

Questions and Answers from Fostering Connections Kinship Webinar
*Hosted by the Fostering Connections Resource Center, The Children's Defense Fund
and Child Focus*
June 17, 2010

Q-1: If a child is in a guardianship arrangement but was not Title IV-E eligible and therefore was not receiving GAP, would they become eligible for GAP if a sibling later moved into the home under the same guardianship agreement and was Title IV-E eligible and GAP eligible? How would the first child become eligible? Would they need a new Guardianship Assistance Agreement?

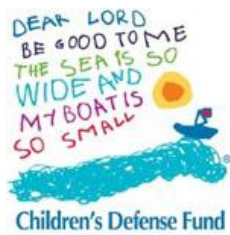
A: If a state opts to participate in the federal Guardianship Assistance Program (GAP), the siblings of any child who is IV-E and GAP eligible are also automatically eligible for GAP. They are eligible for GAP regardless of their own eligibility for GAP, provided they are placed in the same kinship guardianship arrangement as the eligible child after being removed from the custody of his or her parents, and the state agency and the relative agree on the appropriateness of the arrangement for the siblings. A new guardianship assistance agreement would have to be executed for the siblings.

Q-2: Where can I go to learn the difference between foster parent, legal guardian, adoptive parent, and kinship caregiver?

A: There are legal and practical distinctions between a foster parent, legal guardian, adoptive parent, and kinship caregiver. The term "kinship caregiver" is often used generally to refer to relatives who are raising related children in a variety of settings including informally, without the involvement of the state, or more formally as foster parents, legal guardians, or adoptive parents. Foster parents most often are those caring for children who are in the custody of the state (who may be children related to the foster parent) and generally are paid for doing so. Legal guardians have temporarily assumed custody of children and certain rights and responsibilities for the children pursuant to a guardianship order by a court but the children's birth parents retain some rights. Adoptive parents are raising children whose birth parents' rights have been terminated voluntarily or by the courts and all the rights and responsibilities of being a parent have been transferred to them.

Q-3: When numerous kin come forward, to what extent are we required to pursue them? Is a full home-study required?

A: The Fostering Connections Act requires that all adult relatives be identified and notified of their options to participate in the care and placement of the child and about requirements to become a foster family but does not address how the agency must respond. The act however recognizes and best practice supports the importance of helping children stay connected to as many extended family members and friends as possible and appropriate. Family and friends can be an importance source of support for the child, siblings and family throughout the permanency planning process. When pursuing kin or relatives for placement purposes, the agency should make a placement decision based on the unique circumstances of each individual case. Some issues to consider may include the strength of the attachment between the child and kin, whether or not the kin can help keep siblings together and keep the child in his or her school of origin, and the receptivity of kin to support the child and his or her parents through the permanency planning process. Generally, a full home study prior to placement is only required for kin being considered as a formal placement for a child in state custody either as a foster parent, or as an adoptive family or kinship guardian. Fostering Connections requires that adult relatives be notified of the procedures for becoming a placement resource but does not require that they all be given home studies.



Q-4: Does the provision of recruitment of a permanent family for a child get considered as a step towards adoption before it is deemed not an appropriate choice?

A: The Fostering Connections Act requires that adoption be determined not appropriate for a child before guardianship may be considered. To help ensure that adoption has been considered, the act requires that the agency describe in the child's case plan steps taken to determine that it is not appropriate for the child to be adopted, the efforts the agency has made to discuss adoption by the relative foster parent as a more permanent alternative to legal guardianship, and to document the reasons why adoption was not chosen as the permanency alternative for the child by the relative foster parent. There is nothing in the act that would require further recruitment of another adoptive family.

Q-5: Who is doing research on the implementation and outcomes of GAP?

A: There is no federal provision for research on implementation and outcomes of GAP. The primary research available to date on subsidized guardianship comes from states that had previously implemented these programs as part of their federal child welfare waiver programs. We hope that states can engage researchers, foundation and public support to track the benefits of the Guardianship Assistance Program as it is implemented over the next several years. Maine is one state that already has a plan for an independent evaluation of GAP pending final approval of the state's plan amendment.

