_272886_7.pdf

GAP Contact in Michigan

Catherine Hoover, Adoption and Guardianship Program Manager
Michigan Department of Human Services
517-241-8817
Hooverc3@michigan.gov

Date of Interview with Michigan: April 2012

MISSOURI
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Subsidized Guardianship Program

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: April 2011
Effective Date: January 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "A person related to another by blood, adoption, or affinity within the third degree (grandparent, brother, sister, half-brother, half-sister, stepparent, stepbrother, stepsister, uncle, aunt, or first cousin)."

13 Mo. Code of Regs. 35-38.010(L)

Definition of Relative Includes Fictive Kin: No

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: No

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: Yes

Court Granting Guardianship: Probate Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Mo. Rev. Stat. 453.072, available at http://law.justia.com/codes/missouri/2011/titlexxx/chapter453/section453072/

State Guardianship Policy: Funding for Child Welfare Manual, sec. XVII, available at http://www.nrcpfc.org/fostering_connections/state_gap/MO%20Subsidized%20Guardianship%20Funding%20for%20Child%20Welfare%20Manual.pdf; 13 Mo. Code of Regs. 35-38.010(L), available at http://www.sos.mo.gov/adrules/csr/current/13csr/13c35-38.pdf

MISSOURI

Title IV-E GAP Narrative

Overview

Missouri began offering subsidized guardianship assistance in 1999. The state decided to pursue federal Title IV-E GAP so that it could receive federal funding for children and families that achieve permanency through subsidized guardianship. It continues to provide subsidized guardianship assistance for children who are not Title IV-E eligible.

Missouri's Title IV-E GAP plan was approved in April 2011. Upon approval, the Children's Division of Missouri's Department of Social Services was eligible to claim Title IV-E eligible children retroactively from January 2009 to present.

Benefits of GAP

Impact on Children and Families
Subsidized guardianship offers children the chance to have permanency and stability with a relative caretaker. There are between 3,500 and 4,000 children in the state's subsidized guardianship program, of which about 28 percent are Title IV-E eligible.

Missouri performed a fiscal analysis to determine if GAP was worth pursuing. It anticipated that the Title IV-E guardianship penetration rate would be comparable to its Title IV-E foster care penetration rate, which is around 55 percent. However, with the implementation of Title IV-E GAP, the approval process for all relative guardians was streamlined. With the faster approval process for relative guardians who do not meet Title IV-E requirements, there have been a greater number of state-funded guardianships approved. This, in turn, has resulted in the low Title IV-E guardianship penetration rate of 28 percent.

Selected Characteristics of GAP

Definition of "Relative"
For the purpose of GAP, Missouri defines "relative" as:

> "A person related to another by blood, adoption, or affinity within the third degree (grandparent, brother, sister, half-brother, half-sister, stepparent, stepbrother, stepsister, uncle, aunt, or first cousin)."[1]

Determining that Return Home and Adoption are Not Appropriate Options
In Missouri, the determination that reunification and adoption are not appropriate is made by the Family Support Team in permanency planning meetings and in conjunction with the judge in permanency hearings.

Implementing GAP

Training Strategies
Staff have been trained on the changes to FACES, the state's SACWIS system, that were necessary for implementation of GAP. FACES now prompts caseworkers to provide the information required by the Fostering Connections Act.

Methods for Tracking Benefits
Missouri is not tracking the outcomes for children after guardianship is awarded. However, the state is made aware if a guardianship dissolves and the child re-enters the child welfare system.

Impact of GAP Implementation on Licensing Relatives
There have been no changes to the licensing of relatives since the implementation of Missouri's GAP plan. The licensing requirements of Title IV-E GAP were the same as for the state-funded guardianship program.

Stakeholder Involvement
Missouri Children's Division is the only agency involved, since subsidized guardianship has been an option since 1999. The implementation of Title IV-E GAP only required some minor changes to the policy pertaining to sibling eligibility.

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[1] 13 Code of State Regulations 35-38.010(L)

Tribal Involvement
Missouri has no federally-recognized American Indian tribes.

Challenges and Opportunities

Missouri was told by the ACF Regional Office that it could not reimburse families more than $2,000 for guardianship expenses, even though the state was willing to pay 100 percent of the amount in excess of $2,000. The state often encounters families whose expenses exceed $2,000, particularly out-of-state prospective guardians who are required to pay for their own home studies. A preliminary audit, subject to further review, found at least 100 families whose guardianship expenses exceeded $2,000.

Advice to Other States

Missouri encourages states to have strong data systems in place: the more information that can be captured by state data systems, the better. Missouri also advises other states to involve the judiciary as soon as possible in the GAP process. By involving the judiciary at the outset, families can be protected from two common problems that Missouri initially faced. First, the courts need to be aware that the guardianship should not be finalized prior to the approval of the guardianship assistance agreement. This administrative detail can cause significant issues for the subsidy. Second, the courts should double check that the child has lived with the family for the requisite six months, a requirement for Title IV-E GAP eligibility.

Helpful Policies and Implementation Tools

- Missouri Adoption Subsidy & Subsidized Guardianship Programs Brochure, available at http://www.dss.mo.gov/cd/adopt/revadsub.pdf
- Funding for Child Welfare Manual, sec. XVII, available at http://www.nrcpfc.org/fostering_connections/state_gap/MO%20Subsidized%20Guardianship%20Funding%20for%20Child%20Welfare%20Manual.pdf
- 13 Mo. Code of Regs. 35-38.010(L), available at http://www.sos.mo.gov/adrules/csr/current/13csr/13c35-38.pdf
- Mo. Rev. Stat. 453.072, available at http://law.justia.com/codes/missouri/2011/titlexxx/chapter453/section453072/
- Adoption Subsidy / Subsidized Guardianship Agreement Checklist, available at http://www.fosteringconnections.org/tools/assets/files/Adoption-Guardianship-Subsidy-Checklist-MO.pdf
- Missouri Department of Social Services Children's Division Subsidized Guardianship Agreement, available at http://www.fosteringconnections.org/tools/assets/files/Guardianship-Agreement-2011-MO.dotx
- Missouri Department of Social Services Children's Division Application for Subsidized Guardianship, available at http://www.fosteringconnections.org/tools/assets/files/Guardianship-Application-MO.docx
- Missouri Department of Social Services Children's Division Memorandum re: Legal Guardianship Subsidy and Education/Medical Information Policy Updates, available at http://www.fosteringconnections.org/tools/assets/files/Guardianship-Policy-Update-Memo-CD10-80-MO.pdf
- Subsidy "Have I Done Everything" Checklist, available at http://www.fosteringconnections.org/tools/assets/files/Have-I-Done-Everything-Checklist-MO.pdf

GAP Contact in Missouri

Amy Martin, Program Manager
Children's Division
Missouri Department of Social Services
573-526-8040
Amy.L.Martin@dss.mo.gov

Date of Interview with Missouri: November 2011

MONTANA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Subsidized Guardianship Program

Previous Subsidized Guardianship Program: Yes
Primary Funding: Title IV-E waiver and state funds

Approval Date: May 2010
Effective Date: October 2009

State/Tribal Title IV-E GAP Agreement: Yes

ELIGIBILITY FOR GAP

Definition of Relative: "A member of the child's extended family; a member of the child's or family's tribe; the child's godparents; the child's stepparents; or a person to whom the child, child's parents and family ascribe a family relationship and with whom the child has had a significant emotional tie that existed prior to the agency's involvement with the child or family."

Child and Family Services Policy Manual: Substitute Care for Children: Guardianship

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: No age restriction

Extends GAP to age 19, 20, or 21: No

GAP PAYMENT

Maximum Payment: The subsidy shall not exceed $10 less than the foster family maintenance payment if the children were in a foster family home in Montana (for regular or specialized foster care).

OTHER GAP ELEMENTS

Annual Agency Check-in Required: No
Provision for Successor Guardian: No

Court Granting Guardianship: District Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The guardian can be any person approved by the Department of Public Health and Human Services.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Mont. Code Ann § 41-3-444, available at http://data.opi.mt.gov/bills/mca/41/3/41-3-444.htm

State Guardianship Policy: Montana Child and Family Services Policy Manual:
Substitute Care for Children: Guardianship, available at:
http://www.nrcpfc.org/fostering_connections/state_gap/MT%20Substitute%20Care%20for%20Children%20in%20Guardianship.pdf

MONTANA
Title IV-E GAP Narrative

Overview

In 2001, Montana established a subsidized guardianship program using a Title IV-E waiver. In order to be eligible for the subsidy, a child needed to meet Montana's criteria for children with special needs and had to live with the prospective guardian for at least six months in a paid Title IV-E foster care placement. However, the guardian did not have to be a relative. When the waiver ended in 2008, Montana continued to fund subsidies for children in the subsidized guardianship program using state dollars.

Realizing the importance of guardianship in connecting children to permanent families, Montana submitted a GAP state plan amendment in 2009. Montana's GAP plan was approved by the HHS in May 2010, and was effective as of October 2009. Program implementation began in September 2010, after the field staff was properly trained. When Montana implemented its new federally funded subsidized guardianship program in 2010, 96 children covered by the previous program were grandfathered into the new program. Montana also continues to use state funds to extend guardianship subsidies to children who are not Title IV-E eligible and/or whose guardian is a non-relative.

Benefits of GAP

Impact on Children and Families
The impact of the new subsidized guardianship program has been positive. A total of 172 children have entered into guardianships since Montana's waiver began in 2001, and 28 of them finalized their guardianships since Montana's GAP plan took effect in October 2009. Of those 28 children, 20 are receiving Title IV-E GAP and the other eight are receiving state-funded guardianship assistance. Montana has found that while the total number of children receiving guardianship assistance has remained fairly constant, there has been an increase in the number of Title IV-E children going into guardianship rather than children remaining in permanent foster care.

With the new GAP program, Montana has been able to provide permanency for children for whom adoption is not in their best interest and maintain their continuity of care with families who are able to move forward and continue caring for them permanently through guardianship. This has prevented children and youth from being left "in limbo" without ever reaching permanency. Furthermore, since most families Montana works with are Title IV-E eligible, the state is able to provide more children with federally-supported guardianship assistance. There have also been a number of children who subsequently moved from guardianship to adoption.

Montana's previous subsidized guardianship program was only available to children with special needs. The new program opens up eligibility to a broader group of children. For example, staff report that younger children, a population not frequently reached by the prior state program, are now receiving guardianship assistance at higher rates under the new plan.

There are seven Indian reservations in Montana that now have state/tribal agreements. Only three out of the seven tribes participated in Montana's previous subsidized guardianship waiver program, but since the implementation of GAP, all seven tribes in Montana now have tribal/state agreements. Tribes have also taken full advantage of the changes to Montana's definition of "relative" that now reflects the needs of tribes. Also, the new provision in GAP that helps siblings to be placed together has been particularly beneficial for tribal children. Ninety percent of Montana's new tribal cases are sibling groups being placed together. Sibling groups overall have benefited from the new subsidized guardianship program.

Selected Characteristics of GAP

Definition of "Relative"
Montana's earlier subsidized guardianship program was not limited to relatives, so a definition was not required. When defining "relative", or "kinship guardian", for Title IV-E GAP, Montana used a definition that reflects the needs of tribal children. Tribal representatives wanted to ensure that children could be placed with those with whom they had significant emotional ties. Montana defines a "kinship guardian" as:

> "A member of the child's extended family; a member of the child's or family's tribe; the child's godparents; the child's stepparents; or a person to whom the child, child's parents and family ascribe a family

relationship and with whom the child has had a significant emotional tie that existed prior to the agency's involvement with the child or family."[1]

Determining that Return Home and Adoption are Not Appropriate Options

A "permanency staffing" is held several times during the life of a child's case. The Child Protective Services Supervisor, the Child Protection Specialist, Family Resource (licensing) Specialist and Permanency Planning Specialist look at all aspects of the case and work together to make the decision about permanency and guardianship. The family of the child is also brought to the table because the agency uses a very family-centered decision model. During the first year, this group of people will meet every 30 days until a decision about a permanency option is made. It is very much a team decision.

Before the agency can consent to guardianship, it has to determine that adoption is not in the best interest of the child or that no appropriate adoptive family has been identified despite a diligent search. Similar steps need to be taken to determine that reunification is not appropriate. The case plan must describe the reasons why permanent placement with the prospective guardian is in the child's best interest. The agency also has to document efforts made to discuss guardianship arrangements with the child's parent(s).

In addition, if the child is legally free for adoption, the agency needs to discuss adoption as a more permanent legal alternative than legal guardianship with the prospective guardian(s) and document why adoption was not chosen as an option.

Implementing GAP

Training Strategies
Since its original subsidized guardianship program began, Montana has had ongoing training for its field staff, Court Appointed Special Advocates (CASAs) and other court officials. Montana continues to work with the courts, caseworkers and others in the field to ensure stakeholders understand that return home and adoption must be ruled out before guardianship may be considered a permanency plan. There was a strong push to educate staff on the importance of guardianship as a way to connect children to permanent families. Full implementation of the new guardianship program was pushed back from July to September 2010 in order to ensure that all field staff were properly trained on the new program.

Montana has been working with seven tribes, all of which now have state/tribal agreements. The tribes were included in the state webinars and ongoing onsite training has been provided at the tribes' request. Montana continues to provide technical assistance and consultation to these seven tribes by corresponding through email and phone.

Methods for Tracking Benefits
Montana is tracking age, race/ethnicity, length of time in care, and sibling placement. The state had not completed a fiscal analysis at the time of this interview (November 2011). However, some cost savings were anticipated because it has moved more children into the Title IV-E program than in its state-funded program.

Impact of GAP Implementation on Licensing Relatives
Montana has minimum licensing standards for foster care, with exceptions allowed for relative caregivers. These standards were already implemented prior to the application of the new guardianship program. No revisions to the licensing standards were necessary to implement the new guardianship program.

Stakeholder Involvement
When Montana began its waiver program in 2001, it engaged many stakeholders, including court staff, attorneys and tribes. These stakeholders continue to be engaged. However, with the new federally funded program, it has engaged more kinship caregivers and kinship advocates, including groups like Grandparents Raising Grandchildren.

[1] Child and Family Services Policy Manual: Substitute Care for Children: Guardianship

Tribal Involvement
There are seven reservations in Montana and tribal involvement has increased significantly since transition from the state-funded program to the federally funded program. Three of these tribes participated in the previous waiver program, but all seven tribes now have state/tribal agreements to administer Title IV-E GAP.

Challenges and Opportunities

Montana did not cite any significant challenges implementing GAP. The state experienced minor challenges while revamping its requirements for guardianship assistance, such as eliminating its "special needs" requirement; however, some of these challenges, such as broadening its definition of "relative," were ultimately benefits because they enabled Montana to reach more children.

There are concerns about child welfare staff being overwhelmed with work and the need for help at the front end of the system to ensure staff are adequately trained in the guardianship process. While staff have experience processing adoptions, they did not have much experience with guardianships.

Implementation of Medicaid for children in guardianships was slow as the Medicaid agency had to change its administrative rules to parallel those for foster care and adoption assistance. This resulted in some counties lagging behind others in implementation because they were not familiar with the new eligibility rules for guardianship assistance. In early 2012, the Department Public Health and Human Services in collaboration with the Office of Public Assistance began automating the Medicaid provision for children receiving cash assistance in the guardianship assistance program This has created a more timely and smooth transition of benefits.

Montana is working to clarify the obligation of a guardian to ensure that a child is in school and has educational stability to age 18, as compulsory school attendance only continues to age 16 in the state. Montana does not extend guardianship assistance to youth beyond 17 years of age due to legislative challenges, but would eventually like to do so.

Advice to Other States

Montana encourages other states to identify designated staff with expertise in guardianship so they can be of assistance to other staff and stakeholders about the value of guardianship as a permanency option for children, the need to rule out reunification and adoption, and how to finalize guardianships. Without this centralized assistance, other demands prevent staff from learning about guardianship.

Helpful Policies and Implementation Tools

- Mont. Code Ann 41-3-444, available at http://data.opi.mt.gov/bills/mca/41/3/41-3-444.htm
- Child and Family Services Policy Manual: Substitute Care for Children: Guardianship, Form 407-2, available at http://www.nrcpfc.org/fostering_connections/state_gap/MT%20Substitute%20Care%20for%20Children%20in%20Guardianship.pdf
- Subsidized Guardianship Agreement DPHHS-CFS-131, available at http://www.nrcpfc.org/fostering_connections/state_gap/MT%20Subsidized%20Guardianship%20Agreement%20CFS-131%20R%2010-09.pdf

GAP Contact in Montana

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Date of Interview with Montana: November 2011

NEBRASKA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Kinship Guardianship Assistance Program (GAP)

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: May 2011
Effective Date: October 2009

State/Tribal Title IV-E GAP Agreement: Yes

ELIGIBILITY FOR GAP

Definition of Relative: Broad definition which includes fictive kin. State does not have a written definition. Priorities for guardianship are as follows: 1. Relative of the child; 2. Foster parent or another person with whom the child has an existing relationship; 3. New foster parent who is committed to the guardianship plan.

