

Section 14B. Establishing guardianship assistance

Oregon provides guardianship assistance for the care of children by relatives who have assumed legal guardianship of eligible children for whom they have previously cared as foster parents.

Historically, Oregon has only offered guardianship assistance to children who are eligible for Title IV-E. This is known as “Title IV-E guardianship assistance”. Under federal law, states can only receive federal matching funds for guardianship assistance payments made on behalf of Title IV-E eligible children.

In 2015, Governor Kate Brown signed Senate Bill 501 into law, which established guardianship assistance for children who are not eligible for Title IV-E. This is known as “state-only guardianship assistance” because it is supported entirely by state funds.

Guardianship assistance takes different forms depending on the case. It may consist of payments to the guardian to help meet the child’s need, medical coverage for the child, or both. It may be an agreement only with no payment or medical coverage. Agreement-only guardianship assistance allows the guardian and child to retain eligibility for such assistance if needed in the future.

Any guardianship assistance (GA) payment the family will receive must be negotiated by Central Office, as there is not a standard amount for the payment. It must not exceed the foster care payment. An agreement must be signed by the potential guardian and approved by Central Office before establishing the guardianship to ensure eligibility.

A. Guardianship assistance eligibility requirements

The caseworker should use the following procedure to determine eligibility for guardianship assistance only after a permanency plan of guardianship has been approved and implemented as discussed in Chapter 5, Section 14a.

Caseworker

Procedure

1. **Determine child’s citizenship status.** The child must be a United States citizen or qualified non-citizen as described in OAR 413-100-0210(2). The child must also be placed in the United States or a possession thereof.

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2. **Confirm child was removed by a voluntary placement or judicial determination.** The child must have been removed from his or her home pursuant to a voluntary placement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child. While a judicial determination is required for Title IV-E GA, it is not required for state-only GA.
 - a. For IV-E GA, a child needs to be in the care or custody of the department or participating tribe.
 - b. For state-only GA, a child needs to be in the care or custody of the department.
3. **Determine if potential guardian is a relative.** The potential guardian must meet the definition of a relative. An unrelated substitute caregiver can qualify as a relative for guardianship assistance purposes in limited circumstances and only when all of the following conditions are met:
 - a. There is a compelling reason why adoption is not the most appropriate plan for the child.
 - b. 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.
 - c. The foster parent has cared for the child for at least the past 12 consecutive months.
 - d. The department has approved the foster parent for consideration as a guardian.
4. **Verify the child resided in the home of potential guardian.** The child must have resided in the home of the potential guardian for a period of at least six consecutive months during which the potential guardian was fully licensed, certified or approved by the state or a participating tribe. The period during which a Temporary Certificate of Approval was in place does not count toward the six-month requirement.
5. **Assess the child's level of attachment to the potential guardian.** The child must have a strong attachment to the potential guardian.
6. **Discuss the educational enrollment requirements with the potential guardian and get verbal agreement to meet those requirements.** The potential guardian must agree to continue to meet the educational enrollment requirements for receipt of guardianship assistance that states a child must be enrolled in an elementary or secondary school as determined by the law of the state of residence; home schooled according to the law of the state of residence; enrolled in an independent study program according to the law of the state of residence; or incapable of attending school due to a documented medical condition.
7. **Determine if the child is eligible for Title IV-E under OAR 413-100-0345.** A child eligible for Title IV-E guardianship assistance will not qualify for state-only guardianship assistance. A child who is not eligible for Title IV-E funded guardianship assistance may be eligible for state-only guardianship assistance.

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8. **Ensure the following information is documented in the child's case plan:**
 - a. How the child meets the eligibility requirements.
 - b. The steps the department or participating tribe has taken to determine that return to the home or adoption is not appropriate.
 - c. The efforts the department or participating tribe has made to discuss adoption with the child's relative caregiver and the reasons adoption is not an option.
 - d. The efforts the department or participating tribe has made to discuss kinship guardianship with the child's parent or parents or the reasons why efforts were not made.
 - e. The reason a permanent placement with a potential relative guardian and receipt of a kinship guardian assistance payment is in the child's best interests.
 - f. The reasons for any separation of siblings during placement. If the child's placement with the potential relative guardian does not include siblings, the case plan must also include a description of the reasons the child is separated from siblings during placement.

NOTE: Each sibling of a child eligible for guardianship assistance is also eligible for guardianship assistance without meeting the eligibility requirements in 2 through 5 above.