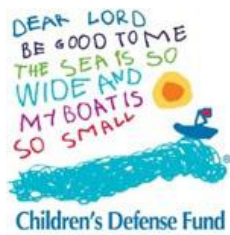
Q-6: How will the Medicaid coverage occur when a family moves to a different state? Will ICAMA process be used for these cases as well?

It is not clear yet whether the Interstate Compact on Adoption and Medical Assistance (ICAMA), which has been adopted by all but one state, will be modified for use in guardianship assistance cases. It was established to safeguard and protect the interstate interests of children covered by an adoption assistance agreement when they move or are adopted across state lines. It could easily be modified to apply to children covered by guardianship assistance agreements as well as adoption assistance agreements. It could help coordinate the provision of medical benefits and services to children receiving guardianship assistance in interstate cases. It also would provide substantive guarantees and workable procedures for interstate cooperation.

Fostering Connections makes clear that the guardianship assistance agreement will remain in effect without regard to the state residency of the relative guardian and those children to whom kinship guardianship assistance payments are made are categorically eligible for Medicaid. It is important that the child's eligibility for Medicaid be specified in the guardianship assistance agreement and Medicaid listed as one of the benefits the child will receive.

Q-7: Is Ohio looking at incorporating the guardian subsidy so that approved relatives can be reimbursed for their expenses?

A: As of July 1, 2010, Ohio has not submitted a state plan amendment to the Administration for Children and Families to operate a federal Guardianship Assistance Program for children exiting foster care to live permanently with relative guardians. Ohio would have to implement new policy or legislation in order to qualify for such assistance. In the past it has offered relatives time-limited support for the care of children in foster care, but the Permanency Incentive Fund to help relative caregivers defray expenses associated with caring for their related children was eliminated from the state's 2010 budget.



Q-8: THE EFFECTIVE DATES OF EACH PROVISION

A: For a full list of the effective dates of each provision, see the Fostering Connections Resource center website at: http://www.fosteringconnections.org/about_the_law?id=0007 and the timeline in Appendix A of [New Help for Children Raised by Grandparents and Other Relatives: Questions and Answers About the Fostering Connections to Success and Increasing Adoptions Act](#).

Looking just at the kinship provisions, since the Foster Connections Act was enacted on October 7, 2008, states have been required to:

- exercise due diligence to identify and notify relatives within 30 days of a child's removal from the custody of his or her parents and
- make reasonable efforts to place siblings together or at least connected with each other.

Since the law was enacted, states also have had the option to:

- participate in the federally supported Guardianship Assistance Program;
- extend eligibility for independent living services and education and training vouchers to youths who exited care at age 16 or older to live with relative guardians;
- use federal funds under Title IV-E for training of relative guardians.

State also could have applied for one of the Family Connection Grants that were awarded for FY 2010 and may also be able to do so in the future. And, as of October 1, 2010, states will be able to apply to the Administration for Children and Families to continue federal support for youths in guardianship (and in foster care or adoption assistance as well) to age 21.

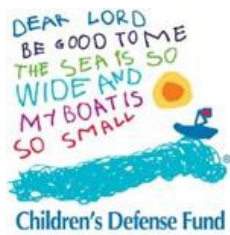
Q-9: How does notice conflict with privacy?

A: Fostering Connections requires that notice be provided to all adult relatives of a child within 30 days after the child's removal of the from the custody of his or her parents – subject to exceptions due to family or domestic violence. The notice requirement is intended to reach relatives early in hopes that they can provide children with the critical family and community connections that can help reduce the trauma associated with removal from their parents whether temporary or permanent. In fact, the act specifically refers to notice to any adult relatives suggested by the parents. It is important to note that the act requires notice that the child has been or is being removed from the custody of the parent or parents, but does not require notice as to any specifics about the circumstances of the removal.

Q-10: Will the requirement for states to identify and provide notice to relatives be retroactive for current kinship cases.

A: The identification and notice requirements became effective on the date of enactment of Fostering Connections, October 7, 2008. These requirements generally do not extend to children placed in care prior to that date. However, good practice supports continuous engagement of relatives whenever a child is moved from one placement to another, which might include kinship cases in the system prior to enactment of Fostering Connections.