Nebraska Division of Children and Family Services Administrative Memo #5-2011: 6-004.01

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 19 for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: Payment may not exceed the foster care payment.

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Depends on area of state, Juvenile Court and/or Probate Court District Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The state guardianship assistance program does not require the relative caregiver to be licensed.
Medicaid or CHIP Eligibility is Automatic: No

GAP POLICIES AND RESOURCES

State Guardianship Policy: Nebraska Division of Children and Family Services Administrative Memo #5-2011, available at
http://www.nrcpfc.org/fostering_connections/state_gap/NEAdministrative%20Memo5-2011.pdf

NEBRASKA
Title IV-E GAP Narrative

Overview

Nebraska had a state-funded guardianship program for many years. Its Title IV-E GAP plan was approved in May 2011, effective October 2009. The state began implementing Title IV-E GAP by reviewing guardianship cases for eligible children back to October 2009. In December 2009, Nebraska's Division of Children and Family Services in the Department of Health and Human Services (DHHS) issued an Administrative Memo introducing its Federal Kinship Guardianship Assistance Program (GAP). Subsequently, two updates were made to the Administrative Memo, in July 2010 and again in December 2010. The GAP program serves children and youth who are eligible for Title IV-E assistance. Children not eligible for Title IV-E may still receive guardianship assistance through the state-funded program (also called the subsidy program).

Nebraska has long held adoption to be one of the strongest forms of permanency, but the state also recognizes guardianship as an important permanency option, particularly for older youth and for children and youth in tribal communities. Nebraska has state-tribal guardianship agreements with the Winnebago and Omaha Indian tribes.

Benefits of GAP

Impact on Children and Families
At present in Nebraska, there are 1,033 state-funded guardianship subsidy cases and one Title IV-E GAP case. The GAP case is being handled through the Interstate Compact on the Placement of Children (ICPC). Nebraska staff indicate an interest in doing more to educate child welfare workers about GAP. Additional staff training is expected to further strengthen guardianship as a permanency option where appropriate.

Nebraska's Division of Children and Family Services, as reported in its 2009 *Data at a Glance* report, discharged 302 children from agency custody into guardianships in 2009. This is the total number of children discharged into guardianships, regardless of how any subsidy is funded.

Selected Characteristics of GAP

Definition of "Relative"
For purpose of GAP, Nebraska defines "relative" consistent with the definition from its tribal agreements and also the Aid for Dependent Children program. There is no written definition of relative in the state policy. In general, the definition is broad and can include "fictive kin."

Nebraska's administrative code lists the following priorities for the department to use in selecting a guardian:

1. Relative of the child;
2. Foster parent or another person with whom the child has an existing relationship; and
3. New foster parent who is committed to the guardianship plan.[1]

Determining that Return Home and Adoption are Not Appropriate Options

Nebraska has established policies that govern child welfare workers' approaches to assessing the most appropriate permanency option for children in care. Adoption is considered an optimal permanency option, but if adoption and reunification are not possible, workers have policies to guide consideration of guardianship as a permanency option. Workers and supervisors discuss each individual case, and the child welfare administrator reviews guardianship cases for children over age 14.

The case plan, which is submitted for court review, must describe efforts to discuss adoption with the prospective guardian and reasons why adoption was not pursued. It must also include a description of "the steps taken by DHHS to determine that return to the home or adoption is not appropriate."[2]

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[1] Admin. Code 390 § 6-004.01

[2] Administrative Memo #5-2011, page 5

Implementing GAP

Training Strategies
Nebraska is conducting multiple staff trainings to educate workers about GAP and plans additional training in coming months. Training is tailored for income maintenance workers involved in foster care cases. Additional trainings are also being offered to workers involved in tribal cases.

Impact of GAP Implementation on Licensing Relatives
Nebraska's state-funded guardianship assistance program does not require relative caregivers be licensed foster parents. However, the federal Title IV-E program requires relatives be licensed to be eligible for a subsidy. The state is currently looking at the extent to which current licensing practices pose barriers to Title IV-E GAP enrollment.

Tribal Involvement
Nebraska has state/tribal guardianship agreements with the Winnebago and Omaha tribes. DHHS continues to engage in ongoing collaboration with the different tribes in the state. Although they did not receive specific training, the tribes did receive an administrative memo from DHHS that explained GAP. Staff at the central office are available for questions and consultation.

Helpful Policies and Implementation Tools

- Division of Children and Family Services Administrative Memo #5-2011, available at http://www.nrcpfc.org/fostering_connections/state_gap/NEAdministrative%20Memo5-2011.pdf
- Federal Kinship Guardian Assistance Program Agreement, available at http://www.nrcpfc.org/fostering_connections/state_gap/Nebraska%20Federal%20Kinship%20GAP%20Agreement.pdf
- Legal Guardianship Guidebook, available at http://dhhs.ne.gov/children_family_services/Guidebooks/Legal%20Guardianship%20Guidebook.pdf

GAP Contact in Nebraska

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Department of Health and Human Services
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Date of Interview with Nebraska: November 2011

NEW JERSEY
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Kinship Legal Guardianship (KLG)

Previous Subsidized Guardianship Program: Yes
Primary Funding: TANF and state funds

Approval Date: June 2010
Effective Date: October 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "'Kin' is a person with a biological or legal relationship to the child, or a person who is connected to a child or the child's parent by an established positive psychological or emotional relationship."

Administrative Policy and Procedures Manual 1500.3 9-8-2009

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: No

GAP PAYMENT

Maximum Payment: Equal to the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Family Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care program.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: N.J. Stat. Ann. § 3B:12A-2, available at http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=41272642&depth=2&expandheadings=off&headingswithhits=on&infobase=statutes.nfo&softpage=TOC_Frame_Pg42

State Guardianship Policy: Administrative Policy and Procedures Manual 1500.3 9-8-2009, available at http://www.nrcpfc.org/fostering_connections/state_gap/NJ%20DYFS_1500.10_Eligibility_Criteria_for_Title_IV-E_Kinship_GAP.pdf

NEW JERSEY
Title IV-E GAP Narrative

Overview

New Jersey has offered guardianship assistance since 2004 through its Legal Guardianship Subsidy Program. This program was funded with state and Temporary Assistance for Needy Families (TANF) funds.

The state's Title IV-E Kinship Legal Guardianship Program (Title IV-E/KLG) plan was approved in June 2010. Federal funding is available for eligible children who left care for guardianship or have been in care since October 2009.

New Jersey sought out Title IV-E GAP funding to help children remain with relatives permanently. The state continues to provide state-funded subsidized guardianship to children who are not Title IV-E eligible.

Benefits of GAP

Impact on Children and Families
New Jersey began offering subsidized guardianship to families in 2004 and many children successfully achieved permanency through the program. Since October 1, 2009, a total of 478 children have exited foster care to the Title IV-E/KLG program. None of the state's 2,229 children from the previous state program were grandfathered into GAP due to the differences between the new Title IV-E/KLG Program and the state's former program.

Selected Characteristics of GAP

Definition of "Relative"
For the purpose of Title IV-E/KLG, New Jersey defines "kin" as

> "a person with a biological or legal relationship to the child, or a person who is connected to a child or the child's parent by an established positive psychological or emotional relationship."

A "Kinship Legal Guardian" is

> "a caregiver who is willing to assume care of a child due to parental incapacity, with the intent to raise the child to adulthood, and who is appointed the kinship legal guardian of the child by the court."[1]

To qualify for Title IV-E/KLG, the prospective guardian must fit under the definition of "kin." The definition was expanded for GAP purposes to include a person with a biological, legal or emotional relationship to the child.

Determining that Return Home and Adoption are Not Appropriate Options
New Jersey's Division of Child Protection and Permanency (DCP&P) staff must determine that return home and adoption are not appropriate permanency options for the child. These decisions must be supported by documentation in the child's case record. The case plan must include the steps taken by DCP&P staff to determine that neither option is appropriate, to discuss adoption with the prospective guardian and to identify the reasons why adoption was not pursued by the prospective guardian. The family court makes the final determination of whether or not reunification and adoption are appropriate options for the child.

Implementing GAP

Training Strategies
New Jersey's Title IV-E/KLG Program requirements were incorporated in DCP&P's policy and training program. Changes were announced through ongoing administrative processes. Title IV-E staff received training on how to conduct determinations for the Title IV-E/KLG cases.

Methods for Tracking Benefits
There is data reporting and analysis for all children exiting the foster care system, including those exiting into permanent guardianships. New Jersey reports that it is too early for an analysis of GAP's actual fiscal impact.

Impact of GAP Implementation on Licensing Relatives
Under the former state-funded guardianship assistance program, children were required to live with the proposed guardian for one year and the relative was not required to become a licensed foster parent. DCF did review and approve the guardian's home, with safety and background checks, etc. DCF now requires that a relative foster

[1] Administrative Policy and Procedures Manual 1500.3 9-8-2009

home be licensed for six months prior to the finalization of the guardianship in order to ensure compliance with federal law.

Stakeholder Involvement
New Jersey implemented its initial program in 2004. The modifications required to meet the Fostering Connections Act requirements were implemented by DCF and required limited involvement of outside agencies. When the Fostering Connections Act passed, New Jersey started its planning process which included training caseworkers, licensing more relative homes and engaging the courts. The major departments involved in implementation include: Licensing, Policy, Case Practice, Litigation (attorneys and court staff), and the Fiscal and Title IV-E Program Departments.

Tribal Involvement
There are no federally-recognized tribes in New Jersey.

Challenges and Opportunities

New Jersey faced challenges in changing the state's state-funded subsidized guardianship program to meet the new federal requirements while maintaining the best interest of the children. The requirement to license the prospective guardian's home was particularly difficult, as the state/TANF-funded program did not require full licensure.

The Administration on Children, Youth and Families (ACYF) process for GAP revisions and fiscal modifications also presented challenges for the state. DCF leadership met internally with policy personnel, managers, and legal representatives to overcome these challenges.

Advice to Other States

New Jersey encourages states to have operating procedures in place *before* writing the policy. In the same way, states should have the program ready to go before submitting the GAP plan: write policies, develop data system(s), determine eligibility criteria (including fiscal criteria), etc. If the structure is in place prior to approval, then states have a pool of cases ready to be claimed which makes an immediate impact.

Helpful Policies and Implementation Tools

- Administrative Policy and Procedures Manual 1500.10, available at http://www.nrcpfc.org/fostering_connections/state_gap/NJ%20DYFS_1500.10_Eligibility_Criteria_for_Title_IV-E_Kinship_GAP.pdf
- Subsidy Agreement form, available at http://www.nrcpfc.org/fostering_connections/state_gap/NJ%20KLG_Subsidy_Agreement_(English_and_Spanish).pdf
- Title IV-E KLG Eligibility Determination Form, available at http://www.nrcpfc.org/fostering_connections/state_gap/NJ%20KLG%20Subsidy%20ProgramTitle%20IV-E%20Assistance%20Eligibility%20Determination.pdf
- N.J. Stat. Ann. § 3B:12A-2, available at http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=41272642&depth=2&expandheadings=off&headingswithhits=on&infobase=statutes.nfo&softpage=TOC_Frame_Pg42_

GAP Contact in New Jersey

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Date of Interview with New Jersey: December 2011

NEW YORK
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Kinship Guardianship Assistance Program (KinGAP)

Previous Subsidized Guardianship Program: No
Primary Funding: N/A

Approval Date: April 2011
Effective Date: October 2010

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "A person or persons who is related to the child through blood, marriage, or adoption."

18 NYCRR Part 436

Definition of Relative Includes Fictive Kin: No

Age Child Must be Consulted about Guardianship: Children age 14 and older must be consulted. Children age 18 and older must consent. All children who have the developmental capacity to be consulted will be consulted.

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child; is equal to the adoption assistance rate

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Family Court. The Surrogate Court also has the ability, but this is rare.

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: Eligiblity for the program is the same for Title IV-E and non Title IV-E eligible children; however if Title IV-E criteria are not met, no federal Title IV-E claim is made.
Medicaid or CHIP Eligibility is Automatic: Medicaid is categorical (automatic) for all KinGAP children except non-qualified immigrants. Non-qualified immigrant foster children may be provided medical coverage in one of several ways. The sequence is prescribed, and each option must be explored prior to moving to the next:

- by any private coverage the relative guardian has available, where the child can be added to the coverage, provided that such coverage is affordable;

PROGRAM FOR NON TITLE IV-E CHILDREN

- by the relative guardian(s) applying on behalf of the child, and the child being found eligible for Child Health Plus (CHP) or any successor program or plan of state medical coverage that does not consider the immigration status of the applicant in determining eligibility, unless the relative has good cause for not applying, and such reason for not applying includes coverage is not affordable;
- by the relative guardian(s) availing themselves of the state's medical subsidy program.

GAP POLICIES AND RESOURCES

State Statute: N.Y. [Soc. Serv. Law] § 458-a to § 458-f, available at http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@SLSOS0A6T10+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=23591638+&TARGET=VIEW

State Guardianship Policy: KinGAP Administrative Directive (ADM) The ADM, 11-OCFS-ADM-03 Kinship Guardianship Assistance Program (KinGAP), available at http://www.ocfs.state.ny.us/kinship/support_docs.asp

18 NYCRR Part 436, available at http://www.ocfs.state.ny.us/main/legal/Regulatory/final/kinship/Regulations%203-14-11.doc

NEW YORK
Title IV-E GAP Narrative

Overview

The Title IV-E GAP plan was approved and implemented in the state of New York on April 1, 2011 as a result of the enactment of Part F of Chapter 58 of the Laws of 2010, entitled "Kinship Guardianship Assistance Program." New York refers to the program as KinGAP.

New York did not have a subsidized guardianship program in place prior to KinGAP. New York had been considering a state program or a guardianship waiver for many years to serve as another path to permanency for children in foster care. There were several attempts to legislate guardianship, but none were successful. The federal Title IV-E program gave New York the impetus needed to enact legislation and submit a state plan amendment for the GAP option. New York is also serving children who are not eligible for Title IV-E GAP through a state-funded guardianship assistance program.

New York engaged Dr. Mark Testa and Leslie Cohen, who spearheaded the guardianship program in Illinois, to assist with helping the state determine the issues it would need to address. They published a report, "Pursuing Permanence for Children in Foster Care: Issues and Options for Establishing a Federal Guardianship Assistance Program in New York State" (June, 2010). The report is available at http://bit.ly/RiTHSn

Benefits of GAP

Impact on Children and Families
Guardianship assistance helps children who leave foster care in a permanent relationship with a family member who is also the child's guardian. Additionally, guardianship does not require termination of parental rights, so eligible children are able to achieve quicker permanency through a less adversarial process for families. It also allows guardians to make decisions on behalf of the children without the intervention of the state. By moving children to permanency, frontline workers have lower caseloads, allowing them to invest more time in other children who do not have permanent connections. The family court is relieved of the responsibility of holding periodic permanency hearings.

Between April 2011 and August 2012, New York had 38 children leave foster care to live with a guardian who had a guardianship assistance agreement with the child welfare agency. In New York, such an agreement is always with the local social services district.

Selected Characteristics of GAP

Definition of "Relative"
To be eligible for KinGAP, a prospective guardian must be:

> "a person or persons who is related to the child through blood, marriage, or adoption."[1]

Determining that Return Home and Adoption are Not Appropriate Options
To be eligible for KinGAP, there must be a determination that return home and adoption are not in the child's best interest and are not appropriate options for the child. This determination is made at two stages of the KinGAP process.

First, the local social services district (or the Administration for Children's Services (ACS) in New York City) makes this determination as part of the eligibility process. The caseworkers' progress notes must include the steps taken to determine that adoption and reunification are not appropriate and any compelling reasons why they are not in the best interest of the child. The progress notes must also include documentation of efforts to discuss adoption with the prospective guardian and reasons why adoption was not pursued.

Second, after the petition for guardianship is filed, the court makes a finding that compelling reasons exist for determining that return home and adoption are not in the best interests of the child. Guardianship is typically approved in a family court. There are rare circumstances in which a surrogate court may approve a guardianship if the child is involved as part of the Persons in Need of Supervision (PINS) or Juvenile Delinquency program.

