DHS Policy
Oregon Department of Human Services

Children, Adults and Families

Prior Version

Policy Title:	Guardianship Assistance Temporary OAR				
Policy Number:	I-E.3.6.2 413-070-0900 thru 0974			Effective Date:	2/1/10 thru 6/14/10

Approved By: *Beth Englander, Office of Safety and Permanency for Children*

Date Approved: 2/1/10

Reference(s):

- Title IV-E Waiver Terms and Conditions
- Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law (P.L.) 110-351)
- ACYF-CB-PI-08-05
- ACYF-CB-PI-08-007 Program Instruction for P.L. 110-351
- I-A. 5.1 Contested Case Hearings

Form(s) that apply:

- CF 0966 - Consent of Parent to Guardianship
- CF 0967a - Letter to Relative Regarding Use of Vendor Attorney
- CF 0967B - Guardianship Assistance Legal Fee Agreement
- CF 0967C Attorney Agreement to Accept DHS Rate of Reimbursement
- CF 0970 - Assessment for Guardianship Assistance
- CF 0971 - Guardianship Assistance Agreement
- CF 0972 - Guardianship Review Report
- CF 0973 - Guardianship Assistance Application - Title IV-E Determination
- CF 0974 - Guardianship Assistance Application - Family Information
- CF 0975 - Duties of a Guardian
- CF 0977 - Annual Guardian's Court Report
- CF 0976 - Choices Chart
- DHS 9601 – Child and Adolescent Needs and Strengths (CANS) Ages birth through five
- DHS 9602 – Child and Adolescent Needs and Strengths (CANS) Ages 6 through 20

Rules:

413-070-0900

Purpose

The purpose of these rules, OAR 413-070-0900 to 413-070-0974, is to state Department criteria for program eligibility and receipt of *guardianship assistance* for Title IV-E eligible children in Oregon. *Guardianship assistance* for a *child* from another state placed with a guardian in Oregon is the responsibility of the sending state.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

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413-070-0905
Definitions

The following definitions apply to OAR 413-070-0900 to 413-070-0974:

(1) "APPLA" means Another Planned Permanent Living Arrangement, a permanency plan for a stable secure living arrangement for a *child* that includes building relationships with significant people in the child's life that may continue after *substitute care*. APPLA is the least preferred permanency plan of the four permanency plan options for a *child* and is appropriate only in very limited circumstances.

(a) "Planned" means the arrangement is intended, designed, and deliberate.

(b) "Permanent" means enduring and stable.

(2) "CANS screening" means Child and Adolescent Needs and Strengths screening, a process of integrating information on a *child* or young adult's needs and strengths for the purposes of case planning, service planning, and determining the supervision needs of the *child* or young adult. The Department uses two versions of the CANS Comprehensive Screening Tool, one version for an individual birth through five years old and another version for an individual six through twenty years old.

(3) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which he or she resides, to a *child* or young adult in the care or custody of the Department.

(4) "Child" means a person less than 18 years of age.

(5) "Enhanced supervision" means the additional support, direction, observation, regulation, and guidance provided by a *certified family* to a *child* or young adult to promote and ensure the safety and well-being of the *child* or young adult, beyond the level of supervision that typically is required for a *child* or young adult of the same age.

(6) "Guardianship assistance" means financial assistance or medical benefits to a child's guardian on behalf of an eligible *child* under guardianship. Benefits may be in the form of a monthly *guardianship assistance payment*, Medicaid coverage, and nonrecurring legal costs incurred in establishing the guardianship.

(7) "Guardianship assistance agreement" means a written agreement between the Department and the guardian of an eligible *child* setting forth the assistance the

Department is to provide the *child*, the responsibilities of the guardian and the Department, and the manner in which the agreement and amount of assistance may be modified or terminated.

(8) "Guardianship assistance payment" means a monthly cash payment made by the Department to the guardian on behalf of the eligible *child*.