Q-11: How might this affect recognized tribes who do not yet have a IV-E agreement with their state?



The requirements of Fostering Connections apply to all children in the state's foster care program. This includes children who are from a tribe that has an agreement with the state, as well as tribes that do not have agreements with the state. If the child is from a federally recognized tribe in the United States, the Indian Child Welfare Act requirements apply regardless of what other federal laws may require. The Indian Child Welfare Act (ICWA) has its own notice provisions that apply to notification of the child's tribe and parents of the child. As such, it is important to note that for children from federally recognized tribes, a state could be providing notice to birth parents, the child's tribe and relatives as required by both ICWA and Fostering Connections.

Q-12: Where in the law do we find exact definition of what qualifies a youth as having a mental or physical handicap and continued IV-E eligibility for guardianship or adoption assistance until they are 21?

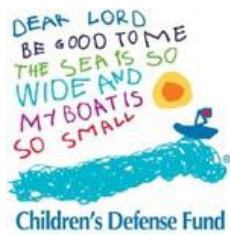
A: Federal law has long made clear that a child may continue to receive adoption assistance beyond age 17 "where the state determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one". "Physical or mental handicap" as used here is not defined in federal law or regulations so the state has the opportunity to define it. Certainly a child who has an Individual Education Plan under the Individuals with Disabilities Education Act (IDEA) or is eligible for Supplemental Security Income (SSI) would be a child with a mental or physical handicap, but a state may define this group of children more broadly.

Q-13: Do the states support agencies doing relative searches in hopes to find connections for the children for potential guardianships?

A: Relative search can be used as both a front-end and back-end tool to find connections for children and youth that can also lead to permanent families. States are required by Fostering Connections to exercise due diligence to identify and provide notice to all adult relatives within 30 days of a child's removal from the custody of his or her parents. This should result in a relative search early in a child's case. Ideally, relative search should take place immediately before a child has been removed from the custody of their parents to determine if there is a relative who can keep the child safe and supported so the child does not have to come into foster care. If that does not occur, best practice in many states supports a continuous search for relatives so that all options for legal permanency and permanent connections for the child are on the table. A number of states already implement intensive family finding and family group decision-making, and the Fostering Connections Act authorized grants to expand these efforts, which can be very helpful in identifying potential relative placements and/or guardians. These strategies also can be used to help children already in the system find connections that will lead to permanency.

Q-14: Is North Carolina implementing the Kin-Gap program? Is there funding for kinship placement available?

A: North Carolina had a small subsidized guardianship program that was part of a federal child welfare waiver demonstration program but that waiver is no longer in operation. As of July 1, 2010, North Carolina had not yet submitted a state plan amendment to the Administration for Children and Families to operate a federal Guardianship Assistance Program for children exiting foster care to live permanently with relative guardians. North Carolina would need to have an approved GAP before it would be eligible for federal assistance. For more on resources within North Carolina for kinship caregivers, see: <http://www.grandfactsheets.org/doc/North%20Carolina%2007%20New%20Template.pdf>



Q-15: What does a family currently fostering a relative need to do to benefit from this law? Does this law apply to "fictive kin" too?

A: The steps relative caregivers fostering a child must take to benefit from the Guardianship Assistance Program will depend upon the state in which they live and the circumstances of their situation. The state must apply to the Administration for Children and Families to participate in the Guardianship Assistance Program, and once the state is approved, the potential guardian and related child must both meet the eligibility requirements for the program. For more detail on who is eligible and how families can qualify, see the [Kinship Toolkit](#). States have flexibility in defining relative for purposes of GAP assistance, and some states have chosen a broad definition of kin to include individuals who have a pre-existing relationship with the child but are not related, such as godparents and close family friends.

Q-16: Are there confidentiality barriers to using other DHHS databases like SELU to find parents who are not in the home?

