

	INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL	
	Chapter 14: Guardianship	Effective Date: October 1, 2012
	Section 1: Guardianship Assistance Program (GAP)	Version: 2

POLICY

The Indiana Department of Child Services (DCS) will offer the Guardianship Assistance Program (GAP) as a permanency option, if it is in the best interest of the child and reunification or adoption are not feasible.

Children who are wards of DCS or Juvenile Delinquency/Juvenile Status (JDJS) and meet all of the following criteria will be eligible for GAP:

1. The child is age 13 or older,
2. The child has been placed in a licensed relative placement for at least six (6) consecutive months immediately prior to, and including, the month of the GAP application; and
3. The child has an approved permanency plan of legal guardianship indicating that being reunified or adopted are not viable options; or

Sibling(s) of the eligible 13 year old are eligible for GAP if:

1. The sibling(s) are being placed together in the same home as the eligible 13 year old;
2. DCS and the guardian agree on appropriateness of the guardianship arrangement for the siblings; and
3. The Executive Manager of Field Operations provides approval. (see Related Information).

Any child eligible for a GAP payment is also eligible for payment of Nonrecurring Expenses associated with obtaining legal guardianship of the child. In order to be eligible for Medicaid a IV-E GAP payment must be made. Children eligible for state-funded GAP will need a separate determination by the Division of Family Resources (DFR) to evaluate the child's Medicaid eligibility.

Note: Eligible children who are wards of DCS or JDJS and are placed out of state with relatives are also eligible for IV-E GAP.

DCS will assure all children age 13 and older who are under DCS care and supervision and have a permanency plan of legal guardianship are consulted regarding the permanency option of legal guardianship. See separate policy [5.8 Developing the Case Plan](#).

DCS will assure that any child whose guardianship is finalized on or after his or her 16th birthday is notified of the availability of Chafee Independent Living (IL) Services. Any interested child will be referred for IL services. See separate policies, [11.1 Independent Living Services](#) and [11.2 Eligibility for Chafee Independent Living Services](#).

All applications for GAP must be submitted to the DCS Central Eligibility Unit (CEU) for an eligibility determination. Prior to the entry of the order establishing legal guardianship, the GAP agreement must be signed by all required parties in order for the child to be eligible for GAP payments.

Note: The GAP application must be initiated in the DCS local office where the wardship or JD/JS was established.

GAP Payments *shall* be administratively suspended or terminated based on the date the guardian no longer legally or financially supports the child.

Code Reference

1. [IC 29-3-2-1\(b\) in Guardianships: Jurisdiction of Probate Court](#)
2. [IC 29-3-2-1\(c\) in Certain Guardianships: Jurisdiction of Juvenile Court](#)
3. [IC 31-30-1-1 Exclusive Original Jurisdiction](#)
4. [IC 31-9-2-17.8\(1\)\(E\) Authorization for GAP as component of “child services”](#)
5. [IC 29-3-8-9\(f\) Guardian obligation to support child who is GAP beneficiary](#)
6. [42 U.S.C. 673\(d\) GAP eligibility and other conditions for payment under Title IV-E](#)

PROCEDURE

The Family Case Manager (FCM) will:

1. Convene a Child and Family Team (CFT) Meeting or Case Plan Conference to review and discuss legal guardianship as a permanency goal for the child. The discussion should include:
 - a. The application process for participation in GAP,
 - b. The provisions necessary for assistance and support to the child and family, and/or
 - c. The possibility of a sibling group being placed together, if applicable.
2. Ensure that the required documentation is included and the [Explanation of Indiana GAP Program and Background Information](#) form and the [Indiana GAP Program Application](#) are signed all required parties;
3. Change the [Case Plan \(SF 2956 DCS 0046\)](#) goal to legal guardianship and ensure all GAP requirements are completed on the case plan;
4. Obtain Executive Manager of Field Operations approval for exceptions to program eligibility, if applicable. (See Related Information);
5. Get court approval of legal guardianship as the permanency plan if the CFT determines this is the best permanency option for the child;
6. Verify the child has been placed with a licensed relative caregiver for an entire six (6) consecutive months. See separate policy, [12.13 Licensing Recommendation and Approval Process](#);
7. Submit the GAP application with supporting documentation to DCS CEU, including:
 - a. The current Foster Care License,
 - b. The required background checks (including the prospective relative guardian's household members at the time of the GAP application) from the licensing file, including:
 - 1) Child Protection Services (CPS) for all individuals ages 14 and older;
 - 2) Sexual Offender Registry for all individuals ages 14 and older; and

- 3) Finger-print based national criminal history check results (I.e. Qualified letter) for all individuals ages 18 and older.
 - c. A letter or statement from a licensed physician, psychiatrist, psychologist, or FCM detailing the child's mental, emotional, medical, or physical disabilities (including those that are capable of being inherited) for Medicaid.
8. Verify that the guardian is not disqualified for placement of a child, based on the background check results. See Policy, [12.30 Evaluation of Background Checks for Foster Family Home Licensing](#).
9. Obtain a copy of the petition for each child whom legal guardianship is being sought;
10. Meet with prospective guardian to discuss the final GAP determination, proposed GAP agreement, [Payment Request Information \(PRI\) Indiana GAP \(SF 55040\)](#) form and the [Request for Administrative Review Indiana GAP](#) (if applicable);
11. Provide the DCS Local Office Attorney with the Final Guardianship Eligibility Determination, the unfinalized legal guardianship agreement, the GAP PRI completed and signed by the guardian(s) and any information that may assist him or her in negotiating the GAP periodic payment (See separate policy, [14.2 Negotiations for Guardianship Assistance Program](#);
12. Return the signed legal guardianship assistance agreement and court order establishing legal guardianship to the DCS CEU for processing (centralized.eligibility@dcs.in.gov), if the prospective guardian agrees to the amount of the periodic payment;