B. Informing a potential guardian of the availability and purpose of guardianship assistance

The caseworker has the primary responsibility for preparing the potential guardian to negotiate the guardianship assistance subsidy with Central Office.

Caseworker

Procedure

1. **Discuss the following information prior to planning which guardianship assistance will be requested:**
 - a. Unlike the foster care payment, there is no standard amount that the guardian will receive for the guardianship assistance subsidy.
 - b. The guardianship assistance subsidy is meant to combine with the guardian's resources to help cover the child's needs.
 - c. The guardianship assistance subsidy is based on the guardian's out-of-pocket expenses to meet the child's basic and special needs at the time of the negotiation.

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- d. The typical monthly subsidy is less than the foster care payment. The subsidy cannot exceed the Oregon foster care base payment as determined by the child's age and if applicable, the base payment plus the level of care payment as determined by a CANS screening.
- e. If the child's placement is paid through the Office of Developmental Disability Services (ODDS) or the potential guardian receives a personal care payment for the child, these payments are not considered when determining the maximum allowed for the guardianship assistance subsidy. The subsidy cannot exceed the Oregon foster care base payment as determined by the child's age and if applicable, the level of care payment as determined by a CANS screening.

If a child is placed in a foster home paid by ODDS and the child has behaviors that indicate a need for enhanced supervision, a CANS screening may be requested to determine the level of care payment that can be included in the guardianship assistance subsidy.

- f. Guardianship assistance ends when the child turns 18, unless an extension is granted and then it must end by age 21. Extensions are limited and only possible when:
 - A. The child, at the time of turning 18, is determined eligible for Social Security income by the Social Security Administration or determined disabled by a local developmental disability program; or
 - B. The initial guardianship assistance agreement began after the child turned 16 and the child is enrolled in specific vocational or educational activities, or a medical condition prevents such activity.
- g. The guardian can request a renegotiation of the amount of guardianship assistance if the circumstances of the family or needs of the child change. However, the same process and subsidy limitation as described above will apply in negotiating the new subsidy.
- h. A guardian is required to submit an annual report to the court. The court may provide a blank copy of the form at the initial appointment of the guardianship or send the form before the annual due date.
- i. A guardian may name a successor legal guardian in the guardianship assistance agreement to maintain the child's eligibility in the event of the death or incapacity of the guardian. The successor legal guardian must be named in the guardianship assistance agreement **prior to** the death or incapacity of the guardian. A guardian may add, remove or replace the named successor legal guardian by amending the guardianship assistance agreement at any time before their death or incapacity.

C. Early review

When it appears finances may be a barrier to finalizing a plan of guardianship, the caseworker should use the following procedure.

Caseworker

Procedure

1. **Request an early review of guardianship assistance.** Follow the process described on the CF 0958, “Guardianship Assistance Early Review Checklist” to request an early review. The early review should occur before formally changing the plan to guardianship with the family. The early review process time is the same as submitting an application to allow for family engagement. This ensures families have an opportunity to discuss the amount of assistance with the coordinator. Early review and regular application submissions are processed in the order the case was received.
2. **Discuss projected guardianship assistance payment with family.** When the early review is completed, the caseworker will be notified of the projected guardianship assistance payment the family will receive. The information will assist the caseworker and family with the decision regarding whether or not to proceed as a potential guardian resource for the child. Remind the family this is a projection and not a guarantee of the amount the family will ultimately receive.

D. Local office requirements for completing and submitting the application for guardianship assistance

The practice among local offices differs on who is identified to educate the family about guardianship assistance and help the family complete the adoption assistance application. However, it is ultimately the caseworker who must ensure a timely and complete application is submitted on behalf of the family. The CF 0969B Guardianship Assistance Application is the basis of the negotiation for guardianship assistance.

Caseworker

Procedure

The following must be completed to ensure the family is provided the support to properly make the application for guardianship assistance:

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1. **Review directions for completing the application with the family.** The directions are located on the cover page of the application.
2. **Remind the family of the purpose and limitations of guardianship assistance** as described above in section B, “Informing a potential guardian of the availability and purpose of guardianship assistance.” The family must list the specific out-of-pocket expenses incurred to meet the child needs and their request for assistance is based on these expenses.
3. **Review the addendum at the bottom of page two with the family.** There is a list of selected services and goods not eligible for consideration in negotiating the guardianship assistance subsidy. Ensure the family is not requesting consideration of these expenses, and the total request does not exceed the Oregon foster care base payment as determined by the child’s age and if applicable, the base payment plus the level of care payment as determined by a CANS screening.