[1] 18 NYCRR Part 436

Non-Recurring Guardianship Expenses
The social services district must make payments for non-recurring guardianship expenses incurred by or on behalf of the relative guardian(s) who have been approved to receive kinship guardianship assistance payments. The expenses must be incurred directly in connection with assuming the guardianship of the related foster child, including reasonable and necessary fees, court costs, attorney fees, and other expenses which are directly related to obtaining legal guardianship of an eligible child. The amount of the payment made may not exceed $2,000 for each foster child who enters the kinship guardianship program.

Implementing GAP

Training Strategies
A wealth of resources and implementation tools were developed to assist with the implementation of KinGAP in New York State. Links to all of these resources are available on the Office of Children and Family Services (OCFS) KinGAP webpage at http://www.ocfs.state.ny.us/kinship/background_and_process.asp.

One strategy used by OCFS to educate caseworkers was a KinGAP teleconference, held in advance of the KinGAP implementation date. OCFS also created a designated email account to answer questions regarding the Kinship Guardianship Assistance Program: KinGaphelp@dfa.state.ny.us. Using questions from the teleconference and email account, OCFS created and disseminated a "Frequently Asked Questions" (FAQ) sheet. Administrative directives and corresponding forms were posted online.

OCFS also offers an iLinc computer-based Kinship Guardianship Assistance Program (KinGAP) eligibility course, developed by the Center for Development of Human Services (CDHS) in conjunction with OCFS. The course was piloted in December 2011, and began in January 2012. The course is offered for public and voluntary agency staff every other month.

The *KinGAP Practice Guide for Caseworkers* was posted in May 2011 and an expanded version with additional chapters became available in July 2011. The guide contains five chapters and a number of appendices and is principally designed for caseworkers who are involved in establishing permanency for foster children through KinGAP. The Practice Guide assists caseworkers in determining whether legal guardianship is an appropriate permanency option for foster children in their care, explains the steps in a KinGAP case, and assists districts and agencies in assessing their implementation readiness. The appendices include tools that can be used to assist caseworkers with discussions with the family and child, and with making determinations regarding the child's and related foster parents' eligibility for KinGAP.

In addition to the resources for caseworkers, New York created materials about KinGAP for relatives (in English and Spanish) and youth. A booklet created for relatives, entitled *Know Your Options: The Kinship Guardianship Assistance Program (KinGAP)* includes a chart that compares KinGAP with adoption subsidy and foster care to show the similarities and differences between the programs and benefits. As part of the OCFS "Need to Know" series for youth in foster care, a booklet entitled *A Permanency Option for Youth Living with a Related Foster Parent: Kinship Guardianship Assistance Program (KinGAP)* was created in July 2011. This booklet explains KinGAP and focuses on those elements of the program that youth are likely to be most concerned about, such as independent living services, contact with birth parents and siblings, and the age when KinGAP ends.

Methods for Tracking Benefits
In addition to establishing KinGAP, the New York KinGAP statute sets forth reporting requirements for OCFS with regard to KinGAP and additional relevant data. No later than February 1, 2012, and each year thereafter, OCFS must report the required information on the implementation and progress of KinGAP to the Governor, Speaker of the Assembly, Temporary President of the Senate, the Minority Leader of the Senate, the Chair of the Assembly Committee on Children and Families, and the Chair of the Senate Committee on Children and Families.

The information must include, but is not limited to:

- The total number statewide, and number of children in each local department of social services (LDSS), who have entered into KinGAP within that yearly reporting period;
- The total number of children who have entered into KinGAP since implementation;
- The total number of applications statewide, and number of KinGAP applications in each LDSS;
- The total number of KinGAP applications denied and accepted by a LDSS;
- The ages of children entering into KinGAP;

- The number of fair hearings requested by KinGAP applicants and recipients, including the reasons for such hearing requests;
- The number of fair hearings held, the time frames within which decisions were rendered, and the number of fair hearings resolved in favor of the aggrieved party and the LDSS;
- Changes since implementation of KinGAP in the percentage of foster care children adopted, reunified, and released to other permanency outcomes;
- Changes since implementation of KinGAP in the percentage of children directly placed with relatives under Article 10 of the FCA; and changes in the average length of stay in foster care.

Stakeholder Involvement
The Department of Health (DOH), the Office of Temporary and Disability Assistance (OTDA), and the Office of Court Administration (OCA) have been involved in the implementation of KinGAP. Through OCFS collaboration with DOH, a Plan Amendment was filed with the federal Center for Medicare and Medicaid Services to establish categorical Medicaid for non Title IV-E eligible children in KinGAP. DOH also issued a directive to the local social services districts to inform them that non Title IV-E children are covered. It also developed medical coverage procedures for incoming KinGAP children from other states and outgoing children from New York State to other states.

There was also substantial work with OTDA associated with determining eligibility for other benefits. OCFS and OTDA looked at the treatment of KinGAP income for programs including Temporary Assistance, food stamps, and heating assistance (HEAP) so that processes are in place and guardians could be educated appropriately about what assistance is available to them. OTDA issued a directive to the local social services districts with this information. In New York State the local social services district receives child support while the child is in foster care. OCFS also worked with OTDA on the policy that child support can go to relatives who assume kinship guardianship.

OCFS worked collaboratively with OCA to create forms for petitioning the court and letters of guardianship. There has not been any active involvement of tribes in implementation.

Challenges and Opportunities

One ongoing challenge for New York is the difficulty it experiences establishing eligibility for Medicaid for Title IV-E ineligible children who are placed out-of-state. The Interstate Compact for Adoption and Medical Assistance has a process in place to provide that all adopted children receive Medicaid when placed out of state, but this is not available for children in kinship guardianship. It is critically important to secure Medicaid for this population and establish reciprocity among the states.

Additionally, the state has not seen as many children thus far discharged to kinship guardianship as anticipated. State officials note that it takes a concerted effort to educate everyone about the option in a state that did not have this option before opting into KinGAP. This is particularly true in New York City, where voluntary agencies are responsible for managing all foster care cases. Intensive training and education of both public and voluntary agency staff is required. ACS in New York City has recently begun to provide direct training on KinGAP to voluntary agency staff and is incorporating KinGAP into its permanency panels and other aspects of practice, including its new Child Success New York City program for foster children. Although there have not been many discharges to KinGAP, staff are noticing more applications in process and the numbers seem to be growing as the program becomes more established.

Advice to Other States

OCFS recommends that states develop management information systems changes as soon as possible. The introduction of kinship guardianship requires new payment line codes and new codes relating to applications, discharges, etc. and it can be a time consuming and elaborate process to develop the system requirements, program and test them, and move them to production.

In addition to training on the requirements and processes, managerial, supervisory and direct staff need to be educated on the benefits of the program. There also needs to be administrative support for workers to make this an important part of their permanency planning program for foster children.

OCFS also found it helpful to develop as much training material as possible. The state worked hard to get materials online and to translate some of the materials for caregivers into Spanish. As previously mentioned, it has extensive training materials and information available on its website.

Helpful Policies and Implementation Tools

- N.Y. [Soc. Serv. Law] § 458-a to § 458-f, available at http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=@SLSOS0A6T10+&LIST=LAW+&BROWSER=EXPLORER+&TOKEN=23591638+&TARGET=VIEW
- 18 NYCRR Part 436, available at http://www.ocfs.state.ny.us/main/legal/Regulatory/final/kinship/Regulations%203-14-11.doc
- Report to the Governor and Legislature on Kinship Guardianship Assistance Program (KinGAP), available at http://www.ocfs.state.ny.us/main/reports/KinGAP%20Report%202011.pdf
- Pursuing Permanence for Children in Foster Care: Issues and Options for Establishing a Federal Guardianship Assistance Program in New York State, available at http://www.fosteringconnections.org/tools/tools_analysis_research/files/PURSUINGPERMANENCE-FORCHILDRENINFOSTERCARE_final_6-30-2010.pdf
- KinGap Kick Off Teleconference, Broadcast March 15, 2011, available at http://www.ocfs.state.ny.us/main/kinGap.asp
- New York State Family Court Forms, available at http://www.courts.state.ny.us/forms/familycourt/guardianship.shtml
- KinGAP Administrative Directive (ADM) The ADM, 11-OCFS-ADM-03 Kinship Guardianship Assistance Program (KinGAP), available at http://www.ocfs.state.ny.us/kinship/support_docs.asp
- Kinship Guardianship Assistance Eligibility Trainee Guide, available at http://www.bsc-cdhs.org/cwe/kingap/Kinship%20Guardianship%20Assistance%20Eligibility%20Trainee%20Guide.pdf
- Kinship Guardianship Assistance Practice Guide, available at http://www.ocfs.state.ny.us/kinship/guides.asp
- Kinship Guardianship Assistance Program (KinGAP) FAQ, available at http://www.ocfs.state.ny.us/kinship/KinGAP%20FAQ%202_2_12.pdf
- Booklet for Youth - Need to Know Series: A Permanency Option for Youth Living with a Related Foster Parent: Kinship Guardianship Assistance Program (KinGAP), available at http://www.ocfs.state.ny.us/main/publications/Pub5115.pdf
- Booklet for Relatives (English) - Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP), available at http://www.ocfs.state.ny.us/main/publications/pub5108.pdf
- Booklet for Relatives (Spanish) - Conozca sus opciones de permanencia: Programa de Asistencia para Parientes como Tutores de Menores (Kinship Guardianship Assistance Program – KinGAP), available at http://www.ocfs.state.ny.us/main/publications/Pub5108-S.pdf

GAP Contact in New York

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Date of Interview with New York: May 2012

OKLAHOMA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Title IV-E Subsidized Guardianship Program

Previous Subsidized Guardianship Program: Yes, the state had two programs
Primary Funding: TANF and state funds

Approval Date: January 2012
Effective Date: July 2010

State/Tribal Title IV-E GAP Agreement: Yes

ELIGIBILITY FOR GAP

Definition of Relative: "Kinship relationship" includes: "(1) Related by blood. Maternal and paternal blood relatives considered as kinship, including half-blood, are siblings; grandparents, including those denoted by prefixes of great and great-great; aunts and uncles, including those denoted by prefixes of great and great-great; nieces and nephews, including those denoted by prefixes of grand and great-grand; and cousins. (2) Related by marriage. Relationships created by marriage, as described in paragraph (1) of this subsection, whether by common-law or ceremony, include: step-relations; and the previous relationship designation prior to the termination of the marriage by death or divorce. (3) Related by adoption. Relatives by adoption, as described in paragraphs (1) and (2) of this subsection are considered kinship. (4) Related by emotional tie or bond. An emotional tie or bond exists when a child or the child's parent acknowledges and accepts a person as part of the extended family or in the family's close network of friends and relationships. The family relationship role exists prior to the necessity for out-of-home placement of the child."

Okla. Admin. Code 340:75-7-24(b)

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age at which child has sufficient intelligence, understanding, and experience to provide consent

Extends GAP to age 19, 20, or 21: Yes, to age 19 for youth in school or equivalent program and expected to graduate by then

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: District Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes, Oklahoma has two separate programs for children not eligible for Title IV-E GAP.
How Eligibility Differs from Title IV-E GAP: The TANF-funded program requires the guardian to meet TANF's definition of "relative" and must live within state. The state-funded program does not require guardians to be relatives and requires approval by Child and Family Services Division director.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Okla. Stat. tit. 10A § 1-4-709 and 710, available at http://www.oklegislature.gov/osstatuestitle.html

State Guardianship Policy: Okla. Admin. Code 340:75-6-31.4, available at http://www.okdhs.org/library/policy/oac340/075/06/0031004.htm

OKLAHOMA
Title IV-E GAP Narrative

Overview

Oklahoma began offering guardianship assistance to families early in 2000 under two separate programs. "Supported Permanency" is funded through TANF dollars and has always been the preferred guardianship assistance program. Supported Permanency requires guardians to be relatives within the definition of "relative" in the TANF regulations and reside in Oklahoma. Supported Permanency also requires that the child has lived in the placement for four of the preceding six months. "State-Funded Guardianship" is funded with state dollars and has slightly different criteria than the Supported Permanency program. State-Funded Guardianship does not require guardians to be relatives or to be residents of Oklahoma. All state-funded guardianships require director approval.

Oklahoma's Title IV-E GAP plan was approved by HHS in January 2012. Title IV-E GAP opens up a new funding stream for guardianship assistance, which Oklahoma hopes will support families that may not have qualified for assistance under its two other programs. By offering all three programs (Supported Permanency, State-Funded Guardianship, and Title IV-E GAP) the state can offer guardianship assistance to a larger population of families. The preference for Supported Permanency continues today, even with the implementation of Title IV-E GAP.

One reason Oklahoma pursued Title IV-E GAP was to support relatives living out of state. Oklahoma wanted to provide those families with financial support without burdening them with the periodic case reviews required with an open child welfare case. Potential guardians living outside of the state are ineligible for the TANF-funded Supported Permanency program.

Oklahoma's Children and Family Services Division (CFSD) strongly believes that guardianship is not an appropriate permanency option for young children because of the potential for disruption or modification of the guardianship. For a single child to be placed in Title IV-E GAP, the child must be 12 years of age or older or there must be approval by the CFSD director. For sibling groups to qualify under Title IV-E GAP the eldest sibling must be at least 12 years old or there must be approval by the CFSD director. The agency is very hesitant to approve a guardianship for a child under the age of eight.

Benefits of GAP

Impact on Children and Families
About 18 families (approximately 30 children) receive guardianship assistance through Title IV-E GAP or State-Funded Guardianship. These relatively low numbers are due to the preference for Supported Permanency and the newness of Title IV-E GAP in Oklahoma. At the time of the interview, 153 families (approximately 251 children) were in TANF-funded Supported Permanency.

By participating in Title IV-E GAP, Oklahoma can offer subsidized guardianship to relatives living outside of the state who may not have been covered under previous funding streams. The number of children and families impacted by Title IV-E GAP will be more visible after it has been in place longer.

Selected Characteristics of GAP

Definition of "Relative"
Oklahoma uses its definition of "kinship relationship" for purposes of kinship care (foster care by kin) and Title IV-E GAP. The definition includes:

> "(1) Related by blood. Maternal and paternal blood relatives considered as kinship, including half-blood, are siblings; grandparents, including those denoted by prefixes of great and great-great; aunts and uncles, including those denoted by prefixes of great and great-great; nieces and nephews, including those denoted by prefixes of grand and great-grand; and cousins.
>
> (2) Related by marriage. Relationships created by marriage, as described in paragraph (1) of this subsection, whether by common-law or ceremony, include: step-relations; and the previous relationship designation prior to the termination of the marriage by death or divorce.
>
> (3) Related by adoption. Relatives by adoption, as described in paragraphs (1) and (2) of this subsection are considered kinship.

(4) Related by emotional tie or bond. An emotional tie or bond exists when a child or the child's parent acknowledges and accepts a person as part of the extended family or in the family's close network of friends and relationships. The family relationship role exists prior to the necessity for out-of-home placement of the child." [1]

Determining that Return Home and Adoption are Not Appropriate Options
Oklahoma's Children and Family Services Division has been working on clarifying criteria in this area and providing strong staff support in making this determination. Court proceedings generally are simpler for a guardianship petition than for an adoption petition. In an effort to ensure agency workers seek the appropriate permanency option, the Permanency, Independence, and Continuous Quality Improvement Unit at CFSD works individually with social workers requesting guardianships to probe reasons for determining if return home and adoption are not appropriate. Staff in the unit sometimes attend family team meetings to explain other options to potential guardians. As mentioned earlier, the state also requires a review by the CFSD director when subsidized guardianship is recommended for younger children.

As an additional protection, the court must also find by clear and convincing evidence that "termination of the rights of the parent is either not legally possible or not in the best interests of the child, or adoption is not the permanency plan for the child."[2]

Implementing GAP

Training Strategies
Oklahoma had a guardianship culture already established before the approval of its Title IV-E GAP program. Because the determination of whether to pursue a guardianship does not differ by funding stream, officials felt that additional training was not necessary for implementation.

The Permanency, Independence, and Continuous Quality Improvement Unit within the CFSD is in charge of determining which funding stream is appropriate for families. As the centralized guardianship resource, it frequently fields questions and addresses concerns that come from other stakeholders in these cases. Having this type of centralized assistance available to social workers and others in the child welfare field has been a successful model in Oklahoma.

Impact of GAP Implementation on Licensing Relatives
The Oklahoma policy on eligibility requirements for licensing relatives now includes a section for Title IV-E GAP, however, it mirrors the current guardianship licensing requirements in the state.