Note: If the prospective guardian disagrees with the Final Guardianship Eligibility Determination or the amount of the proposed legal guardianship agreement, the prospective guardian may submit a [Request for Administrative Review Indiana GAP](#) within 30 days of the date of the Final Guardianship Eligibility Determination or receipt of the DCS Final Offer letter concerning the periodic payment amount; and
13. Notify any child who entered GAP on or after his or her 16th birthday about the availability of Chafee Independent Living (IL) Services and refer interested youth for IL services. See separate policies [11.1 Independent Living Services](#) and [11.2 Eligibility for Chafee Independent Living Services](#).

The Supervisor will:

1. Review the file to ensure that the required documentation is included and the [Explanation of Indiana GAP Program and Background Information](#) form and the [Indiana GAP Program Application](#) are signed;
2. Ensure that the FCM has received required paperwork from the prospective guardian(s) and submitted to the DCS CEU;
3. Ensure that the Local Office Attorney has received the completed PRI form and any related documentation; and
4. Ensure that the GAP agreement is signed by all parties prior to the entry of order establishing legal guardianship.

The DCS Local Office Attorney will:

1. Contact the prospective guardian(s) or their attorney, to negotiate the periodic payment amount and obtain signatures on the legal guardianship agreement;
2. Work with the FCM to obtain any information needed for the legal guardianship;
3. Meet with the prospective guardian and/or their attorney to review the Final Guardianship Eligibility Determination and negotiate the periodic payment amount; and

4. Ensure that the assisted guardianship agreement is signed by all parties prior to the legal guardianship being finalized.

The DCS CEU will:

1. Make the eligibility determination once the GAP application is completed;

Note: Medicaid eligibility determinations for state-funded GAP will be submitted to the Medicaid Eligibility Unit (MEU).

2. Review the case once the signed Guardianship agreement and court order establishing legal guardianship is received to ensure the agreement was signed by all parties on or prior to the date of the legal guardianship order and that the negotiated amount does not exceed what the child would have received in foster care.

PRACTICE GUIDANCE

N/A

FORMS AND TOOLS

1. [GAP Application](#) – Available via CEU
2. [Case Plan](#) – Available in the Indiana Child Welfare Information System
3. Payment Request Information (PRI) Indiana GAP (SF 55040) – Available via CEU
4. [Request for Administrative Review Indiana GAP](#)
5. Final Guardianship Eligibility Determination – Available via CEU
6. [Explanation of Indiana GAP Program and Background Information](#)

RELATED INFORMATION

For the purpose of GAP the definition of a Relative consist of the following:

1. Grandparents;
2. Great grandparents;
3. Aunts;
4. Great aunts;
5. Uncles;
6. Great uncles;
7. Cousins;

Note: The individuals must be first or second cousins.

8. Adult siblings; and
9. Step parents.

Note: Any of the above relationships to the child may be by blood, marriage, or adoption.

Exceptions to GAP Eligibility Requirements

Executive Managers may consider approving a child for GAP who does not meet the eligibility requirements if the child is a member of a sibling group in which at least one (1) child in the sibling group is 13 years of age or older, and the child is placed with the sibling group in the same home.

Temporary Guardianships

Temporary guardianship should not be sought in these cases. If a temporary guardianship is granted, the relatives are not eligible for foster care payments or GAP payments.

Licensing Requirements

The relative caregiver's valid foster care license, including required background checks, may suffice for GAP background check requirements.

Definition of Financial Support for the Purposes Guardianship

If a guardian is no longer providing any form of financial support to or for the child, guardianship assistance benefits may be terminated. DCS may determine that if the guardian is maintaining regular visitation with the child and is making reasonable efforts to ensure the child can return home, and if one (1) of the following are met, the guardian should be considered as providing financial support to the child:

1. The guardian is making regular payments, or otherwise providing support for the child for:
 - a. Family therapy,
 - b. Tuition,
 - c. Clothing,
 - d. Maintenance of special equipment in the home, or
 - e. Services for the child's special needs, such as occupational, physical, or speech therapy;
2. The guardian is providing support for the child while the child is in out-of-home care, in the form of regular monetary payments of not less than \$100.00 per month or provision of materials, supplies or services having an equivalent monetary value; or
3. The guardian is paying child support pursuant to a court order.

Processing Medicaid Eligibility

All cases regarding eligible children who are Indiana residents and will be placed with his/her guardian in Indiana will be processed by MEU for Medicaid eligibility. All cases that involves eligible children who are Indiana residents being placed outside of Indiana will be processed by CEU for Medicaid eligibility. In order to be eligible for Medicaid under the IV-E GAP plan, a IV-E GAP payment must be made on behalf of the child. Children eligible for state-funded GAP will need a separate Medicaid eligibility determination by the Division of Family Resources (DFR) to receive Medicaid.

Residency

The child's residency is determined by his/her place of residence prior to being placed under DCS care and supervision.