When the base rate for guardianship assistance is being negotiated certain expenses are not considered by the Guardianship Assistance Program. Examples include day care, services considered the responsibility of another resource such as educational services, supplemental medical and therapeutic services not covered by the medical card, residential treatment and the guardian’s time for supervision or behavior management of the child. After the negotiation, the guardian is free to spend the guardianship assistance as necessary to meet their child’s needs.

4. **Ensure the application is complete.** The application must be filled out and must have all of the requested signatures and dates.
5. **Provide a copy of the completed application to the guardian.**
6. **Confirm the application is scanned and saved** in the file cabinet of the OR-Kids case.

Certifier

Procedure

The certifier is responsible for the provider record and must ensure the following items are completed before the caseworker submits a request for guardianship assistance to Central Office:

1. **Scan and save the home study.** The home study and any home study updates of the potential guardian must be scanned and saved in the file cabinet of the OR-Kids provider record.

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2. **Check provider record in OR-Kids.** All four of the following guardianship services in OR-Kids under the provider record must be open and active, with Central Office identified as the office. The services include GA Agreement Only-DHS, GA Medical Only-DHS, GA Subsidy and Medical-DHS, and GA Subsidy Only-DHS.

Title IV-E specialist

Procedure

Following a request from the caseworker and before the caseworker submits a request for guardianship assistance to Central Office, the Title IV-E specialist must complete the following:

1. **Complete the following.** A Guardianship Assistance Program (GAP) Determination and Title XIX Determination in the OR-Kids child case.
2. **Verify document are scanned and saved.** Verify supporting Title IV-E documents have been scanned and saved in the file cabinet of the OR-Kids child case.

The OR-Kids child case refers to the case in OR-Kids where the child is actively receiving services and has an open placement. The child case would be a CPS or FSS case in most cases where guardianship is the permanency plan. However, in some circumstances the child may be actively receiving services and have an open placement under a pre-adoptive case. This occurs when a child has been legally freed as part of a prior permanency plan of adoption and adoption does not finalize before the permanency plan changes to guardianship.

Caseworker

Procedure

1. **Verify requirements have been met.** The caseworker or local office designee verifies all the requirements listed on the CF 0982 Guardianship Assistance Application Requirements form have been met. The documents must be complete with all required information filled out, and signed and dated if applicable.
2. **Refer to the CF 0982 for the list of requirements and the specified OR-Kids file cabinet where documents should be located.** Certain required documentation is created or scanned and saved in the file cabinet of the OR-Kids child case by the caseworker or local office designee, while certain required documentation is saved in the file cabinet of the OR-Kids provider record by the certifier, certification technician or support person.

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3. **Email completed copy of CF 0982.** When all requirements have been met, the caseworker or local office designee emails a completed copy of the CF 0982 Guardianship Application Requirements form to “**NEWAPPS AAGA.**” The child’s case number must be typed in the subject line of the email. Note: The caseworker or local office designee approves this application by ensuring all information is complete and accurate. If another staff member emails the form, the caseworker must be copied in the email so they are aware of the case status.

Important information about cans screenings and level of care payments:

1. If a CANS screening has been requested, is pending or is in the process of a contested case hearing, this must be resolved before the CF 0982 is submitted. Note: A guardianship assistance negotiation cannot begin until the final level of care is determined as the information is necessary for consideration in the guardianship assistance subsidy negotiation. Do not request a CANS screening after submission of this form without first consulting with the Guardianship Assistance Program.
2. The base rate of the guardianship assistance subsidy is negotiated. However, any level of care payment resulting from a CANS screening may be added to the negotiated base rate. The guardianship assistance subsidy cannot be finalized until the CANS process is complete and the level of care payment determined.
3. If the Enhanced Supervision (level of care payment) is approaching the expiration date and the annual CANS rescreening is due, this must be reported in the email.
4. Depending on the date for the annual CANS rescreening, the caseworker may submit paperwork for an early CANS rescreening so this is complete before finalizing the guardianship assistance agreement.

The supervisor’s role:

1. Determine with the caseworker if the case meets all requirements for guardianship assistance.
2. Review and discuss high rate requests with the caseworker.
3. Review and sign the CF 0969B.

E. Receipt of the application and supporting materials in Central Office

Guardianship assistance program staff

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Procedure

Upon receipt of the CF 0982, a staff member in the Guardianship Assistance Program completes the following:

1. **Review the CF 0982 form** and ensure all required documents are complete and located in the OR-Kids child case or the provider record.