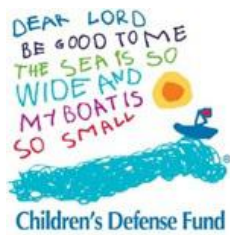
A: Access to other DHHS databases to identify and locate absent parents will depend on whether or not child welfare agencies have access to the databases and for what purposes. Only the Federal Parent Locator Service is specifically addressed in Fostering Connections.

Q-17: Do you see many states using guardianship petitions in lieu of state removal petitions? In these cases in Maine we investigate and find what we believe is jeopardy but turn to relatives to petition for guardianship. Unfortunately it rules out IV-E support for permanent guardianship.

A: We are aware that diverting children from state custody to live with relatives without the relative becoming a foster parent is a practice in a number of states and localities. These families will not benefit from the Guardianship Assistance Program as it is currently structured. The combination of the identification and notice requirements, the availability of GAP assistance, and authority to waive non safety licensing standards on a case by case basis, however, may make relatives more likely to become formal foster parents in the future.

Q-18: At the casework level are there compliance standards that would support longer term planning at intake with relatives? What guidelines or legal precedents exist that support permanency for kinship placements through adoption?

A: Fostering Connections includes a number of provisions to support longer term planning for children placed with relatives. It requires states to identify and provide notice to relatives within 30 days of a child being removed from the custody of their parents and specifies that the notice must inform them of any availability of guardianship assistance payments if a child can not return home or be adopted. In determining the appropriateness of guardianship as a permanency option, the child's case plan must describe the steps that must be taken to determine that return home or adoption are not appropriate and also the efforts the agency has made to discuss adoption with the relative foster parents as a more permanent alternative to legal guardianship and why adoption was not pursued. Keeping in mind that adoption may still become a permanency option for the child, Fostering Connections makes clear that a child who was eligible for Title IV-E adoption assistance at the time of guardianship retains that eligibility should the guardian later decide to adopt. Adoption by relatives is increasingly commonplace and there is much precedent for it in current child welfare policy and practice. According to 2008 data in the Automated Foster Care and Adoption Reporting System, 30 percent of the children adopted from foster



care every year are adopted by relatives. For more on kinship adoption, see www.childfocuspartners.com

Q-19: Can a different training for licensing relatives be used by States or does licensing training need to be uniform for all potential licensed resource homes?

A: Generally, federal law requires that relatives meet the same licensing requirements as other resource families. However, it does allow states to provide for waivers of non-safety licensing standards of relative homes on a case by case basis. Federal law does not address the substance of training about licensing and therefore does not preclude addressing special issues related to the relatives in training about the licensing of relative homes. There clearly are special issues likely to be confronted when the resource family is a relative. For more on training for relative foster parents, see http://childfocuspartners.com/pdfs/Training_Kinship_Caregivers_0708.pdf

Q-20: Can you again explain the sibling eligibility if the primary eligible child leaves the guardianship?

A: If a child comes into care and meets all the eligibility requirements for GAP (the primary eligible child) and is placed in a guardianship arrangement and then joined in the arrangement by a sibling who would not be eligible for GAP on his or her own, that sibling would be continue to be eligible for GAP assistance even if the primary eligible child leaves the guardianship. The sibling will retain eligibility based on the binding guardianship assistance agreement that must be entered into prior to finalization of the guardianship for that child.

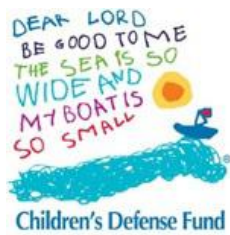
Q-21: What can we do in Ohio to get this passed?

Original A: We hope that all states will take advantage of the new Guardianship Assistance Program. There are several documents in the Kinship Toolkit that might be helpful to you: [Five Key Questions to Assess the Fiscal Impact of the Guardianship Assistance Program](#), [Making the Case for the Guardianship Assistance Program](#), and [Myths and Facts Related to Use of the Guardianship Assistance Program](#). There is also [Sample State Legislation to Implement the Guardianship Assistance Program](#) that a state could enact if it wanted to prepare for implementation. The [Children's Defense Fund-Ohio](#) Office might also be a helpful resource.

Q-22: How does kinship impact educational stability and how can transport, if necessary, be funded?