(9) "Parent" means the biological or adoptive mother or the legal father of the *child*. A legal father is a man who has adopted the *child* or whose paternity has been established or declared under ORS 109.070, ORS 416.400 to 416.465, or by a juvenile court. In cases involving an Indian *child* under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the *child* by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(10) "Permanency Committee" means a group of three individuals, responsible for making a recommendation regarding a child's permanency plan when the *child* likely is not returning to his or her *parent*.

(a) The committee must:

(A) Include two Department staff and may include a community partner, all of whom are approved by the District Manager or designee; and

(B) When the *child* is an ICWA *child*, and a *Permanency Committee* is appropriate, identify an individual from a federally recognized *tribe* as one of the three individuals on the committee; and

(C) Have an identified chairperson approved by the District Manager or designee.

(b) The *Permanency Committee* members must:

(A) Be knowledgeable of permanency issues;

(B) Be knowledgeable of the importance of cultural connections;

(C) Have no personal or professional relationship to the *child* or prospective placement resource; and

(D) Represent multiple child welfare offices.

(11) "Qualified alien" means, but is not limited to, a permanent resident, an asylee, or a refugee under 8 USC 1641(b), as described in OAR 413-130-0045.

(12) "Relative" means:

(a) An individual with one of the following relationships to the *child* through the child's *parent*:

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(A) Any blood *relative* or half-blood r*elative* of preceding generations denoted by the prefixes of grand, great, or great-great (individuals with one common biological *parent* are half-blood relatives).

(B) A *sibling*.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if the marriage is terminated by death or divorce.

(E) To be considered a *relative* under paragraph (D) of this subsection, when a marriage has been terminated by death or divorce, the *child* must have had a personal relationship with the spouse prior to the *child* or young adult entering *substitute care*.

(F) For the purposes of an international adoption, "relative" means an individual described in paragraphs (A) to (C) of this subsection.

(b) An individual with one of the following relationships to the *child*:

(A) A stepparent described in OAR 413-100-0020(27)(c), stepbrother, or stepsister.

(B) For the purposes of the Guardianship Assistance Program described in these rules (OAR 413-070-0900 to 413-070-0974), a stepparent is considered a *parent* and is not a *relative* under these rules unless the marriage to the child's biological *parent* has been terminated by legal separation, divorce, or death.

(C) The adoptive *parent* of a child's *sibling*.

(D) 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.

(E) An individual defined as a *relative* by the law or custom of the child's *tribe* if the *child* is an Indian c*hild* under the Indian Child Welfare Act or in the legal custody of a *tribe*.

(F) An individual defined as a relative of a refugee *child* under Child Welfare Policy I-E.2.2, "Placement of Refugee Children," (OAR 413-070-0300 to OAR 413-070-0380).

(G) The registered domestic partner of the child's *parent* or a former registered domestic partner of the child's *parent* if the *child* had a personal relationship with the former domestic partner prior to the *child* or young adult entering *substitute care*.

(c) An individual identified by the *child* or the child's family, or an individual who self-identifies, related to the *child* through the child's *parent* by blood, adoption, or

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marriage to a degree other than an individual specified as a child's *relative* in paragraphs (A) to (C) of subsection (a) of this section.

(d) An individual presented by the *child* or the child's family, not related by blood, marriage, or adoption, as an individual with an emotionally significant relationship with the *chil*d or the child's family.

(13) "Sibling" means one of two or more children or young adults related:

(a) By blood or adoption through a common legal *parent*;

(b) Through the marriage of the children's or young adults' legal or biological parents; or

(c) Through a legal or biological *parent* who is the registered domestic partner of the *child* or young adult's legal or biological *parent*.

(14) "Substitute care" means the out-of-home placement of a *child* or young adult who is in the legal or physical custody and care of the Department.

(15) "Tribe" means a federally recognized Indian *tribe* in Oregon with a Title IV-E agreement with the Department.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0909
Funding of Guardianship Assistance

(1) Non-relative *guardianship assistance* established under the Title IV-E Waiver Project is funded by Title IV-E waiver funds until the waiver expires or is terminated. At that time the Oregon general fund provides monies for any current and new non-relative *guardianship assistance* for Title IV-E eligible children.