Stakeholder Involvement
Oklahoma DHS did not need additional agency assistance or stakeholder involvement for its implementation of Title IV-E GAP because guardianship programs have been in existence in Oklahoma for nearly a decade.

Challenges and Opportunities

Oklahoma's biggest challenge was negotiating the specific language to be used in the Title IV-E GAP Agreement document with the Department of Health and Human Services (HHS). There were specific issues surrounding the legal costs for obtaining a guardianship. In Oklahoma, legal costs for guardianship are generally under $500. However, HHS requires that for Title IV-E GAP the state must provide the cost of expenses associated with obtaining legal guardianship, up to $2,000. Oklahoma and HHS negotiated language to comply with HHS requirements and avoid frivolous claims for court costs. The pertinent language in the agreement allows "reimbursement of court costs, attorney fees and other expenses directly related to the transfer of legal responsibility of the child(ren) to the extent that the total cost does not exceed $2,000 as required by 473(d)(1)(B)(C). Fees and expenses generally do not exceed $500. Special approval to pay fees and expenses above $500 requires a written justification, provided to the CFSD Permanency Planning Section."

Although this issue required negotiation with HHS, Oklahoma still had a very positive experience with HHS during the Title IV-E GAP amendment review process. HHS provided good feedback and support to Oklahoma during the process and they were able to work together to find language acceptable to both parties.

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[1] Admin. Code 340:75-7-24(b), available at http://www.okdhs.org/library/policy/oac340/075/07/0024000.htm

[2] Okla. Stat. tit. 10A § 1-4-710(D)

Advice to Other States

Go for it! Oklahoma officials were very positive about the experience and the impact that Title IV-E GAP will have on families. They encourage states at the beginning of this process to talk with surrounding states about their GAP plans and use other states' work as a starting point. Another suggestion for states in the initial stages of the process is to use their adoption agreements and paperwork as a format for the GAP plan.

Helpful Policies and Implementation Tools

- Okla. Stat. tit. 10A § 1-4-709 and 710, available at http://www.oklegislature.gov/osstatuestitle.html
- Okla. Admin. Code 340:75-6-31.4, available at http://www.okdhs.org/library/policy/oac340/075/06/0031004.htm
- Permanent Connections Brochure, available at http://www.okdhs.org/NR/rdonlyres/4D12C226-0900-44C1-BA71-2C359E474802/0/0318_PermConnections_cfsd_02012011.pdf
- Oklahoma Department of Human Services Title IV-E Subsidized Guardianship Agreement
- Oklahoma Department of Human Services Request for Title IV-E Subsidized Guardianship Agreement, available at http://www.fosteringconnections.org/tools/assets/files/OK-Request-for-Subsidized-GDN.doc

GAP Contact in Oklahoma

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Date of Interview with Oklahoma: June 2012

OREGON
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Guardianship Assistance	**Previous Subsidized Guardianship Program:** Yes **Primary Funding:** Title IV-E waiver
Approval Date: June 2010 **Effective Date:** January 2009	**State/Tribal Title IV-E GAP Agreement:** Yes

ELIGIBILITY FOR GAP

Definition of Relative:

"(a) An individual with one of the following relationships to the child:

- Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.
- Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological parent are half-blood relatives).
- A sibling, also to include an individual with a sibling relationship to the child through a putative father.
- An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.
- A spouse of anyone listed in paragraphs (A) to (D) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by death or divorce. To be considered a relative under this paragraph, the child or young adult must have had a relationship with the spouse prior to the child or young adult entering substitute care.

(b) An individual with one of the following relationships to the child or young adult:

- An individual defined as a relative by the law or customs of the child or young adult's tribe if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.
- An individual defined as a relative of a refugee child or young adult under Child Welfare Policy I-E.2.2.
- A stepparent or a former stepparent if the child or young adult had a relationship with the former stepparent prior to the child or young adult entering substitute care; a stepbrother, or a stepsister.
- The Registered Domestic Partner of the child or young adult's parent or former Registered Domestic Partner of the child or young adult's parent if the child or young adult had a relationship with the former domestic partner prior to the child or young adult entering substitute care.
- The adoptive parent of a child or young adult's sibling.
- The unrelated legal or biological father or mother of a child's half-sibling when the child's half-sibling is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the child or young adult's family, or an individual who self-identifies, related to the child or young adult through the child or young adult's parent by blood, adoption, or marriage to a degree other than an individual specified as a child or young adult's relative in paragraphs (A) to (D) of subsection (a) of this section.

(d) An individual, although not related by blood, adoption, or marriage, identified as:

- A member of the family by the child or young adult or the child or young adult's family; and
- Who had an emotionally significant relationship with the child or young adult or the child or young adult's family prior to the time the Department placed the child in substitute care.

ELIGIBILITY FOR GAP (continued)

(e) For the purposes of these rules related to guardianship assistance:

- A stepparent is considered a parent and is not a relative under these rules unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the child's adoptive or biological parent has been terminated by divorce or death:
- A foster parent may be considered a relative under these rules when: (i) There is a compelling reason why adoption is not an achievable permanency plan; (ii) The foster parent is currently caring for a child in the legal custody of the Department who has a permanency plan or concurrent permanency plan of guardianship; (iii) The foster parent has cared for the child for at least the past 12 consecutive months; and (iv) A Permanency Committee has recommended the foster parent for consideration as a guardian."

Oregon Department of Human Services Policy # I-E.3.6.2 413-070-0905(21)

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that warrant continued assistance and also for youth 16 or 17 with GAP agreements created who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: Payment is negotiated on a case by case basis, but may not exceed the child's base foster family home cost plus level of care supplements the child received, if any. Payment computation may include offsets for income available to child and guardian.

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes **Court Granting Guardianship**: Juvenile Court
Provision for Successor Guardian: Permitted but not automatic

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: No
How Eligibility Differs from Title IV-E GAP: N/A
Medicaid or CHIP Eligibility is Automatic: N/A

GAP POLICIES AND RESOURCES

State Guardianship Policy: State Guardianship Policy: Oregon Department of Human Services Policy # I-E.3.6.2 413-07-0900 thru 0974: Guardianship Assistance
http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-e362.pdf

Oregon Department of Human Services Policy # I-E.6.1 413-100-0000 thru 0345: Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility
http://www.nrcpfc.org/fostering_connections/state_gap/OR%20Title%20IV-E%20FC%20Adoption%20and%20Guardianship%20Asst%20Eligibility.pdf

OREGON
Title IV-E GAP Narrative

Overview

Oregon initiated its subsidized guardianship program on July 1, 1997. Originally funded through a Title IV-E waiver, subsidized guardianship was available to both relatives and non-relatives. In June 2010, HHS approved Oregon's GAP plan. Although the state could have begun claiming Title IV-E GAP funds on January 1, 2009, it did not do so until April 1, 2011. It continued using Title IV-E waiver funds until then.

Assisted guardianships for relatives established prior to January 1, 2011 were transferred into the Title IV-E GAP program. Assisted guardianships for non-relatives established prior to GAP are currently funded through Oregon general funds. The waiver is no longer in operation. Currently, only Title IV-E eligible children placed with relative foster parents are eligible for a subsidized guardianship. No new non-relative assisted guardianships are being established.

Oregon submitted its GAP plan to create a more permanent program to support relative caretakers assuming guardianship of children in foster care. GAP provides an incentive for achieving permanence for children and getting them out of foster care.

Oregon recently broadened the definition of "relative" and made a concerted effort to encourage relative placements for children. These changes occurred around the same period as GAP implementation. Since that time, there has been an increase in relative placements in foster care. However, the number of finalizations for both adoption and guardianship has decreased significantly since 2009.

Benefits of GAP

Impact on Children and Families
At the end of 2011, Oregon had approximately 1,100 children receiving a guardianship subsidy, a number of whom were transferred from the state's earlier subsidized guardianship program. Oregon estimates the 2011 costs of the guardianship assistance program at $12 million. Nearly $4 million of the total amount was contributed from general state funds.

Switching to the federal GAP program created a smoother process for guardians of children from Oregon that reside out of the state. Because the GAP program is a federal program, these families are better able to access medical coverage in their state of residence. Oregon's previous guardianship assistance program was state specific and providing services to out-of-state guardians was difficult.

In addition, the Interstate Compact on Adoption and Medical Assistance forms are being revised to include GAP eligible children. When this revision is completed, the process for getting medical coverage for GAP participants will be simplified. The standardized forms are more efficient for both the state that provides GAP benefits and the state of residence.

Selected Characteristics of GAP

Definition of "Relative"
Oregon broadened its definition of "relative" used to determine eligibility for GAP in July 2010. The original definition included "(a) A "parent" as defined in this rule; (b) Any blood relative or half-blood relative, including persons of preceding generations denoted by the prefixes of grand, great, or great-great (persons with one common biological parent are half-blood relatives); (c) A sibling, aunt, uncle, nephew, niece, first cousin, and first cousin once-removed; (d) A person who legally adopts a child or the child's parent, other legally adopted children of such persons, and any persons related to the child through the adoption who meet the degree of relationship specified in subsection (b) or (c) of this section; (e) A stepmother, stepfather, stepbrother, or stepsister; or (f) A spouse of anyone listed in subsections (b) to (e) of this section, even if the marriage is terminated by death or divorce.

The revised definition of "relative" now includes the following:

"(a) An individual with one of the following relationships to the child:
- Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.
- Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological parent are half-blood relatives).

- A sibling, also to include an individual with a sibling relationship to the child through a putative father.
- An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.
- A spouse of anyone listed in paragraphs (A) to (D) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by death or divorce. To be considered a relative under this paragraph, the child or young adult must have had a relationship with the spouse prior to the child or young adult entering substitute care.

(b) An individual with one of the following relationships to the child or young adult:

- An individual defined as a relative by the law or customs of the child or young adult's tribe if the child or young adult is an Indian child under the Indian Child Welfare Act or in the legal custody of a tribe.
- An individual defined as a relative of a refugee child or young adult under Child Welfare Policy I-E.2.2.
- A stepparent or a former stepparent if the child or young adult had a relationship with the former stepparent prior to the child or young adult entering substitute care; a stepbrother, or a stepsister.
- The Registered Domestic Partner of the child or young adult's parent or former Registered Domestic Partner of the child or young adult's parent if the child or young adult had a relationship with the former domestic partner prior to the child or young adult entering substitute care.
- The adoptive parent of a child or young adult's sibling.
- The unrelated legal or biological father or mother of a child's half-sibling when the child's half-sibling is living with the unrelated legal or biological father or mother.

(c) An individual identified by the child or young adult or the child or young adult's family, or an individual who self-identifies, related to the child or young adult through the child or young adult's parent by blood, adoption, or marriage to a degree other than an individual specified as a child or young adult's relative in paragraphs (A) to (D) of subsection (a) of this section.

(d) An individual, although not related by blood, adoption, or marriage, identified as:

- A member of the family by the child or young adult or the child or young adult's family; and
- Who had an emotionally significant relationship with the child or young adult or the child or young adult's family prior to the time the Department placed the child in substitute care.

(e) For the purposes of these rules related to guardianship assistance:

- A stepparent is considered a parent and is not a relative under these rules unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the child's adoptive or biological parent has been terminated by divorce or death:
- A foster parent may be considered a relative under these rules when:(i) There is a compelling reason why adoption is not an achievable permanency plan;(ii) The foster parent is currently caring for a child in the legal custody of the Department who has a permanency plan or concurrent permanency plan of guardianship;(iii) The foster parent has cared for the child for at least the past 12 consecutive months; and (iv) A Permanency Committee has recommended the foster parent for consideration as a guardian."[1]

Determining that Return Home and Adoption are Not Appropriate Options

In Oregon, regulations require the caseworker specifically document what steps have been taken to determine that neither return to the home or adoption are appropriate options for the child. The caseworker must also document why the guardianship and subsidy are in the child's best interest and the efforts made to discuss adoption with the prospective guardian and the reasons why adoption was rejected.

Implementing GAP

Training Strategies

Oregon has had its guardianship assistance program in place since 1997. Because the program has been offered for many years, the state determined that no additional guardianship-specific training was necessary to implement Title IV-E GAP. Administrative rules and forms have been revised to clarify the eligibility requirements and processes specific to GAP. Staff administering the GAP program conduct regular trainings for new caseworkers and provide local training as requested.

[1] Oregon DHS Policy: Guardianship Assistance.

Impact of GAP Implementation on Licensing Relatives
Oregon has long had the same certification standards for relative and non-relative foster homes, adoptive homes, and guardianship homes. The licensing policies for relatives did not change when Oregon's GAP program became effective.

Stakeholder Involvement
Because Oregon had guardianship assistance available prior to the implementation of GAP, there was not a need for involvement from stakeholders to implement GAP.

Tribal Involvement
Indian tribes in Oregon were invited and participated in reviews of the revised rules specific to GAP eligibility. There is a specific staff person within the program assigned to work directly with tribes submitting applications for GAP and to negotiate with tribal families, which facilitates this process.

Challenges and Opportunities

Due to a prior legal challenge, Oregon had to adjust the language used in GAP agreements to clearly outline the state's power in regard to changing the assistance amount. Oregon's state courts determined that the guardianship assistance agreements are contracts between the guardians and the state, thereby limiting certain state actions such as across-the-board cuts in assistance amounts.

Helpful Policies and Implementation Tools

- Oregon Department of Human Services Policy # I-E.3.6.2 413-07-0900 thru 0974: Guardianship Assistance, available at http://www.nrcpfc.org/fostering_connections/state_gap/Oregon%20Annotated%20Rules%20413-070-0900.pdf
- Oregon Department of Human Services Policy # I-E.6.1 413-100-0000 thru 0345: Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility, available at http://www.nrcpfc.org/fostering_connections/state_gap/OR%20Title%20IV-E%20FC%20Adoption%20and%20Guardianship%20Asst%20Eligibility.pdf
- Guardianship Assistance Agreement, available at http://www.nrcpfc.org/fostering_connections/state_gap/OR%20Guardianship%20Assistance%20Agreement.pdf

GAP Contact in Oregon

Carla Crane, Program Manager
Post Adoption Services
Office of Child Welfare Programs
503-945-5998
carla.crane@state.or.us

Date of Interview with Oregon: November 2011

PENNSYLVANIA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Subsidized Permanent Legal Custodianship (SPLC)

Previous Subsidized Guardianship Program: Yes
Primary Funding: State and county funds

Approval Date: September 2009
Effective Date: April 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: Pennsylvania recently enacted legislation that separated the definitions of kin and relative, although when discussing kinship care, Pennsylvania recognizes both relatives and kin. The definition of relative is an individual who is related within the fifth degree of consanguinity or affinity to the parent or stepparent of a child. The definition of kinship/kin encompasses those relationships that fall under Pennsylvania's current definition of kin that exists in other areas of practice and policy with the removal of relative. This includes existing relationships with a child that meets at least one of the following: God parents as recognized by an organized church; Member of the child's tribe, nation or tribal organization; or Individual with a significant, positive relationship with the child or family. An individual with a significant, positive relationship with the child or family would be one which was in place prior to the execution of the SPLC agreement. This may include relationships established with a teacher, current or former resource parent, etc. Pennsylvania will be revising and reissuing their Permanent Legal Custodian Policy to be reflective of recently enacted legislation that extends SPLC subsidies in certain cases and defines relative and kin seperately.

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 12 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth 13 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Juvenile Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: Children must live with prospective guardian for a cumulative six months (rather than six consecutive months) and guardian does not have to be relative/kin.
Medicaid or CHIP Eligibility is Automatic: No

GAP POLICIES AND RESOURCES

State Statute: 42 Pa.C.S.A. § 6351 and 6357, available at http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/2012/0/0080..HTM

General Assembly of Pennsylvania House Bill No. 75, available at http://www.legis.state.pa.us/cfdocs/legis/PN/Public/btCheck.cfm?txtType=HTM&sessYr=2011&sessInd=0&billBody=H&billTyp=B&billNbr=0075&pn=3827

State Guardianship Policy: OCYF Bulletin, Permanent Legal Custodian Policy, July 30, 2010, available at http://www.pccyfs.org/dpw_ocyfs/Perm_Legal_Custodian/PLC_Policy(OCYFBulletin3130-10-02).pdf

PENNSYLVANIA
Title IV-E GAP Narrative

Overview

The Department of Health and Human Services (HHS) granted two approvals to Pennsylvania's Office of Children, Youth and Families (OCYF) for its federal Subsidized Permanent Legal Custodianship (SPLC) plan, the final one being on September 30, 2009. In April 2009, Pennsylvania's state plan was first approved, but with a narrow definition of "relative" that did not include "fictive kin." Pennsylvania thought this narrow definition was required by federal policy. Once the Children's Bureau in HHS clarified that it did not need a narrow definition, Pennsylvania resubmitted its plan with a definition of "kinship/kin"—that includes fictive kin—which it was using for its existing state and county SPLC programs. Pennsylvania's OCYF submitted the plan to take advantage of federal financing for the programs that it already had in place.