A: The educational stability protections in Fostering Connections apply to children with relatives in foster care. This means that a child has a right to remain in his or her original school when initially placed in foster care and whenever a child is moved to a new placement while in foster care, unless it is not in the child's best interest. If it is not in the child's best interest to remain in his or her original school, the child must be immediately enrolled in the new school with prompt transfer of the child's records.

The law does not fully address how transportation will be paid for when a child must be transported to remain in his or her original school. Federal law allows states to use federal administrative dollars under Title IV-E to pay for transportation and Fostering Connections further specified that Title IV-E maintenance payments may be used to pay for transportation to help a child remain in his school of origin. However, not all children are eligible for Title IV-E assistance. In some states the child welfare and



education agencies share responsibility for transportation costs. In others cases, special appropriations are sought for these transportation costs. Currently there are no federal requirements on local education agencies to assist with this transportation.

Q-23: What kind of accountability is being utilized in other states regarding notifying relatives within 30 days of custody?

A: Several states have put data about the notice requirement into their SACWIS systems to track implementation. In addition, we are aware that Arizona will be sending a policy analyst into the field this summer to better understand the extent to which relatives are being notified, the challenges to the identification and notice requirements and help needed to overcome these challenges.

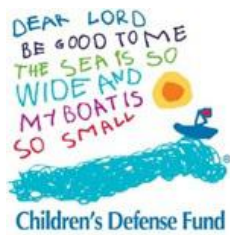
Q-24: In Assurance of School Attendance, does this also include GED? In Extension of Services to Youth Achieving Permanency at age 16+?

A: Fostering Connections requires that states provide assurances that each otherwise eligible child who has attained the minimum age for compulsory school attendance under State law is a full-time elementary or secondary school student or has completed secondary school. An elementary or secondary school student is defined as one who is enrolled in an institution which provides elementary or secondary education, as determined under the law of the state or other jurisdiction in which the institution is located, is home schooled or is an independent study elementary or secondary education program, which is administered by the local school or school district. It appears that efforts to assist a child to obtain a GED in a program administered by the school district could fulfill Fostering Connections school attendance requirement. The language in the law that describes an assurance that a child “has completed secondary school” could also be interpreted to cover a youth who has obtained a GED.

Fostering Connections also allows states the option of extending guardianship and adoption assistance to age 19, 20 or 21 to youth who have obtained permanency after age 16 if they are participating in certain activities. One of the activities specifically listed is “completing secondary education or a program leading to an equivalent credential” and would clearly allow for a youth participating in a GED preparation program.

Q-25: If a child is placed in non-familial home for many years and will be adopted and family comes in last minute do they get preference?

A: Federal law does not require that preference be give to relatives, but rather that states give consideration to a preference for relatives. If a state decides not to give such a preference, there is no requirement that would prioritize relative placement over non-relative placement. Some states have decided to enact laws that give preference to placement with relatives. While Fostering Connections does not address a preference for relative placements either when a child enters care or at adoption, it does require the identification of and notice to relatives. It requires that relatives be identified and notified early when a child is removed form the custody of his or her parents to help ensure that relatives know the child is entering care and can step in either as a placement or in another way for the child. It is hoped that this will prevent relatives from learning many years later that a child is in foster care and is about to be adopted by a non relative. When situations do occur and a child has already formed an attachment to a non related caregiver, agencies must carefully consider what is in the best interest of the child. A mediated family team meeting that includes all the parties can help to determine the best course of action.



Q-26: Does this include placements made prior to the new law? Is there any funding for the grandparents if the state still has pmc?

A: Fostering Connections does provide that some children placed with relative guardians prior to its enactment may be eligible to receive guardianship assistance payments once the state is approved to take advantage of the Guardianship Assistance Program *provided the children and guardians meet all of the eligibility requirements of GAP*. States that want to cover guardianships entered into prior to Fostering Connections and their state plan amendment approval must submit a plan to ACF for how they will assess eligibility for previously funded guardianship cases and may need to enter into new guardianship assistance agreements with the families that meet the requirements of GAP.