(2) Effective January 1, 2009, newly established *relative* caretaker *guardianship assistance* for Title IV-E children is funded with Guardianship Assistance program funds as authorized by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0915
Eligibility: Title IV-E

(1) A *child* is eligible for *guardianship assistance* when --

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(a) The Department determines other permanency options, return to a *parent* or adoption, are not in the child's best interest or an existing APPLA plan is determined to no longer be in the child's best interest; and

(b) But for receipt of SSI benefits, the *child* was eligible for Title IV-E maintenance payments for six consecutive months while residing in the home of the prospective guardian.

(2) A child's eligibility for Title IV-E is determined under Child Welfare Policy I-E.6.1, "Title IV-E Foster Care and General Assistance" OAR 413-100-0000 to 413-100-0345.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

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413-070-0917
Eligibility: Child

(1) To be eligible for *guardianship assistance* a *child* must:

(a) Be a United States citizen or *qualified alien*.

(b) Have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the *child*.

(c) Have been eligible for Title IV-E foster care maintenance payments during a six consecutive month period during which the *child* resided in the home of the prospective guardian who was licensed or approved as meeting the licensure requirements of a foster family home.

(d) Have been in the Department's or participating tribe's legal custody for a minimum of --

(A) Six months, if the prospective guardian is the child's *relative*; or

(B) Twelve months, if the prospective guardian is not related to the *child*.

(e) Be 12 years of age or older if the prospective guardian is not a *relative* or any age if the prospective guardian is a *relative*. The Department waives the age requirement when the *child* is:

(A) A member of a *sibling* group placed with a non-relative if at least one *sibling* is 12 years of age or older and meets all other *guardianship assistance* eligibility criteria under this rule; or

(B) An Indian Child Welfare Act (ICWA) identified *child* in the care and custody of the Department if the child's *tribe* supports the plan of guardianship with the current caretaker.

(f) Have a stable positive relationship with the prospective guardian.

(g) Demonstrate a strong attachment to the prospective guardian.

(h) If the c*hild* is a Title IV-E eligible Indian *child* as defined by the ICWA and in the care and custody of the Department, have a permanency plan for guardianship approved by the participating *tribe*.

(3) The *sibling* of a Title IV-E eligible *child* may be eligible for *guardianship assistance* if the Title IV-E eligible *child* meets all Guardianship Assistance program criteria and both children will be in a guardianship with the same guardian.

(4) When guardianship has been approved as a child's permanency plan, the child's case plan must include:

(a) The steps taken by the Department to determine that it is not appropriate for the *child* to return home or be adopted;

(b) The reasons, if any, that siblings were separated during placement;

(c) The reasons why permanent placement with a fit and willing guardian through a *guardianship assistance* arrangement is in the child's best interests;

(d) How the *child* meets the eligibility requirements described in OAR 413-070-0917;

(e) The efforts made by the Department or *tribe* to discuss with the substitute caregiver adoption rather than guardianship as the preferred permanency plan and why adoption was not chosen; and

(f) The efforts made by the Department or *tribe* to discuss with the child's parents the *guardianship assistance* arrangement or the reasons why no such efforts were made.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0919
Eligibility: Tribe and a Child in the Custody and Care of a Tribe

In addition to the other Guardianship Assistance program criteria under these rules, OAR 413-070-0900 to 413-070-0974, the following requirements apply to a *child* in the care and custody of a *tribe*:

(1) The *tribe* must have a Title IV-E agreement with the Department allowing the tribe to participate in the Guardianship Assistance program.

(2) The *tribe* must agree to each of the following requirements:

(a) Conduct and prepare a written home study, of the Department's design, of the guardian;

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(b) Document how continued placement with the prospective guardian is in the best interests of the *child* and meets the child's needs for safety and permanency.

(c) Notify the Department's Adoption and Guardianship Program within 30 days if the *tribe* reestablishes custody of a *child* in a guardianship placement established under these rules, OAR 413-070-0900 to 413-070-0974; and

(d) When applicable, provide the Department's Adoption and Guardianship Program with a copy of the *court* order terminating the guardianship within 30 days of the termination.