Pennsylvania's counties began implementing and claiming reimbursement for federally-funded SPLC in January 2011. The delay between approval and implementation was due to OCYF's need to develop an invoice and update the department's cost allocation plan (CAP) for the new federally-financed program.

Pennsylvania has had the Permanent Legal Custodianship (PLC) mechanism in its statutes since 1998. Subsidies may also have been awarded as early as 1998, but they were not a part of written OCYF policy until 2003. In 2003, programs by the same name, Subsidized Permanent Legal Custodianship (SPLC), were formalized in OCYF Policy, and financed by state and county dollars. Pennsylvania continues to use these state and county programs for children who are not eligible for the federal SPLC.

Pennsylvania recently enacted legislation to establish the new SPLC Program in statute. Act 80 of 2012 was signed by the Governor on June 30, 2012 with an effective date of July 1, 2012. Act 80 of 2012 also permits the subsidy for a child who entered a PLC arrangement on or after their thirteenth birthday to continue to age 21 as long as the child is pursuing additional education or training, employed for at least 80 hours a month, or is incapable of doing either due to a medical or behavioral health condition. The extension of subsidies is for new agreements executed on or after the effective date of the act.

Benefits of GAP

Impact on Children and Families
As of June 2011, Pennsylvania had 2,165 children in SPLC arrangements. OCYF cannot separate this number into categories of Title IV-E eligible and Title IV-E ineligible children. Because Pennsylvania has a state-supervised, county-administered child welfare system and lacks a statewide information system, data at the state level is limited. However, OCYF does know that the majority of these children are in state- and county-financed arrangements, because the federal program only recently started in 2011.

Selected Characteristics of GAP

Definition of "Relative"
Pennsylvania recently enacted legislation that separated the definitions of "kin" and "relative," although when discussing kinship care, Pennsylvania recognizes both relatives and kin.

> "Relative" is an individual who is related within the fifth degree of consanguinity or affinity to the parent or stepparent of a child.
>
> "Kinship/kin" encompasses those relationships that fall under Pennsylvania's current definition of kin that exists in other areas of practice and policy with the removal of relative. This includes existing relationships with a child that meets at least one of the following: God parents as recognized by an organized church; member of the child's tribe, nation or tribal organization; or an individual with a significant, positive relationship with the child or family. An individual with a significant, positive relationship with the child or family would be one which was in place prior to the execution of the SPLC agreement. This may include relationships established with a teacher, current or former resource parent, etc.

Pennsylvania will be revising and reissuing its Permanent Legal Custodian Policy to be reflective of recently enacted legislation that extends SPLC subsidies in certain cases and defines "relative" and "kin" separately.

As noted above, between the first and second approvals of Pennsylvania's state plans, April 1 to September 30, 2009, Pennsylvania used the more narrow definition of "relative" rather than "kinship/kin" for its federal SPLC program. That definition of "relative" was: any relation by blood, marriage or adoption, who is within the fifth degree of kinship to the child. This includes great-great-great grandparents and first cousins once removed (children of first cousins)."[1]

Determining that Return Home and Adoption are Not Appropriate Options
The agency first determines that return home is not appropriate. During the permanency review hearing the court reviews that finding. The agency next rules out adoption and the child is consulted. State policy requires that children 12 and older be consulted, but children much younger are reportedly often consulted as well. OCYF says it knows of children as young as five who did not want to be adopted, and consequently adoption was ruled out as an option for that child. However, external stakeholders report that in Philadelphia — which has about half of the state's foster care population — there is an informal policy that PLC is not considered for children younger than 10.

Prior to the final court hearing deciding PLC, all PLCs recommended by the counties are reviewed by OCYF.

Implementing GAP

Training Strategies
OCYF is not doing any formal training concerning SPLC, although it is working to clarify nuances in policy between the state and county SPLCs and the federal SPLC. For example, for the state and county SPLCs, the custodian does not have to be a relative/kin and the six months with the foster parent prior to legal custodianship do not have to be consecutive, they can be cumulative.

Methods for Tracking Benefits
Pennsylvania's OCYF does not have a statewide reporting system. The only data it has is what is reported through AFCARS.

Impact of GAP Implementation on Licensing Relatives
There have been no revisions to licensing policies. Pennsylvania has long required that all its agency placements with relatives be licensed.

Stakeholder Involvement
OCYF is collaborating with counterparts in other agencies to ensure that children in SPLCs are receiving the same benefits as foster children where appropriate. OCYF also has quarterly meetings with its counties and the federal SPLC program has been on the agenda at least three or four times.

Because Pennsylvania has had similar state and county programs since 2003, other stakeholders reportedly already understand how they work. OCYF continues to collaborate with external stakeholders on implementation of SPLC, including providing technical assistance and clarification when needed.

Tribal Involvement
There are no federally-recognized American Indian tribes in Pennsylvania.

Challenges and Opportunities

An external stakeholder in Philadelphia reports that caseworkers should inform more families about the availability of the subsidy. Although PLC is often promoted by the county agencies, the availability of a monthly subsidy is frequently kept quiet depending on the caseworker who is involved. There are no agency outreach materials either, so it really does depend on the individuals involved.

Another current challenge comes from some external stakeholders who are pursuing an appeal, which was accepted in spring 2012 by the state's first level appeals court, to decide what "permanency" means in the 1998 statute creating Permanent Legal Custodianships (PLCs). Neither parental consent nor termination of parental rights is required in Pennsylvania for a PLC. Furthermore, parents can seek modification of a PLC at any time and reportedly often seek modification of the PLC order soon after it is granted by petitioning for custody. The appellants are arguing that the PLC statute intended "permanency" and allowing the parents to petition for custody does not allow true permanency for the children. They would prefer to have PLC used only where it is truly permanent.

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[1] Office of Children Youth and Families Bulletin (2010), Permanent Legal Custodian Policy.

Helpful Policies and Implementation Tools

- 42 Pa.C.S.A. § 6351 and 6357, available at http://www.legis.state.pa.us/WU01/LI/LI/CT/PDF/42/42.PDF
- OCYF Bulletin, Permanent Legal Custodian Policy and attachments, available at http://www.pccyfs.org/dpw_ocyfs/Perm_Legal_Custodian/PLC_Policy(OCYFBulletin3130-10-02).pdf
- Federal Subsidized Permanent Legal Custodianship/ Title IV-E Eligibility Criteria (checklist), available at http://www.pccyfs.org/dpw_ocyfinfo.htm#Permanent_Legal_Custodian
- CY-61 C: Determination of Eligibility for Subsidized Permanent Legal Custodianship (SPLC) (checklist), available at http://www.pccyfs.org/dpw_ocyfinfo.htm#Permanent_Legal_Custodian

GAP Contact in Pennsylvania

Cindi Horshaw, Director, Program Policy Unit
Department of Public Welfare
Office of Children, Youth and Families
717-783-7287
chorshaw@pa.gov

Date of Interview with Pennsylvania: February 2012

Rhode Island
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Kinship Guardianship Assistance

Previous Subsidized Guardianship Program: Yes
Primary Funding: TANF and state funds

Approval Date: July 2009
Effective Date: January 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "An individual who is related to the child by blood, marriage or adoption or an individual who is part of the family support system such as a non-related godparent, caretaker, close family friend, neighbor, clergy or other adult who has a close and caring relationship with the child."

Rhode Island Department of Children, Youth and Families, Policy: 700.0245

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: No, however the state uses state funds to extend GAP to 21 for youth with serious emotional disturbances.

GAP PAYMENT

Maximum Payment: Equal to the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Every two years
Provision for Successor Guardian: No

Court Granting Guardianship: Family Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: No
Independent Living Services: No

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: R.I. Gen. Stat. § 40-11-12.3, available at http://www.rilin.state.ri.us/Statutes/TITLE40/40-11/INDEX.HTM

State Guardianship Policy: Rhode Island Department of Children, Youth and Families, Policy: 700.0245, available at http://www.nrcpfc.org/fostering_connections/state_gap/RI%20Legal%20Guardianship%20and%20Kinship%20Guardianship%20Asst%20policy%20700%200245.pdf

RHODE ISLAND
Title IV-E GAP Narrative

Overview

Rhode Island had a subsidized guardianship program authorized through state law dating back to 1994. This program was funded with state dollars for non-relatives and with TANF child-only subsidy dollars for relatives. At the time the Fostering Connections Act became law, Rhode Island was working to increase use of the state guardianship program for children who could not return home or be adopted. There was statewide agreement that opting into the federal program made sense given that guardianship provides greater access to permanency, particularly for older youth. The federal program has also had a positive fiscal impact on the state, as it is less expensive to fund the guardianships than to keep the children in the child welfare system.

The Rhode Island GAP plan was approved in July 2009. The state began implementation immediately and began claiming Title IV-E guardianship assistance for cases going back to January 2009. Children who do not qualify under Title IV-E may still receive guardianship assistance through state funds.

Benefits of GAP

Impact on Children and Families
There were 316 guardianships in Rhode Island as of April 1, 2012. This number represents a significant increase in the number of guardianships granted since opting into Title IV-E GAP. The state program had only approximately 20 active guardianships; it was believed that guardianship was an appropriate option only for older children. The introduction of the federal program has provided an opportunity to educate staff and the community about the benefits of GAP for families and the importance of looking at whether or not it is appropriate on a case-by-case basis, particularly as a way to keep siblings together and to be responsive to individual family preferences.

GAP has allowed children who cannot return home or be adopted a way to exit foster care and achieve permanency. GAP has therefore decreased the number of children in state care, which allows valuable agency resources to be used on other children who do not have permanent relative placements.

Selected Characteristics of GAP

Definition of "Relative"
The definition of "relative" was expanded for GAP. To determine Title IV-E GAP eligibility, "relative" or "kin" is defined as:

> "An individual who is related to the child by blood, marriage or adoption or an individual who is part of the family support system such as a non-related godparent, caretaker, close family friend, neighbor, clergy or other adult who has a close and caring relationship with the child."[1]

Determining that Return Home and Adoption are Not Appropriate Options
Guardianship is an option for children only when returning home and adoption are not available. The permanency plan is changed to kinship guardianship only after the Department of Children, Youth, and Families (DCYF) and the Family Court determine that reunification and adoption are not viable options and that guardianship is in the child's best interest.

The Guardianship Assistance Service Plan requires the agency to describe the steps it has taken to determine that it is not appropriate for the child to be returned home or adopted. It must also describe the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests.

Implementing GAP

Training Strategies
DCYF trained all department staff on the benefits of guardianship for families. This training was particularly important for the staff in the permanency unit. It also had a dialogue about GAP with the foster care and adoption community and the courts to share its vision.

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[1] Rhode Island Department of Children, Youth and Families, Policy: 700.0245

Methods for Tracking Benefits
Benefits are tracked through the Rhode Island Child Information System (RICHIS) and Medicaid; children are connected to community services through their health plan.

Impact of GAP Implementation on Licensing Relatives
All guardians must be licensed foster parents. Variances and waivers of certain licensing criteria are available for relatives. Although these were available to relatives prior to GAP, it is important to note that they are available to related prospective guardians.

Stakeholder Involvement
Several groups have helped Rhode Island publicize and implement GAP. The Rhode Island Foster Parents Association is a recipient of a Family Connections Grant, which funds a kinship navigator to educate kinship families about the guardianship option. Adoption Rhode Island has been a resource to promote guardianship when adoption is not an option. Casey Family Services was instrumental in supporting guardianship and implementation of the federal option. Casey Family Services also has coordinated the work of the Grand Divas, a group of kinship caregivers who provide support to kinship families and can help educate kinship families about guardianship.

Challenges and Opportunities

When Rhode Island began raising awareness about the GAP option, it faced two main concerns. First, it wanted to ensure that the courts did not order guardianships without first ruling out adoption and reunification. Second, it was concerned that workers would not adequately explore adoption with a prospective guardian. In response to these concerns, the state created subsidy forms to help staff document all the actions that have been taken to explore the most appropriate permanency option. These forms must be reviewed by the caseworkers' administrators.

Rhode Island also faced a challenge in complying with the federal requirement that a child must live with the prospective guardian in a licensed home for six months prior to the guardianship award. The state did not want to slow the permanency process for this long and believed it would be an unnecessary barrier to permanency for children who were ready. The state made the decision to move several of these children into guardianships before the six months were completed and pay for the subsidy with state funds.

Advice to Other States

Rhode Island recommends that states develop a well-articulated process for the steps to take when a guardianship is terminated.

Helpful Policies and Implementation Tools

- R.I. Gen. Stat. § 40-11-12.3, available at http://www.rilin.state.ri.us/Statutes/TITLE40/40-11/INDEX.HTM
- Legal Guardianship and Kinship Guardianship Assistance Rhode Island Department of Children, Youth and Families Policy: 700.0245, available at http://www.nrcpfc.org/fostering_connections/state_gap/RI%20Legal%20Guardianship%20and%20Kinship%20Guardianship%20Asst%20policy%20700%200245.pdf
- Foster Care and Adoption Regulations for Licensure Section 2-III: Variance and Waiver, available at http://www.dcyf.ri.gov/docs/fc_reg.pdf

GAP Contact in Rhode Island

Kevin Savage, Administrator
Licensing and Regulation
Department of Children, Youth and Families
401-528-3629
Kevin.Savage@dcyf.ri.gov

Date of Interview with Rhode Island: May 2012

SOUTH DAKOTA
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Guardian Assistance Program (GAP)

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: May 2011
Effective Date: January 2010

State/Tribal Title IV-E GAP Agreement: Yes, entered in June 2012

ELIGIBILITY FOR GAP

Definition of Relative: "(1) Related by blood. Blood relatives including half blood relationships are: a) Siblings; b) Grandparents and great or great-great grandparents; c) Aunts and uncles and great or great-great aunts and uncles: d) Nieces and nephews and great or great-great nieces and nephews; e) first cousins and first cousins once removed. (2) Related by adoption. (3) Related through legal adoption including any of the relationships listed above. Related by marriage. (4) Related by marriage even if a marriage is terminated by death or divorce. Parental relatives. Parental relatives of 1), 2), or 3) above of children born out of wedlock. Step parents. Any person listed in 1), 2), or 3) above who have a step relationship with the child, even if the marriage is terminated by death or divorce.
Related by emotional tie or bond (Fictive Kinship). These relationships are based on emotional ties or bonds that cause a child or the child's parent to accept a person as part of the extended family or network of friends prior to the necessity for an out-of-home placement. The child must indicate that they feel safe with this individual or family. Examples of these types of kin include: a friend of the family; a church member; a school teacher, or any other community member significant to the family and/or child. Due to the unique relationship represented by Fictive Kin, approval is required from the Foster Care/Kinship Program Specialist and the Division Director. Documentation of court approval is also required.

Child Protection Services Procedures Manual: Foster and Kinship Care

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that warrant continued assistance; to age 19 for youth in school or equivalent programs who are expected to graduate by then

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: No

Court Granting Guardianship: Family Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

SOUTH DAKOTA

Title IV-E GAP Fact Sheet (Continued)

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: Tribes are not eligible; the program has a means test (below 150% of state median income).
Medicaid or CHIP Eligibility is Automatic: No

GAP POLICIES AND RESOURCES

State Guardianship Policy: Child Protection Services Procedures Manual: Foster and Kinship Care
http://www.nrcpfc.org/fostering_connections/state_gap/SD%20CPS%20Policy%20and%20Procedures%20Manual%20Foster%20and%20Kinship%20Care.pdf

SOUTH DAKOTA
Title IV-E GAP Narrative

Overview

South Dakota created a state-funded subsidized guardianship program in 1984. The program serves about 200 children. The state-funded guardianship program contains a means test for eligibility. Only families with an adjusted gross income that is below 150 percent of the state median income are eligible for the state program. Medicaid is not automatically available for children in the state program.

South Dakota sought a state plan amendment to take advantage of the Title IV-E funds and provide guardianship to a wider section of children. South Dakota's GAP plan amendment was approved by HHS in May 2011 and the state began implementation in January 2012. Delay in implementation was due the need to update the Family and Children Information System (FACIS), South Dakota's SACWIS system, to track required GAP data. Tracking the data is a prerequisite for implementation of GAP and was included in the Title IV-E plan amendment. The South Dakota Department of Social Services (DSS) has only three full-time staff dedicated to FACIS.