Whether or not GAP funding will be available for states with permanent managing conservatorship (pmc) will depend on how the state defines pmc and whether other requirements of GAP are met. We would be happy to follow up with a more state-specific answer if you send an email to jennifer@childfocuspartners.com.

Q-27: Is licensing for a guardianship home the same as licensing for a foster home? When should you approve a guardianship home without licensing?

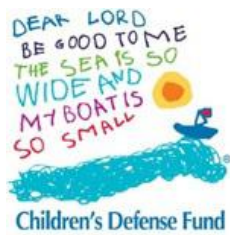
A: In order to be eligible for federal GAP funding, a child must have been living with a relative in a licensed foster home. Generally these prospective relative guardians must meet the same licensing standards as other foster parents, although there can be case by case waivers to non-safety licensing requirements for relatives.

Q-28: Existing cases, converting those: How have States handled the background check requirement? Do the feds recognize the previous background check done when caregiver was licensed or was a new background check required?

A: The Administration on Children and Families has issued guidance (ACYF-CB-PI-10-01) stating that the IV-E agency can consider the background check requirement met without a new background check if the IV-E agency has established an appropriate timeframe that such background checks remain valid and such timeframe has not expired for the foster parent who previously received the background checks and is now seeking to become a prospective relative guardian. In converting state subsidized guardianship cases to GAP cases, there has not been guidance directly on point.

Q-29: What are the legal rights of guardians in the GAP program versus adoption- adoptive parents?

A: The legal rights of guardians and of adoptive parents generally are established by state law. The major distinction is that in adoption the rights of a child's birth parents have been terminated and the adoptive parent assumes the role of parent whereas in guardianship the birth parents rights do not have to have been terminated, and the court defines which rights and responsibilities are to be assumed by the child's guardian such as the responsibilities to protect, nurture, discipline and educate the child and the rights to consent to health care, authorize a release of health care and educational information, and consent to school activities. The guardianship assistance agreement which prospective guardians sign in the Guardianship Assistance Program are to address the guardian's right to assistance in the care of the child, but not his or her legal rights. Those are specified in the court's order granting guardianship. For further information about the Guardianship Assistance Agreement, see the [Sample Guardianship Assistance Agreement](#) and the [Guide to Using the Guardianship Assistance Agreement](#) in the Kinship Toolkit.



Q-30: What is the degree of relatives that must be searched?

A: Fostering Connections requires that all adult relatives be identified and provided notice within thirty days of a child's removal from the home. It does not, however, define the degree of relationship of the relative. That is left to the states unless ACF decides to define it further in guidance. It had not done so as of July 1, 2010.

Q-31: Does ACF define "relative" for the purpose of claiming GAP payments?

A: ACF has not defined relative for the purpose of claiming GAP payments. States have the flexibility to define relative as they wish. To date, ACF has approved state plan amendments that have used a broad definition of relative to include godparents, close family friends, etc. in their Guardianship Assistance Programs.

Q-32: What are the provisions for financial assistance to kin who care for children related to them?

A: States vary in the financial assistance they provide for kin who care for children related to them. In all states, children being raised by kin generally are eligible for Temporary Assistance for Needy Families (TANF) child only benefits. The caregiver, if eligible, may also receive assistance, but is then subject to the work and other requirements in the TANF Program. In some cases, states divert children to care with relatives with assistance from TANF rather than bringing the children into the formal child welfare system. Relative caregivers also may qualify to become licensed foster parents for the children they are raising in which case they are eligible for foster care payments. Relatives who adopt children from foster care may also be eligible for adoption assistance payments. States also now have the option, as a result of the Fostering Connections Act, to obtain federal assistance under the federal Guardianship Assistance Program, and once approved may offer eligible relatives raising eligible children in foster care guardianship assistance payments once they become the child's guardian and leave care. For further information on eligibility requirements for GAP payments, see [New Help for Children Raised by Grandparents and Other Relatives: Questions and Answers About the Fostering Connections to Success and Increasing Adoptions Act of 2008 - Chapter 4](#).

For more information visit www.fosteringconnections.org or with specific questions write info@fosteringconnections.org.