(3) A *child* must be placed in a tribal foster home meeting the tribe's certification and licensing standards.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

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413-070-0925
Eligibility: Prospective Guardian

The Department may approve a prospective guardian for *guardianship assistance* when the prospective guardian:

(1) Currently provides care to the *child* being considered for *guardianship assistance* and meets one of the following requirements:

(a) Has a current Certificate of Approval from the Department under Child Welfare Policy II-B.1, "Certification Standards for Foster Parents, Relative Caregivers, and Pre-Adoptive Parents" OAR 413-200-0301 to 413-200-0396.

(b) Currently is certified as a foster home by the participating *tribe* as meeting the tribe's certification and licensing standards; or

(c) Currently is certified or otherwise approved by the state in which the prospective guardian resides and approved as a placement for the *child* under the Interstate Compact on Placement of Children (ICPC).

(2) Agrees with the Department, and the Department documents in the child's case record, that the *child* and the prospective guardian can maintain a stable relationship and function effectively without Department supervision.

(3) Has an updated home study documenting how the prospective guardian meets the child's best interests and needs for safety and permanency.

(4) Has adequate means of financial support and connections to community resources.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0929
Determination of Permanency Plan: Guardianship

(1) The Department or a participating *tribe* may consider guardianship as the permanency plan for a *child* when all of the following conditions are met:

(a) The Department determines that adoption is not an appropriate permanency plan under Child Welfare Policies I-F.2, "Determining the Appropriateness of Adoption as a Permanency Plan for a Child" OAR 413-110-0300 to 413-110-0360 and I-F.3.2.1, "Termination of Parental Rights" OAR 413-110-0200 to 413-110-0252;

(b) The eligibility requirements in OAR 413-070-0915, 413-070-0917, 413-070-0919, and 413-070-0925 have been met.

(c) The Department or participating *tribe* has consulted with the *child*, if 14 years of age or older, regarding guardianship as the permanency plan.

(d) The Department and the prospective guardian agree, and the Department documents in the child's case record, that the *child* and the prospective guardian can maintain a stable relationship and function effectively without Department supervision.

(e) The Department determines through a Permanency Committee review that guardianship is an appropriate permanency plan for the *child*.

(f) A Department or participating tribe's Permanency Committee formally assesses the prospective guardian and finds that guardianship is in the child's best interests because the prospective guardian meets the safety, permanency, and well-being needs of the *child*.

(g) The court approves a guardianship permanency plan for the child under Child Welfare Policy I-E.3.6, "Achieving Permanency" OAR 413-070-0500 to 413-070-0517.

(2) Each *parent* with legal rights or standing consents to the permanency plan of guardianship or has been given adequate notice of the permanency plan under state or tribal law when the Department or tribe requests of the court an order establishing guardianship.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0934
Application Requirements

(1) A prospective guardian is not required to apply for *guardianship assistance*. An applicant may withdraw an application for *guardianship assistance* at any time before the court establishes the guardianship.

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(2) When all program eligibility criteria have been met, a prospective guardian may apply for *guardianship assistance* by completing and signing a *guardianship assistance* application and returning it to the local Department office providing case management for review and eligibility determination.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

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413-070-0939
Determination of Guardianship Assistance Payments and Medical Benefits

(1) The *guardianship assistance* benefits are negotiated when a *guardianship assistance* application is approved by the Department's Adoption and Guardianship program. The total amount of the *guardianship assistance payment* may not exceed the amount of the base foster care rate the *child* is eligible to receive while in foster care and, when applicable, the current level of care payment for enhanced supervision as determined by a *CANS screening* under Child Welfare Policy I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy," (OAR 413-090-0000 to 413-090-0050).

(2) The base *guardianship assistance payment* for a *child* residing outside of the State of Oregon may not exceed the base foster care rate determined by Child Welfare Policy I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy," (OAR 413-090-0000 to 413-090-0050).