DSS expects to experience financial savings from the implementation of GAP, as it can now draw down federal funding for Title IV-E eligible children who had previously been supported through state-funded permanency assistance payments.

Benefits of GAP

Impact on Children and Families
At the time of the interview, there were about 200 children in the state-funded guardianship assistance program. At that time, there were no Title IV-E GAP cases as the program was just implemented in January 2012. However, South Dakota anticipates that participation in GAP will bring about an increase in the licensure of kinship providers and a reduction in the duration of foster care for children.

Selected Characteristics of GAP

Definition of "Relative"
South Dakota's definition of "relative" includes fictive kin and other types of relationships:

> "1) Related by blood. Blood relatives including half blood relationships are: a) Siblings; b) Grandparents and great or great-great grandparents; c) Aunts and uncles and great or great-great aunts and uncles: d) Nieces and nephews and great or great-great nieces and nephews; e) First cousins and first cousins once removed.
>
> 2) Related by adoption. Related through legal adoption including any of the relationships listed above.
>
> 3) Related by marriage. Related by marriage even if a marriage is terminated by death or divorce.
>
> 4) Parental relatives. Parental relatives of 1), 2), or 3) above of children born out of wedlock.
>
> 5) Step parents. Any person listed in 1), 2), or 3) above who have a step relationship with the child, even if the marriage is terminated by death or divorce.
>
> 6) Related by emotional tie or bond (Fictive Kinship). These relationships are based on emotional ties or bonds that cause a child or the child's parent to accept a person as part of the extended family or network of friends prior to the necessity for an out-of-home placement. The child must indicate that they feel safe with this individual or family. Examples of these types of kin include: a friend of the family; a church member; a school teacher, or any other community member significant to the family and/or child. Due to the unique relationship represented by Fictive Kin, approval is required from the Foster Care/Kinship Program Specialist and the Division Director. Documentation of court approval is also required".[1]

Determining that Return Home and Adoption are Not Appropriate Options
In South Dakota, DSS must determine that return home and adoption are not appropriate options for the child. The Division of Child Protective Services (CPS) staff make efforts throughout the case to determine the appropriate permanent plan. Working with the family to return the child home is always the first priority. If those efforts are unsuccessful, alternative plans are initiated. Adoption is looked into as a concurrent plan for the child.

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[1] Child Protection Services Procedures Manual: Foster and Kinship Care

Guardianship is considered as an alternative in the following situations:

- Older youth who are legally free for adoption and do not wish to be adopted or cannot be adopted;
- Older youth who are in temporary custody and whose parents agree to a plan of guardianship;
- Older youth in temporary custody whose parents are incapacitated or unwilling to participate in a case plan and whose parental rights will not be terminated;
- Younger children who are legally free for adoption whose disabilities prohibit placement in an adoptive home; and
- Younger children in temporary custody whose parents agree to a plan of guardianship

Implementing GAP

Training Strategies
DSS provided GAP training to staff via Live Meeting sessions in January 2012. Training was also provided to tribes with Title IV-E Agreements with the state. FACIS training will assist with determining eligibility for GAP. DSS does not plan to train judges and other stakeholders because they are already aware of the benefits of subsidized guardianship.

Methods for Tracking Benefits
FACIS will collect data. South Dakota will be particularly focused on determining if timeliness to permanency is impacted and if more relatives become licensed for foster care.

DSS did a fiscal analysis before the Title IV-E plan amendment was approved. Based on the analysis, DSS expects to see state savings for the Title IV-E eligible children in GAP. The fiscal analysis indicated that, of the guardianships in place under the state-funded program, only 15-20 percent would qualify for GAP due to the fact that many of the children are in non-licensed homes or did not meet the Title IV-E eligibility requirements.

DSS has not engaged external stakeholders on implementation. Stakeholders are familiar with the importance and benefits of subsidized guardianship since it has been a permanency option in South Dakota for two decades.

Tribal Involvement
Indian tribes are not eligible for the state-funded subsidized guardianship program at this time as the primary funding source is general fund dollars. Children who are members of tribes that have Title IV-E agreements with the state and meet the criteria for GAP are eligible for federal Title IV-E-funded guardianships. The State Fiscal Year 2013 Agreements were amended accordingly.

Challenges and Opportunities

The state wanted to have the non-recurring payment for Adoption Assistance and GAP to be equal. To do so, the state proposed capping non-recurring costs related to obtaining guardianship at $1,500 rather than $2,000. However, after discussions with federal representatives, the decision was made to move forward with the $2,000 non-recurring payment.

South Dakota had limited staff available to update the FACIS system to collect GAP data. This caused a delay in implementation of GAP.

Advice to Other States

South Dakota advises other states to simply "follow the instructions" and stay within the guidelines HHS has provided.

Helpful Policies and Implementation Tools

- South Dakota's Guardianship Assistance Agreement, available at http://www.nrcpfc.org/fostering_connections/state_gap/SD%20Guardianship%20Assistance%20Program%20Agreement.pdf
- Child Protection Services Procedures Manual: Foster and Kinship Care, available at http://www.nrcpfc.org/fostering_connections/state_gap/SD%20CPS%20Policy%20and%20Procedures%20Manual%20Foster%20and%20Kinship%20Care.pdf

GAP Contact in South Dakota

Virgena Wieseler, Director
Division of Child Protection Services
605-773-3227
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Date of Interview with South Dakota: October 2011

TENNESSEE
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Subsidized Permanent Guardianship

Previous Subsidized Guardianship Program: Yes
Primary Funding: Title IV-E waiver

Approval Date: November 2009
Effective Date: April 2009

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "A person with whom [the child] is related to by blood, marriage or adoption or with whom the child had a significant relationship that pre-existed DCS placement such as godparent, friend, neighbor, church member, minister or teacher...This definition does not include traditional Resource Parents unless the Resource Parent had a pre-existing significant relationship with the child/youth"

Subsidy Manual for Adoption Assistance and Subsidized Permanent Guardianship

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 12 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth who are in education programs or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: Equal to the foster rate minus five cents a day plus an enhanced rate where appropriate not to exceed $60 per day

OTHER GAP ELEMENTS

Annual Agency Check-in Required: No
Provision for Successor Guardian: No

Court Granting Guardianship: Juvenile Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster care payments.
Medicaid or CHIP Eligibility is Automatic: No

GAP POLICIES AND RESOURCES

State Guardianship Policy: Subsidy Manual for Adoption Assistance And Subsidized Permanent Guardianship http://www.tn.gov/youth/dcsguide/manuals/SubsidyManual.PDF;
Administrative Policies and Procedures: 16.39: Subsidized Permanent Guardianship http://www.tn.gov/youth/dcsguide/policies/chap16/16.39.pdf;

TENNESSEE
Title IV-E GAP Narrative

Overview

In Tennessee, Subsidized Permanent Guardianship (SPG) was first offered through a Title IV-E waiver demonstration project on December 6, 2006. The Department of Children's Services (DCS) implemented that program to increase permanency for children and reduce the average length of stay in foster care. The state decided to pursue Title IV-E GAP and its GAP plan was approved by HHS in November 2009 and was effective in April 2009.

HHS asked Tennessee to rewrite its policy several times to clarify the relationship between the GAP program and the state's option to extend foster care to age 21. Keeping the two policies consistent proved more challenging than the state anticipated. Although HHS feedback was helpful, it took more time to obtain the approval for the Title IV-E GAP program than expected.

Benefits of GAP

Impact on Children and Families
Eight hundred and eleven children have exited foster care to guardianship since the state began offering subsidized guardianship in 2006. Tennessee has established approximately 492 guardianships through the Title IV-E GAP plan. Staff report growth in the pace of established guardianships since the federal program began.

Tennessee reports that the program has been positive for children and families because relatives and kin make the strongest placement option for children. A guardianship assistance program is a great opportunity for children and youth to find permanency. Additionally, the agency has not seen many of these children return to care once guardianship is finalized.

The subsidized permanent guardianship program promotes better family engagement by allowing dialogue with the family about what is in the best interests of the child. Subsidized guardianship sends the message that the state values kin, which is something the state has been consistently reinforcing for many years.

Selected Characteristics of GAP

Definition of "Relative"
Tennessee uses the following definition of "relative" to determine eligibility for SPG assistance:

> "A person with whom [the child] is related to by blood, marriage or adoption or with whom the child had a significant relationship that pre-existed DCS placement such as godparent, friend, neighbor, church member, minister or teacher. This definition does not include traditional Resource Parents unless the Resource Parent had a pre-existing significant relationship with the child/youth."[1]

This definition is similar to what the state used for the Title IV-E waiver program and has not expanded.

Determining that Return Home and Adoption are Not Appropriate Options
Tennessee's statute requires the court to find that permanent guardianship is in the child's best interests and that reunification is not in the child's best interest. In addition, the Department of Children's Services must determine that return home and adoption are not appropriate options for the child.

Implementing GAP

Training Strategies
Most of the training for the subsidized permanent guardianship option was completed when the state put the Title IV-E waiver in place. At that time, there was training for front line workers, judges, lawyers, CASAs, resource parents and advocates.

One area that Tennessee did flag was training staff to value kin and kinship placements, as well as understanding the unique issues of kin. There must be a commitment from caseworkers to see children gain permanency with kin. On the other hand, workers must be trained not to adopt a "kinship or bust" mentality: a balance must be struck with safety and solid assessments of kin capacity and protective factors.

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[1] Subsidy Manual for Adoption Assistance and Subsidized Permanent Guardianship

Tennessee trains staff on its full disclosure policy, which requires staff to disclose all of the options available to kin so they can make informed decisions about their legal relationship to the child and understand the benefits that are available to them. Full disclosure is required at the front end, when children are first brought into care and decisions must be made about whether or not the child will be in custody and the caregiver must become a foster parent, as well as when adoption and guardianship are being considered.

Additional agency staff will also sit in on child and family team meetings if there is a controversy about the permanency decision. Central office staff will come in by conference call to help with full disclosure and decision-making if necessary.

Impact of GAP Implementation on Licensing Relatives
Tennessee has made revisions to its licensing policies, but not necessarily as a result of GAP implementation. The revisions are geared toward ensuring that non-safety issues do not present barriers to placing children in a licensed kinship home.

Stakeholder Involvement
When DCS implemented the waiver program, it had a steering committee that helped design the program. The committee included staff from the Department of Children's Services (legal, fiscal, program directors, regional administrators and the deputy commissioner), University of Illinois consultants, and the Training Consortium on Child Welfare.

Challenges and Opportunities
One of the most challenging aspects of GAP implementation is the need to make the clinical decision about the relationship between the guardian and the child and whether or not the guardian can provide the child with the ongoing support needed once the case is closed.

Tennessee is seeing an increase in several regions in the percentage of relatives becoming licensed. This is due to increased awareness of the benefits of licensing—including the opportunity for licensed kinship foster parents to enter into subsidized guardianships if children cannot return home and adoption is not in their best interest.

Advice to Other States

Tennessee recognizes its Child and Family Team Meeting (CFTM) model as an effective vehicle for discussing options with families. CFTM is a regular discussion with families and the information is documented in a CFTM summary document.

Tennessee also notes that it is important to improve your kinship system first, or as the agency is creating its guardianship program. Staff have to value kin, understand their unique issues and want to see children gain permanency with kin. Tennessee encourages states to deal with attitudes and values within the agency and legal communities first: "You cannot do enough work with courts, judges and attorneys."

Tennessee also advises states to work with foster parents and foster parent groups. Fostering has become a pathway to adoption for some families, and the state wants to be sure these parents understand why the agency seeks kin first as a matter of policy.

Helpful Policies and Implementation Tools

- Tenn. Code §37-1-802, available at http://www.state.tn.us/tccy/tnchild/37/37-1-802.htm
- Subsidy Manual for Adoption Assistance And Subsidized Permanent Guardianship, available at http://www.tn.gov/youth/dcsguide/manuals/SubsidyManual.PDF
- Adoption and Permanent Guardianship Comparisons Chart, available at http://www.nrcpfc.org/fostering_connections/state_gap/TN_Comparison_Chart_Adoption_and_Guardianship.pdf
- Permanent Guardianship Overview & The Advantages of Subsidized Permanent Guardianship, available at http://www.nrcpfc.org/fostering_connections/state_gap/TN%20Permanent%20Guardianship%20Overview.pdf
- Administrative Policies and Procedures: 16.39: Subsidized Permanent Guardianship, available at http://www.tn.gov/youth/dcsguide/policies/chap16/16.39.pdf

GAP Contact in Tennessee

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Tennessee Department of Children's Services
615-532-5242
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Date of Interview with Tennessee: May 2012

TEXAS
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Permanency Care Assistance (PCA)

Previous Subsidized Guardianship Program: No
Primary Funding: N/A

Approval Date: April 2011
Effective Date: October 2010

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "Relative of a foster child, or another adult with a longstanding and significant relationship with a foster child before the child was placed with the person by the department, with whom the child resides for at least six consecutive months after the person becomes licensed by the department or verified by a licensed child-placing agency or the department to provide foster care."

Texas Family Code 264.851

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: Is equal to the adoption assistance rate (less than the foster care rate)

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Every five years (or more often, if needed) for children under 18; annually for youth 18 or older.
Provision for Successor Guardian: No

Court Granting Guardianship: Family Court (called conservatorship in Texas)

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: No

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: The child is not eligible for Title IV-E foster payments.
Medicaid or CHIP Eligibility is Automatic: Yes, children not eligible for Title IV-E who receive guardianship assistance benefits receive a health benefit equivalent to the Title IV-E Medicaid at state expense.

GAP POLICIES AND RESOURCES

State Statute: Texas Family Code 264.851, available at http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.264.htm#264.851

State Guardianship Policy: Child Protective Services Handbook § 1580: Permanency Care Assistance, available at http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_1580.asp#CPS_1580 and § 4700 Permanency Care Assistance, available at http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_4700.asp#CPS_4700

TEXAS
Title IV-E GAP Narrative

Overview

Prior to Title IV-E GAP, Texas did not have a subsidized guardianship program. In June 2009, Texas passed legislation for a state guardianship assistance program that became effective September 2010, with funds to start October 1, 2010. The Texas Department of Family and Protective Services (DFPS) submitted an updated Title IV-E GAP state plan amendment in the fall of 2010. HHS approved the Permanency Care Assistance Program (PCA) in April 2011, with the effective date of October 2010. The state plan amendment review process for the Title IV-E GAP plan was a smooth process for Texas.

Benefits of GAP

Impact on Children and Families
The PCA program allows more relatives to provide long-term permanency for children, especially for large sibling groups, with financial support. Without PCA supports, some relative foster parents would not be able to take permanent legal guardianship of the children they are fostering.

As of March 31, 2012, 459 children have exited foster care and been approved for PCA with a subsidy. This includes both the Title IV-E and state-funded program for Title IV-E ineligible children. Because there was no guardianship assistance before federal Title IV-E GAP, there were no cases to grandfather into the Title IV-E funding stream. Informal analysis from staff indicates that the PCA program has benefited large sibling groups and Native American children.

The number of children in licensed or "verified" kinship homes has increased significantly (from 39 to 737), as has the ability to place siblings together in homes. PCA offers an additional option to allow children to exit foster care to permanency with relatives. Relatives now receive more financial support, especially relatives who wanted to care for children but could not without ongoing support. Implementation has also helped to educate the community and the judiciary that relatives cannot be expected to care for children without financial assistance.

Selected Characteristics of GAP

Definition of "Relative"
The Permanency Care Assistance Program offers support to "kinship providers." To qualify, a person must be a:

> "Relative of a foster child, or another adult with a longstanding and significant relationship with a foster child before the child was placed with the person by the department, with whom the child resides for at least six consecutive months after the person becomes licensed by the department or verified by a licensed child-placing agency or the department to provide foster care."[1]

Assistance is available to relatives of the child, as well as other adults who had a longstanding and significant relationship with the child before the child was placed in the home. For PCA, Texas does not limit the term "relative" by degree of relatedness. Texas DFPS worked hard to lay the groundwork so that legislators could understand the concept of fictive kin and appropriately advocate for the inclusion of kin.

Prior to implementation of GAP, DFPS implemented a state-paid assistance program for Child Protective Service (CPS) children placed with kinship families that continue for three years after kinship families took permanent legal custody of the children. If offers much more limited assistance than is offered through the PCA program for children placed with "relatives and other designated caregivers."