Remember to uncheck the “date restricted” box so all of the documents saved appear in OR-Kids.

2. **Assign the case.** If complete, assign the case to a guardianship assistance coordinator and email the caseworker confirming the application is complete and has been assigned to a coordinator.
3. **Send email notification regarding incomplete requirements (if applicable).** If the Guardianship Assistance Application Requirement form is not complete, the caseworker, casework supervisor and the individual who approved the application will be notified by email that the requirements have not been met. GA staff will identify which items need completion and inform the caseworker that the CF 0982 needs to be resubmitted when all of the requirements have been met. The application will not be assigned for negotiation nor tracked by Central Office. No further email reminders will be sent regarding the incomplete application.
4. **Document checklist and requirements status.** Document in case notes that the checklist has been returned and the outstanding requirements not met.

Upon assignment of a case, the guardianship assistance coordinator completes the following:

1. **Review the case materials.**
2. **Contact the family.** Contact the family within 60 days of being assigned the application unless a CANS screening is due, in process or there is contested case hearing in process. Cases are worked in order of assignment.
3. **Negotiate the guardianship assistance subsidy.** The coordinator negotiates the amount of the guardianship assistance subsidy directly with the family by phone.
4. **Send written agreement to family.** Upon reaching a verbal agreement with the family, send the written agreement to the family.
5. **Document in OR-Kids** the date the written agreement was sent to the family.
6. **Review and sign the agreement** after the family has read, signed and returned the agreement to Central Office.

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After the Guardianship Assistance Agreement has been signed by the family and the guardianship assistance coordinator, a staff person in the Guardianship Assistance Program will:

1. **Notify the caseworker and casework supervisor** the agreement is complete and a hearing can now be requested to finalize the guardianship plan and dismiss the department from the case.

Guardianship assistance applications are assigned by the first letter of the last name of the potential guardian family. The alphabetical breakdown of assignment changes periodically according to workload and is distributed to field staff through the Who's Who List for the Adoption Program. It is also available on the DHS staff tools website under Adoption at www.dhs.state.or.us/caf/adoption-guardianship-assistance-contacts.pdf

F. Finalizing the plan: Opening the guardianship assistance services and transferring the case

Caseworker

Procedure

Upon receipt of the court order establishing the guardianship, the caseworker completes the following:

1. **Immediately ensure the order is scanned and saved** in the file cabinet in the OR-Kids child case.
2. **Notify the guardianship assistance coordinator** or another staff person in the Guardianship Assistance Program the order has been received and is available for review in OR-Kids.

Central office, not the local office, closes the foster care service when guardianship assistance will be provided. Immediate notification to Central Office of the final order of guardianship helps close the foster care service in a timely manner and reduces the possibility of an overpayment of foster care to the guardian.

3. **Ensure all AFCARS, ticklers and pending work are complete.**

The supervisor's role:

- Ensure the caseworker notifies the Guardianship Assistance Program when the guardianship is established.
- Ensure all pending work is complete and approved, including all AFCARS exceptions, before the primary assignment of the case is assigned to Central Office.

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Guardianship assistance program staff

Procedure

Upon notification by the caseworker of an Order of Guardianship, a Central Office support staff member completes the following:

1. **Close the foster care placement.**
2. **Open the guardianship assistance service.**
3. **Request the caseworker designate the case to Central Office.** When the AFCARS, ticklers and outstanding work are complete and no other members on the case are receiving services, the local office requests the caseworker designate the case to Central Office with primary assignment to the guardianship assistance support staff member.
4. **Designate provider record to Central Office.** If the guardian will no longer be providing any foster care services, the provider record can be designated to Central Office with primary assignment to the guardianship assistance coordinator.

Forms and references

Forms

- CF 0270, Permanency Committee Form
<https://apps.state.or.us/Forms/Served/CE0270.doc>
- CF 0958 Guardianship Assistance Early Review Form Checklist
<https://apps.state.or.us/Forms/Served/CE0958.doc>
- CF 0969B Guardianship Assistance Application
<https://apps.state.or.us/Forms/Served/CE0969b.doc>
- CF 0311G, Guardianship - Case Plan Addendum
<https://apps.state.or.us/Forms/Served/CE0311g.doc>

Child Welfare policy

- Guardianship as a Permanency Plan, [OAR 413-070-0000 to 0974](#)
- Guardianship Assistance, [OAR 413-070-0000 to 0974](#)
- Title IV-E Foster Care, Adoption Assistance, and Guardianship Assistance Eligibility, [OAR 413-100-0000 to 0345](#)

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