(3) The base *guardianship assistance payment* is determined by negotiation between the Adoption and Guardianship program and the prospective guardian prior to the completion of the *Guardianship Assistance Agreement*. The payment is established and paid as follows:

(a) The monthly *guardianship assistance* negotiation takes into consideration relevant factors which include, but are not limited to:

(A) The needs of the *child*;

(B) The services required to meet the needs of the *child*;

(C) The cost of the services required to meet the needs of the *child*;

(D) The guardian's ability to provide the services required to meet the needs of the *child*; and

(E) The community resources available to the *child* and guardian.

(b) Medicaid coverage, private insurance, public education, and all community resources must be considered as resources for the *child* and the guardian when determining the amount of the *guardianship assistance payment*.

(c) The Department considers all sources of income, except tribal dividend payments, available to the *child* when negotiating the monthly *guardianship assistance payment*.

(4) The *guardianship assistance payment* must be reduced by other financial benefits received by the *child* with the exception of tribal dividend payments.

(5) When the *child* is receiving a level of care payment, as indicated by a Child and Adolescent Needs and Strengths (CANS) screening under Child Welfare Policy I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy," (OAR 413-090-0000 to 413-090-0050), at the time of negotiation, the full amount of the level of care payment is provided as part of the *guardianship assistance payment*.

(6) The Department may complete a *CANS screening* for a *child* residing outside the State of Oregon as part of the determination of the *guardianship assistance payment*.

(7) Except for tribal dividend payments, the guardian must be the designated payee for any benefit the *child* receives, such as social security benefits.

(8) The *guardianship assistance payment* begins when:

(a) All parties have signed the *Guardianship Assistance Agreement*; and

(b) The court has issued an order of guardianship.

(9) A *guardianship assistance payment* to a guardian who was a Department certified foster parent for the *child* prior to becoming a court designated guardian is inalienable, not assignable or transferable, and exempt from execution, levy, attachment, garnishment, and other legal process under the laws of Oregon, as long as the payment can be identified as a Guardianship Assistance program payment and is kept separate from other money in the guardian's possession.

(10) A *child* eligible for *guardianship assistance* with a relative caretaker is eligible for medical benefits in the child's state of residence. If a *child* is eligible for *guardianship assistance*, resides in a state other than Oregon with a non-relative guardian, and is not able to obtain medical benefits in his or her state of residence the Department provides medical benefits under Child Welfare Policy I-E.6.2, "Title XIX and General Assistance Medical Eligibility," (OAR 413-100-0400 to 413-100-0610).

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0944
Special Payments: Legal Expenses

(1) To the extent the total cost of such expenses does not exceed $2,000, the Department may pay for some costs incurred by the guardian in the establishment of an assisted guardianship of a *child* under Child Welfare Policy I-E.5.5, "Payments for Providing Direct Client Legal Services" OAR 413-090-0500 to 413-090-0550.

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(2) The Department may not authorize payment for legal services provided --

(a) In connection with a contested case; or

(b) To defend or retain guardianship upon challenge by another party once a guardianship is established.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

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413-070-0949
Guardianship Assistance Agreement Requirements

(1) Before a guardian may receive *guardianship assistance*, there must be a negotiated written *guardianship assistance agreement* between the Department and the guardian signed by all parties prior to the court order establishing the legal guardianship.

(2) The *guardianship assistance agreement* must include the following:

(a) A statement indicating that a *guardianship assistance payment* remains in effect without regard to the state of residency of the guardian.

(b) The amount of the *guardianship assistance* and the manner in which it is to be provided.

(c) The basis and requirements for periodic changes in the *guardianship assistance payment*, in consultation with the guardian, based on the circumstances of the guardian and the needs of the *child*.

(d) The additional services and assistance for which the *child* and guardian are eligible under the agreement and the procedure by which the guardian may apply for such services.

(e) The limitation on Department payments for nonrecurring expenses associated with obtaining legal guardianship of the *child*.

(f) A statement indicating the effective date of the *guardianship assistance agreement* is the date of the court order of guardianship.

(g) A statement that no retroactive *guardianship assistance payment* may be authorized except as provided under OAR 413-070-0969.