Note that the expansive definition of relative for purposes of the Texas PCA program and the state-paid "relative and other designated caregiver" program is not the definition applied in Texas for purposes of complying with the federal requirement to provide notification to all "adult grandparents and other adult relatives" within 30 days of removal of a child. This requirement is codified in §262.1095 of the Texas Family Code, and applies only to adult relatives within the third degree of consanguinity. In practice, however, CPS reaches out to relatives and others with a longstanding and significant relationship to the child or the child's family, as circumstances warrant.

[1] Texas Family Code § 264.851

Determining that Return Home and Adoption are Not Appropriate Options
The DFPS worker must establish the following before the PCA may be approved:

- that family reunification and adoption are not appropriate permanency options; and
- that transferring permanent managing conservatorship to a relative with the support of permanency care assistance is in the child's best interest.

This determination must be documented in the child's plan of service and be approved by the worker's supervisor and program director.

Family reunification may be ruled out in the following instances:

- Reasonable efforts at reunification have been made and the family is no longer willing or able to reduce the risk of abuse or neglect enough for the child to return home and live there safely for the foreseeable future; or
- Reasonable efforts to reunify the family are not required because:
  - a court has determined that reunification is not necessary due to aggravated circumstances;[2] or
  - both parents have had their parental rights terminated, either voluntarily or involuntarily.

Adoption may be ruled out in the following instances:

- A decision is reached that legal termination of parental rights is not achievable. Any such decision must include consultation with DFPS legal representatives and a CPS program director.
- Legal termination of parental rights is achievable or has already been achieved, permanent placement with a verified kinship caregiver is clearly in the child's best interest, and the child or caregiver believe that adoption is not in the child's best interest because of a change in familial relationships or other factors related to the child's best interest.
- The child is 12 years old or older and does not want to be adopted, even after the caseworker has thoroughly discussed with the child the differences between adoption and legal conservatorship; the caseworker has made thorough efforts to discuss with the child's therapist the child's reluctance to be adopted, if applicable; permanent placement with the caregiver is clearly in the child's best interest; and adoption is not in the child's best interest because of the child's unwillingness to be adopted.

Implementing GAP

Training Strategies
DFPS set up an online training program for DFPS staff, and created a website (http://www.dfps.state.tx.us/Child_Protection/Fostering_Connections/) for the public with information about the Fostering Connections Act. It has worked closely with the Texas Court Appointed Special Advocates (CASA) and the Permanent Judicial Commission for Children, Youth and Families to train attorneys and judges at judicial conferences and Commission Committee meetings about the importance of and details about guardianship assistance.

DFPS initially trained state office and regional leadership staff, then regional kinship staff and foster home development staff. After that, training was promoted at regional meetings.

Methods for Tracking Benefits
DFPS created a data warehouse for PCA, however the reports have not yet been finalized. It is tracking data on the number of children in kinship foster homes and the number that exit care to PCA.

The DFPS budget department conducted a fiscal analysis of cost projections on implementing GAP and the need for increased state funding. Fortunately, as of March 2012, no additional funds have been needed for the PCA program. Additionally, adoption by relatives has continued to increase and Texas continues to receive their adoption incentives every year.

Impact of GAP Implementation on Licensing Relatives
In September 2009 there were 39 children in licensed ("verified") kinship homes in Texas. As of March 31, 2012 there were 737 children in verified kinship homes. Once PCA began to be promoted, the number of licensed relatives increased significantly. Although the licensing standards are the same for relatives and non-relatives, individuals may request variances which consider the relationship of the applicant and the child. Some training standards and capacity standards can be waived. The training curriculum was also modified for all relatives and

[2] Texas Family Code §262.2015

they are only required to complete 12 hours instead of 30 hours of training. Finally, DFPS allows caregivers to be reimbursed for non-recurring expenses associated with PCA; however the caregiver will not receive the money until PCA is approved.

Stakeholder Involvement
Texas' Court Appointed Special Advocates and Texas' Permanent Judicial Commission for Children, Youth and Families are also working to implement Texas' GAP plan. The state legislature, the legislative budget board and DFPS kinship staff, including regional kinship specialists, are also involved.

Challenges and Opportunities

One challenge in Texas has been demystifying the use of kin as a permanency option. In addition to educating stakeholders about the benefits of kin placements, Texas has also struggled to engage relatives who do not want to be involved in the child welfare system. Texas has worked to provide more flexibility in licensing requirements for kin and more education about waivers of certain non-safety requirements.

There were two infrastructure challenges in implementation of GAP. First, Texas required improvements in the automation system to allow for efficient case management. Second, the state had to enhance the prior payment process to include PCA payments.

Finally, Texas has been working to garner legislative and community support, particularly from community groups that felt PCA dollars should be spent for other child welfare needs.

Advice to Other States

Texas advises other states to begin working with state legislature early, budget for job aides for staff to help with the increased relative placements, plan training opportunities for all stakeholders, work on demystifying kinship issues early, and identify licensing barriers for kin.

Helpful Policies and Implementation Tools

- Child Protective Services Handbook § 1580: Permanency Care Assistance, available at http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_1580.asp#CPS_1580 and § 4700: Permanency Care Assistance, available at http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_4700.asp#CPS_4700
- Texas Department of Family and Protective Services, Permanency Care Assistance Program Form 2121 (Agreement), available at http://www.nrcpfc.org/fostering_connections/state_gap/TX%20Permanency%20Care%20Assistance%20Program%20Agreement.pdf
- You Can Make a Difference in a Child's Life: Adoption or Permanent Managing Conservatorship Brochure, available at http://www.dfps.state.tx.us/Child_Protection/Adoption/PMC.asp
- Permanency Care Assistance: The Fostering Connections Act Handout, available at http://www.dfps.state.tx.us/documents/Child_Protection/2011-09-15_FC-Handout.pdf

GAP Contact in Texas

Larry Burgess, MSSW, LCSW
Program Specialist Lead (W-157)
CPS Fostering Connections
Department of Family and
Protective Services
512-438-5320
Lawrence.Burgess@dfps.state.tx.us

Date of Interview with Texas: November 2011

VERMONT
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Guardianship Assistance Program

Previous Subsidized Guardianship Program: No
Primary Funding: N/A

Approval Date: February 2012
Effective Date: July 2010

State/Tribal Title IV-E GAP Agreement: No

ELIGIBILITY FOR GAP

Definition of Relative: "Be a licensed resource family in which one of the reponsible caretakers is relative by blood, marriage or adoption or is a non-relative who has such significant ties to the child that they may be regarded as kin."

Vermont Department for Children and Families Family Services Policy Manual, Placing Children and Youth: Definitions

Definition of Relative Includes Fictive Kin: Yes

Age Child Must be Consulted about Guardianship: Age 12 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that require continued assistance and also for youth 16 and older with GAP agreements who are in education programs, working or have medical conditions that keep them from school or work

GAP PAYMENT

Maximum Payment: May not exceed the foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: No
Provision for Successor Guardian: No

Court Granting Guardianship: Family Division of the Superior Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: Child is not eligible for Title IV-E foster care payments.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: 14 Vt. Stat. Ann. § 2664, available at
http://www.leg.state.vt.us/statutes/fullsection.cfm?Title=14&Chapter=111&Section=02664

State Guardianship Policy: Vermont Department for Children and Families Family Services Policy Manual, Title IV-E Program, Section 7, available at
http://dcf.vermont.gov/sites/dcf/files/pdf/fsd/policies/300%20%28IV-E%20Assurances%29%20R5.11.pdf

VERMONT
Title IV-E GAP Narrative

Overview

In February 2012, Vermont's Title IV-E Guardianship Assistance Program (GAP) was approved by HHS. It became effective July 2010. This is the first time that guardianship assistance has been offered in the state. While Title IV-E funds provide the primary source of funding for the Guardianship Assistance Program, state funds are available for children who do not qualify under Title IV-E.

Vermont decided to pursue Title IV-E GAP as way to provide another opportunity for permanency, particularly for older youth. The agency wanted every possible resource for children in the child welfare system and believed that without a guardianship assistance program, the state was missing a valuable "tool" from its "toolbox." Implementing the program also made financial sense for the state, as the children eligible for the assistance would be receiving foster care assistance without GAP. This allows the state to use less state money and administrative resources while still providing financial support to families.

Benefits of GAP

Impact on Children and Families
As of June 2012, eight children were receiving guardianship subsidies. As this number grows and when the program has been in effect longer, other impacts will become apparent. The Vermont Department of Children and Families (DCF) is confident that offering guardianship assistance will have a positive impact on children in the state. Offering another route to permanency will get children out of the child welfare system and keep them in homes that they can rely on long-term.

While deciding whether or not to apply for Title IV-E GAP funding, Vermont conducted in August 2009 a survey of its districts to determine the number of children that might benefit from GAP. It found that "about one-third of the 115 children now living with relatives in foster care were potential candidates" for GAP.[1] One particular group Vermont is hoping to help through GAP are children with strong attachments to their parents who cannot reunify because the parents are struggling with substance abuse. The state sees many children lingering in foster care while parents go through lengthy treatments and recovery. GAP offers these families a way out of foster care without terminating parental rights.

Selected Characteristics of GAP

Definition of "Relative"
For the Guardianship Assistance Program, Vermont draws its definition of "relative" from its kinship care program. It includes fictive kin as well as other relatives. In order to provide kinship care, a person must:

> "Be a licensed resource family in which one of the responsible caretakers is a relative by blood, marriage or adoption or is a non-relative who has such significant ties to the child that they may be regarded as kin."[2]

Determining that Return Home and Adoption are Not Appropriate Options
Caseworkers are required to document in a child's case plan reasons why return home and adoption are not appropriate options for specific children. They must also describe efforts made to discuss adoption with the prospective guardian and reasons why adoption was rejected. The case plan is reviewed internally to ensure that both options have been properly ruled out before the guardianship is finalized.

Vermont's guardianship statute also requires that a court find, by clear and convincing evidence, that neither return home nor adoption are likely permanency results within a reasonable amount of time.[3]

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[1] Report to the Justice for Children Task Force: Subsidized Permanent Guardianship Subcommittee
[2] Vermont Department for Children and Families Family Services Policy Manual, Placing Children and Youth: Definitions
[3] Stat. Ann. Tit. 14 § 2664(a)(2)

Implementing GAP

Training Strategies
Agency staff and caseworkers were very responsive to the new program. Written materials were distributed to caseworkers and other stakeholders before implementation. Additionally, due to the size of the state and the population of eligible children, high-level staff designated to work on the guardianship program are able to directly answer and assist caseworkers with specific questions.

Methods for Tracking Benefits
Because of the size of the state and the newness of the program, Vermont is using informal tracking of children receiving guardianship assistance.

Stakeholder Involvement
In December 2009, the Subsidized Permanent Guardianship Subcommittee submitted its report to the Justice for Children Task Force. The Subcommittee included a parents' attorney, juvenile defenders, the DCF Adoption Chief, the DCF Deputy Commissioner, a judge, a legislator, and several local non-profits. This group met four times to review materials on subsidized guardianship and included staff from the Children's Defense Fund in their discussions. The report provides an overview of subsidized guardianship, benefits of the program, proposed legislation, and recommendations.

Tribal Involvement
There are no federally recognized Indian tribes in Vermont.

Challenges and Opportunities

Vermont reported mostly positive interactions with HHS on the GAP process. However, it did note that there was some back and forth while determining the precise language to use in the guardianship agreement. Although that process was tedious, Vermont found that good relationships were built and that both sides were able to focus on how to create a program that both federal and state officials could approve of.

Vermont also flagged funding issues for education vouchers and independent living services for children who enter a guardianship at the age of 16 and older. Although the Department would like to provide supports to all children and its policy requires it, there are financial concerns. Fortunately for now, none of the participating children would qualify for these services, so the state has not had to examine the issue.

Advice to Other States

Vermont advises states to use their adoption assistance forms and tools as a starting point for their GAP program. Many of these documents parallel required GAP documents and can be easily adjusted to fit GAP's specific requirements.

Helpful Policies and Implementation Tools

- Vermont Department for Children and Families Family Services Policy Manual, Title IV-E Program, Section 7, available at http://dcf.vermont.gov/sites/dcf/files/pdf/fsd/policies/300%20%28IV-E%20Assurances%29%20R5.11.pdf
- Report to the Justice for Children Task Force: Subsidized Permanent Guardianship Subcommittee, available at http://defgen.vermont.gov/sites/defgen/files/Permanent_Guardianship_Report.pdf

GAP Contact in Vermont

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Vermont Department for Children and Families
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Date of Interview with Vermont: June 2012

WASHINGTON
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Relative Guardianship Assistance Program (R-GAP)

Previous Subsidized Guardianship Program: Yes
Primary Funding: State funds

Approval Date: July 2011
Effective Date: October 2009

State/Tribal Title IV-E GAP Agreement: Yes

ELIGIBILITY FOR GAP

Definition of Relative: "Persons related to the child, expectant mother, or person with developmental disability in the following ways: (i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great; (ii) Stepfather, stepmother, stepbrother, and stepsister; (iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; (iv) Spouses of any persons name+H60d in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated; (v) Relatives, as named in (i), (ii), (iii), or (iv) of this subsection (2)(a), of any half sibling of the child; or (vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4)."

Wash. Rev. Code Ann. § 74.15.020 (2)(a)

Definition of Relative Includes Fictive Kin: No, except for fictive kin of tribal children if the tribe includes them in their definition of "extended family members"

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that warrant continued assistance and also for youth 16 and older with GAP agreements who are in education programs

GAP PAYMENT

Maximum Payment: Payment is up to 90 percent of foster care rate

OTHER GAP ELEMENTS

Annual Agency Check-in Required: No
Provision for Successor Guardian: No

Court Granting Guardianship: Juvenile Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

WASHINGTON

Title IV-E GAP Fact Sheet (Continued)

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Only for children already in dependency guardianships.
How Eligibility Differs from Title IV-E GAP: Washington no longer offers state-funded guardianship assistance except to those families who were receiving subsidies in the dependency guardianship program before it was terminated and either remained in a dependency guardianship or converted to a Title 13 guardianship. Currently in the state, related children must qualify for Title IV-E in order to be eligible for an R-GAP subsidy.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Wash. Rev. Code § 13.36 et al., available at http://apps.leg.wa.gov/rcw/default.aspx?cite=13.36

State Guardianship Policy: Guardianship, policy 4340, and Relative Guardianship Assistance Program (R-GAP), policy 43401, in the Children's Administration "Practices and Procedures Guide," available at http://www.dshs.wa.gov/ca/pubs/mnl_pnpg/chapter4_4310.asp

WASHINGTON

Title IV-E GAP Narrative

Overview

Since the 1980s, Washington has provided "dependency guardianships," with monthly subsidies up to the foster care rate for children in foster care with relatives or non-relatives. For these children, the dependency case remains open after guardianship is awarded. While permanency is achieved, in some instances the court requires ongoing supervision. The dependency finding is not dismissed until the guardianship ends on the child's eighteenth birthday or the court terminates the guardianship. New dependency guardianships are not being granted by the Washington courts, but some still exist.

Washington began working on its Title IV-E GAP plan, called R-GAP, in October 2009, after Washington's laws were changed to be in compliance with the Fostering Connections Act requirements for the GAP option. The Washington Department of Social and Health Services (DSHS) Children's Administration spent three intense months developing the program, policies, documents, and tools and between 60-90 days of design work to develop the program documentation in their SACWIS system. In October 2010, Washington's State plan was revised and submitted to the Children's Bureau and included the request for approval of the R-GAP plan. Once the plan was approved by HHS in July 2011, Washington sought Title IV-E reimbursement on R-GAP cases that had already been identified beginning in October 2009.

The impetus for pursuing a Title IV-E plan amendment for GAP was to provide another permanency option for children and to maximize the use of Title IV-E funds. Washington now awards "Title 13 Guardianships" in which the underlying dependency guardianship is dismissed. Only the R-GAP subsidy and Medicaid are available for these guardianship cases when all eligibility requirements are met.

Benefits of GAP

Impact on Children and Families
With R-GAP, there is closure for everyone involved. Children benefit from more stability with relative placements. These are children who neither return home nor is adoption an option for them and now they have permanency.

For the relatives, the state agency is no longer in their lives managing their day to day activities, and they no longer have to go to court. There is less time and expense involved for the courts and for the state. Previously, there were children on the Children's Administration caseload and court dockets who did not need to be there, because they had safe, stable placements with relatives. Also, implementation of R-GAP has permitted the state to provide subsidies to relatives who enter into guardianships at a time when funding for new state-funded guardianships went away.

Washington has also seen siblings benefit from GAP. As an example, two siblings were able to exit foster care with R-GAP subsidies due to the Title IV-E eligibility of just one sibling, which made the other eligible too. This allowed the children to remain with the same relative family and have the same permanency plan, which is easier and more equitable for the family to manage than having one foster child and another with guardianship.

As of November 2011, there were fewer than 30 R-GAP subsidies statewide. Prior to the implementation of R-GAP, Washington had 913 children in dependency guardianships. None of these cases were converted to R-GAP subsidies. While no new dependency guardianships are being granted by the courts, the children in existing dependency guardianships continue to receive a monthly subsidy and services through state funds.

Selected Characteristics of GAP

Definition of "Relative"
Washington's definition of "relative" was not changed for R-GAP and is the same definition used for identifying and notifying relatives within 30 days of a child's removal from a parent's home:

> "(a) Persons related to the child, expectant mother, or person with developmental disability in the following ways: (i) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great; (ii) Stepfather, stepmother, stepbrother, and stepsister; (iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives

of the adoptive parents in accordance with state law; (iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated; (v) Relatives, as named in (i), (ii), (iii), or (iv) of this subsection (2)(a), of any half sibling of the child; or (vi) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four-hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4)."[1]

Determining that Return Home and Adoption are Not Appropriate Options
Washington's Children's Administration determines that return home and adoption are not appropriate through a shared planning meeting, and staff document efforts in the court report and on a guardianship approval checklist. The juvenile court awarding the guardianship reviews the Children's Administration's findings through the court report and the guardianship agreement.

Implementing GAP

Training Strategies
The change in how guardianships work in Washington – from "dependency guardianships," where the dependency remained in place after guardianship was granted, to "Title 13 Guardianships," which dismiss the dependency – has been challenging for internal and external stakeholders. Training for staff and external partners was provided in 2009, 2010 and upon request in 2011, but it has been reportedly rather limited. Training has also been included in the Regional Efforts Symposium and the 2012 Children's Justice Conference. At least one external stakeholder would like to see a combined training with judges, the attorney general's office, and Children's Administration staff. The Attorney General's Office was provided training.

Methods for Tracking Benefits
Demographic information, including age, race/ethnicity, is available within Washington's SACWIS system and can be compiled. Washington does not specifically track this information as related to R-GAP. Furthermore, it does not have data on R-GAP's impact on other permanency options or the impact of R-GAP on lengths of stay for children in care or racial disparities.

Impact of GAP Implementation on Licensing Relatives
Washington's Children's Administration staff are focusing on the unique strengths and benefits of relatives who are caring for children involved with the state's public child welfare system. The agency leadership and staff are sharing the message with these relatives that whether they are licensed or unlicensed, the state is in their lives and they do not have private family arrangements. There is not yet any data on any increase in foster parent licenses to relatives.

Washington is also implementing a unified home study for licensing, during which staff will discuss all permanency options: return home, adoption, and guardianship with all out-of-home care providers, including relatives. This unified approach means that a single home study is completed using the same assessment standards for approval as a foster parent, guardian or adoptive parent. Although Washington has had the same assessment standards since 2002, different elements of the home study have been completed by different staff. This has resulted in caregivers being subjected to duplicitous studies and questions, inefficient use of Children's Administration staff, and placements that have not met long term permanency needs.

Stakeholder Involvement
R-GAP information has been shared as part of a DSHS Statewide Kinship Work Group, which includes staff from Children's Administration, Aging and Disability Services Administration, Economic Services, Department of Health, Department of Early Learning, and community based agencies that closely collaborate on kinship issues. As part of the group's work, it developed a Kinship Work Plan in 2011 and met with the secretary of DSHS at length. The secretary adopted the Kinship Work Plan in its entirety as one of eight DSHS priorities and sent it to the governor. According to one stakeholder, this elevates the population and the work, even though, as with most states, persistent resource issues still remain. R-GAP is not part of the Work Plan because the plan does not address existing programs, only gaps.

The Children's Administration also met with Washington's Kinship Navigators to share information about R-GAP. Washington, through DSHS Aging Services, offers a Kinship Navigator program to families both inside and outside the foster care system, although only about nine percent of families served are involved with the system.

[1] Rev. Code of § 74.15.020(2) (a)

This program has eight-and-a-half full time Kinship Navigators covering 30 of 39 counties in the state. Consequently, navigator involvement is important for effective outreach to kinship families.

The Assistant Attorney General's office is also working with the Children's Administration on implementation.

Tribal Involvement
Washington has Title IV-E agreements with four Indian tribes, which include R-GAP. Children's Administration staff made presentations about R-GAP to the statewide Indian Policy Advisory Committee (IPAC) and the Children's Administration subcommittee of IPAC. Tribal partners were invited to attend.

Challenges and Opportunities

Washington has had several families who did not want to convert from dependency guardianships to Title 13 guardianships for various reasons, including the belief that they would lose services. There is an additional disincentive to convert now because, in Washington, starting on November 1, 2011, caregivers' income is considered in determining eligibility for TANF child-only grants when dependencies are closed.

Washington law allows tribes to define "relative" as they determine according to their laws or customs.[2] Some tribes are providing the definition of "relative" from either their tribal code or policy to the state, as requested by the Children's Administration to assist in determining eligibility for R-GAP subsidies. However, children in Indian tribes are often ineligible for R-GAP because their relative caregivers are not licensed.

Advice to Other States

When building your GAP program, be thoughtful in the process and don't rush the work. Think about definitions you want and need to meet the needs of the population. Spend time educating staff on the underlying principles and making sure staff understand all permanency options. Ensure educational material about the program is widely available to community partners including placement resources.

Helpful Policies and Implementation Tools

- Wash. Rev. Code § 13.36 et al., available at http://apps.leg.wa.gov/rcw/default.aspx?cite=13.36
- Guardianship, policy 4340, and Relative Guardianship Assistance Program (R-GAP), policy 43401, in the CA "Practices and Procedures Guide", available at http://www.dshs.wa.gov/CA/pubs/mnl_pnpg/chapter4_4310.asp#4340
- Permanency and Concurrent Planning, policy 4305, in the CA "Practices and Procedures Guide", available at http://www.dshs.wa.gov/CA/pubs/mnl_pnpg/chapter4_4300.asp#430 5
- The Relative Guardianship Assistance Program (RGAP) Agreement, available at http://www.nrcpfc.org/fostering_connections/state_gap/WA%20Relative%20Guardianship%20Assistance%20Program%20Agreement.pdf
- Court forms for Title 13 RCW Guardian, including The Petition for Order Appointing Title 13 RCW Guardian, available at www.courts.wa.gov/forms/?fa=forms.contribute&formID=83
- Guardianship Approval Checklist. (DSHS 15-324), available at www.dshs.wa.gov/pdf/ms/forms/15_324.pdf
- A chart entitled "Permanency Planning Benefits and Limitations." (DSHS 16-231), available at www.dshs.wa.gov/pdf/ms/forms/16_231.pdf
- A chart entitled "Educational Resources for Youth in Foster Care." (DSHS 16-229), available at www.dshs.wa.gov/pdf/ms/forms/16_229.pdf

GAP Contact in Washington

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Date of Interview with Washington: November 2011

[2] See Rev. Code of Wash. § 74.15.020(2) (a).

WISCONSIN
Title IV-E GAP Fact Sheet

GAP PROGRAM INFORMATION

Program Name: Subsidized Guardianship Program

Previous Subsidized Guardianship Program: Yes, for Milwaukee County only
Primary Funding: Title IV-E waiver

Approval Date: November 2011
Effective Date: August 2011

State/Tribal Title IV-E GAP Agreement: No, although 13 tribes do have access to Title IV-E and Subsidized Guardianship Program through agreements with county child welfare agencies.

ELIGIBILITY FOR GAP

Definition of Relative: "Relative" means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "relative" includes an extended family member, as defined in s. 48.028 (2) (am), whether by blood, marriage, or adoption, including adoption under tribal law or custom."

s. 48.02(15) Wis. Stats.

Definition of Relative Includes Fictive Kin: No, however Wisconsin's statute on Subsidized Guardianships defines a guardian as "a relative of the child or is a person who has a significant emotional relationship with the child and who, prior to the child's placement in out-of-home care, had an existing relationship with the child that is similar to a familial relationship."

Wis. Stat. 48.623(1)(b)1.1

Age Child Must be Consulted about Guardianship: Age 14 and older

Extends GAP to age 19, 20, or 21: Yes, to age 21 for youth with mental or physical disabilities that warrant continued assistance provided that they are full-time students in a high school or an equivalent education program; to age 19 for other youth who are full-time students in a high school or an equivalent program.

GAP PAYMENT

Maximum Payment: May not exceed the last foster care payment for the child

OTHER GAP ELEMENTS

Annual Agency Check-in Required: Yes
Provision for Successor Guardian: Yes

Court Granting Guardianship: Circuit Court

Other Aid to Those Who Enter Guardianship After Age 16
Educational Training Vouchers: Yes
Independent Living Services: Yes

WISCONSIN

Title IV-E GAP Fact Sheet (Continued)

PROGRAM FOR NON TITLE IV-E CHILDREN

Subsidized Guardianship for Children Ineligible for Title IV-E GAP: Yes
How Eligibility Differs from Title IV-E GAP: Eligiblity for the program is the same for Title IV-E and non Title IV-E eligible children; however if Title IV-E criteria are not met, no federal Title IV-E claim is made. State also has Long-Term Kinship Care; children do not need to be eligible for Title IV-E foster care payment and relative does not have to be licensed foster parent.
Medicaid or CHIP Eligibility is Automatic: Yes

GAP POLICIES AND RESOURCES

State Statute: Wis. Stat. § 48.623 and § 48.977(3r), available at
https://docs.legis.wisconsin.gov/statutes/prefaces/toc

State Guardianship Policy: Subsidized Guardianship Policy Manual, available at
http://dcf.wisconsin.gov/memos/num_memos/DSP/2011/2011-09attach1.pdf

WISCONSIN
Title IV-E GAP Narrative

Overview

For five years Wisconsin had a Title IV-E waiver-funded guardianship assistance program for children in the Bureau of Milwaukee Child Welfare in Milwaukee County. The program experienced a great deal of success, including creating a permanency option for some children who might not have left the system any other way, creating a permanency option for children who did not want to lose parental ties, sparking greater interest from relatives in the licensure process, and lowering administrative costs. Wisconsin was excited when the Fostering Connections Act created an opportunity for the entire state to benefit from assisted guardianship.

Although the waiver ended, children who received guardianship assistance previously under the waiver were transitioned into the new Subsidized Guardianship Program funded under Title IV-E. Title IV-E GAP is not identical to the waiver program. GAP allows for an interim caretaker and amendments of the rates received if the child's needs increase.

In addition to Title IV-E GAP (which was approved by HHS in November 2011 and effective as of August 2011) Wisconsin has a program called Long-Term Kinship Care, funded through TANF dollars. The Long-Term Kinship Care program provides financial assistance to relative guardians who were never licensed as foster parents. The program offers a set amount of assistance which is the same as the child-specific foster care rate. Guardians receiving assistance through Long-Term Kinship Care are unable to transfer into Title IV-E GAP because the guardianship agreement required by GAP must be signed prior to the establishment of the guardianship and as unlicensed providers they do not qualify.

Benefits of GAP

Impact on Children and Families
There are 217 children receiving Title IV-E guardianship assistance payments statewide. One hundred and ninety-five of these children were grandfathered in from the previous waiver program operated by the Bureau of Milwaukee Child Welfare.

Selected Characteristics of GAP

Definition of "Relative"
"Relative" is defined broadly in various places in Wisconsin's policies. Wisconsin's subsidized guardianship statute sets forth requirements for guardians to meet. In order to qualify for a subsidy, a guardian must be:

> "A relative of the child or a person who has a significant emotional relationship with the child and who, prior to the child's placement in out-of-home care, had an existing relationship with the child that is similar to a familial relationship."[1]

"Relative" is defined under Sec. 48.02(15) Wis. Stats. as "a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, second cousin, nephew, niece, uncle, aunt, step-uncle, step-aunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of Sec. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "relative" includes an extended family member, as defined in Sec. 48.028 (2) (am), whether by blood, marriage, or adoption, including adoption under tribal law or custom."

Wisconsin's policy manual outlines some examples of "like-kin" relationships: "godparents; close family friends; an extended relative that is not included in the statutory definition of relative; an individual who is in or has been in a committed relationship with a family member although they have not married the family member; an individual who would be a relative if paternity would be established and there are difficulties establishing paternity for the child; parents or relatives of half-siblings, etc., if there is an existing family-like relationship with the child prior to the child's entry into out-of-home placement, and who has a emotional connection to the child. The like-kin definition excludes current or former foster parents who did not have a relationship with the child or the child's family prior to the child's placement into out-of-home care regardless of which placement episode it is for the child."[2]

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[1] Stat. 48.623(1)(b)1.1
[2] Subsidized Guardianship Policy Manual

Determining that Return Home and Adoption are Not Appropriate Options
Caseworkers in Wisconsin use a specific form for creating a child's permanency plan. In that form, caseworkers must describe what efforts were made to reunify the child with his or her parents or place the child in an adoptive home, the reasons why reunification and adoption are not in the child's best interest and the reasons why permanent guardianship is in the child's best interest.

Implementing GAP

Training Strategies
Wisconsin's Department of Children and Families (DCF) used several training strategies in implementing GAP. First, it held regional supervisor trainings, so all supervisors were up-to-date and informed through different stages of the process. These supervisors could then communicate the information to their staffs. Second, Wisconsin provided a webcast to communicate information to agency staff.

A new administrative rule (Ch. DCF 55), which pertains to subsidized guardianship is being developed and will be issued shortly. Once the rule is finalized and available, the state will hold intensive on-site trainings for caseworkers.

DCF has also provided training to stakeholders. Court staff and judges received trainings and bulletins about implementation and participated in workgroups to discuss where guardianship fits in the permanency spectrum. DCF also participated in a conference for *guardian ad litem* and parents' attorneys, providing information on the new program.

Impact of GAP Implementation on Licensing Relatives
DCF has seen a significant increase in the number of relatives seeking licensure since the implementation of GAP. This trend, which parallels the trend with the previous waiver-funded program, is evidence of the interest relatives have in this program.

Stakeholder Involvement
In Wisconsin, an Out-of-Home Care and Adoption Committee has meeting regularly for approximately eight years. This Committee is comprised of 60-80 people, including public and private agency staff, foster families, judges, and tribal representatives. The group worked on drafting the policy, statutory language, and administrative rule pertaining to subsidized guardianship.

Tribal Involvement
Although there are no state/tribal agreements, 13 Indian tribes do have access to Title IV-E and the Subsidized Guardianship program through county child welfare agency funded placements and agreements. There are quarterly meetings with tribal child welfare directors and attorneys which have provided tribes the opportunity to provide input into the development of and to learn about the new Title IV-E GAP.

Advice to Other States

Wisconsin wants other states to know that HHS provided helpful feedback and assistance throughout the process to ensure the subsidized guardianship plan would be accepted. The state found that the process moved more quickly than anticipated and the state received helpful feedback and modifications from HHS.

Wisconsin found it very helpful to include stakeholders in the formation of the policy. Not only is the policy richer with different viewpoints represented, but the groups also seemed more accepting of the policy because they had ownership over it. Wisconsin encourages states to involve as many people as possible, particularly the ones who will be implementing the policy. Their feedback will lead to a better product.

Wisconsin also found some online resources to be useful in planning out its program. Although the state was already offering guardianship assistance in Milwaukee, it decided to improve that program with its Title IV-E GAP plan to incorporate some of the suggestions it found in the toolkits. The toolkit can be accessed here: http://www.fosteringconnections.org/resources?id=0002

Helpful Policies and Implementation Tools

- DSP Memo Series 2011 – 09, August 2, 2011, Re: Subsidized Guardianship Policy, available at http://dcf.wisconsin.gov/memos/num_memos/DSP/2011/2011-09.pdf
- Subsidized Guardianship Policy Manual, available at http://dcf.wisconsin.gov/memos/num_memos/DSP/2011/2011-09attach1.pdf
- Policy Options in Brief, available at http://dcf.wisconsin.gov/forms/pdf/2797.pdf
- Subsidized Guardianship Eligibility Determination and Permanency Plan Addendum, available at http://dcf.wisconsin.gov/wisacwis/knowledge_web/training/template-mapping/templates/TM_Subsidized-Guardianship-Eligibility-Determination-and-Perm-Plan-Addendum.doc
- Wis. Stat. § 48.623 and § 48.977(3r), available at https://docs.legis.wisconsin.gov/statutes/prefaces/toc

GAP Contact in Wisconsin

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Child TRENDS

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BE GOOD TO ME
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WIDE AND
MY BOAT IS
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Children's Defense Fund

generations
united
Because we're stronger together