(h) A statement indicating that the guardian understands that a *guardianship assistance payment* may be terminated or suspended under OAR 413-070-0974.

(i) A statement indicating that the *child* for whom the Department is providing the *guardianship assistance payment* remains eligible for medical assistance once the guardianship is established.

(j) A statement indicating that the guardian understands that ORS 192.520 allows the Department of Human Services' Oregon Health Plan (OHP) and the OHP managed care plans to exchange the following protected health information without the guardian's authorization for the purpose of treatment activities related to the behavioral or physical health of the *child* when the *child* is the recipient of OHP services:

(A) The child's name and Medicaid recipient number;

(B) The name of the child's hospital or medical provider;

(C) The hospital or medical provider's Medicaid number;

(D) Each diagnosis for the *child*;

(E) Each treatment activity's date of service;

(F) Each treatment activity's procedure or revenue code;

(G) The quantity of units or services provided; and

(H) Information about medication prescription and monitoring.

(k) A statement indicating that the guardian agrees to comply with the Guardianship Assistance program reporting requirements under OAR 413-070-0964 and 413-070-0969(5).

(l) A statement indicating that in the event a legislative or executive branch action affecting the Department's budgeting or spending authority makes it necessary for the Department to implement budget reductions to the Guardianship Assistance program, a *guardianship assistance payment* on behalf of the *child* may not be reduced without the agreement of the guardian. However, budget reductions may result in a reduced *guardianship assistance payment* under any new agreement.

(m) The Department unilaterally may amend, suspend, or terminate the *guardianship assistance agreement* with notice to the guardian of the intended action when an action by a state or federal court or a law adopted through a state or federal legislative or executive branch action necessitates a suspension, termination, or change in *guardianship assistance*.

(3) The Department must provide the guardian with a copy of the *guardianship assistance agreement*.

(4) The Department may review any *guardianship assistance agreement* at any time.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

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413-070-0959
Court Order of Guardianship

(1) The Department or *tribe* may not pursue a court order establishing an assisted guardianship until the Department's Adoption and Guardianship Program Office approves a *guardian assistance* application for the *child* and a signed *guardianship assistance agreement* between the Department and the prospective guardian has been completed.

(2) An assisted guardianship may be established under ORS 419B.365 or ORS 419B.366, and as provided under ORS 419B.367 to 419B.369.

(3) The court order must approve guardianship and direct one of the following:

(a) Terminate Department or tribal care, custody, and supervision of the *child*; or

(b) If the *child* has been committed permanently to the Department, set aside or modify the order of permanent commitment, relieving the Department of responsibility for the *child*.

(4) The guardian is not eligible for foster care base rate and enhanced supervision payments under Child Welfare Policy I-E.5.1, "Payment for Foster Care Base Rate, Level of Care, Chafee Housing, and Independent Living Housing Subsidy" OAR 413-090-0000 to 413-090-0050 once the guardianship is effective and the Department's or tribe's custody of the *child* is terminated by court order.

(5) The Department may not provide *guardianship assistance* if the court establishes guardianship and orders the Department to continue supervision of the *child* or guardian.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0964
Changes That Must be Reported and Annual Report

(1) A guardian receiving a *guardianship assistance payment* must report immediately, orally or in writing, to the Department's Adoption and Guardianship Program any of the following:

(a) Any change described in OAR 413-070-0974.

(b) A change of address.

(c) When the guardian is planning to move from his or her state of residency.

(2) The guardian, within 30 days after each annual anniversary of the court appointment of guardianship, must file a written report with the court and submit a copy of the report to the Department's Adoption and Guardianship Program. The report must contain

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assurances that each school-aged *child* receiving a *guardianship assistance payment* is a full-time elementary or secondary school student or is incapable of attending school due to a documented medical condition.

(3) When the court does not require an annual report as part of the appointment of guardianship, the Department requires the guardian to submit an annual report to the Adoption and Guardianship Program.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

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413-070-0969
Renegotiation of a Guardianship Assistance Agreement

(1) A guardian may request that the Department consider renegotiation of the *guardianship assistance agreement*. The request for renegotiation must:

(a) Be in writing;

(b) Document the change in the circumstances of the guardian;

(c) Document the needs of the *child*; and

(d) Provide information about the financial expenses of the *child*.

(2) The Department may complete a *CANS screening* when requested by a guardian as part of the renegotiation when the Department determines that the *child* is eligible for the screening.

(3) A new *guardianship assistance agreement* must be signed by all parties prior to a change in benefits each time a child's *guardianship assistance* is renegotiated.

(4) The Department may authorize a renegotiated *guardianship assistance payment* increase for the period commencing the first day of the month in which the Department receives the written request.

(5) The Department may adjust the *guardianship assistance* benefits if a child's income changes. The guardian is responsible for notifying the Department of any change in the child's income within 30 days of the effective date of any such change. A new *guardianship assistance agreement* must be signed by all parties prior to a change in benefits being made.

(6) If a *child* receiving *guardianship assistance* benefits is placed in substitute care and the plan is for the child to return to the guardian's home, the Department may adjust, continue, or suspend the *guardianship assistance* benefits to reflect the guardian's continued expenses on behalf of the child. If the *child* returns to the care of the guardian, the Department reviews the *guardianship assistance* benefits, adjusts the benefits as appropriate, and provides a new *guardianship assistance agreement* for the guardian to sign.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0970
Guardianship Social and Support Services

Prior Version

(1) The guardian or *child* in an assisted guardianship may request family support services as described in Child Welfare Policy I-B.2.3.1, "Family Support Services" OAR 413-030-0000 to 413-030-0030 from the Department.

(2) A guardian receiving *guardianship assistance* on behalf of a *child* has access to the consultation, training, and library services of the Oregon Post Adoption Resource Center.

(3) Upon the establishment of a guardianship, the caseworker must conduct an exit conference with the guardian, guardian's family, and the *child* and ensure the guardian and guardian's family have contact information for social and support services. The caseworker must advise the guardian family to call Intake Screening to request services in the county in which the family resides. The caseworker must explain that requesting services does not place the guardianship in jeopardy. In the closing casework narrative, the caseworker must document that the guardian and his or her family have been informed of their rights, including the right to access post-guardianship services.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

413-070-0974
Suspension or Termination of Guardianship Assistance Benefits

(1) The Department must terminate or suspend *guardianship assistance* benefits on the day when any of the following occurs:

(a) The *child* reaches 18 years of age or is emancipated, whichever comes first.

(b) Child custody or guardianship is awarded to another individual.

(c) The *child* dies.

(d) The *child* marries.

(e) The *child* is adopted;

(f) The *child* is placed in *substitute care* with no plan for the *child* to return to the care of the guardian.

(g) The guardian dies or terminates the guardianship.

(2) The Department may terminate or suspend a *guardianship assistance payment* when any of the following occurs:

(a) The *child* is incarcerated for more than three consecutive months.

(b) The *child* is out of the guardian's home for more than a 30-day period or is no longer living in the home.

(c) The guardian is no longer legally responsible for the financial support of the *child* or the *child* is no longer receiving financial support from the guardian.

(3) The Department may terminate a *guardianship assistance agreement* upon 30 days written notice to the guardian when the guardian is no longer responsible for the *child* or is no longer providing support to the *child*, or in the event of legal or legislative action requiring discontinuance of *guardianship assistance*.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 418.005

Prior Version

Contact(s):

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Policy History:

- 09/14/99 thru 03/12/00
- 03/10/00
- 01/01/02
- 01/09/03
- 01/23/03 thru 06/20/03
- 07/31/03
- 01/01/04 thru 04/28/04
- 04/01/04 thru 04/28/04
- 3/31/09 thru 6/30/09
- 7/1/09 thru 9/27/09
- 9/28/09
- 12/16/09 thru 6/14/10
- 6/15/10
- 6/30/11 thru 9/30/11
- 10/01/11 thru 12/27/11
- 12/28/11
- 5/22/12