

5101:2-46-04

**Title IV-E kinship guardianship assistance program (KGAP) agreement and duration: provision for financial support and services.**

- (A) The kinship caregiver(s), the public children services agency (PCSA) director or designee and Ohio department of job and family services (ODJFS) are to negotiate and enter into a written, binding KGAP agreement with the prospective kinship caregiver(s) of a child who meets the requirements. All parties will review, sign and date the JFS 00133 "Title IV-E Kinship Guardianship Assistance Program (KGAP) Agreement" prior to the court issuing an order granting legal custody/guardianship. The PCSA responsible for determining eligibility for KGAP is also responsible for signing the JFS 00133.
- (B) The agreement is to specify, at a minimum:
- (1) The amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the kinship caregiver(s) and the needs of the child.
  - (2) The additional services and assistance that the child and kinship caregiver(s) will be eligible for under the agreement.
  - (3) The procedure by which the kinship caregiver(s) may apply for additional services as needed.
  - (4) That the state/tribal agency will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed two thousand dollars.
  - (5) That the agreement is to remain in effect without regard to the state/tribal service area residency of the kinship caregiver(s).
- (C) The agreement is to list the payments to be provided and the terms under which such benefits will continue to be available. The KGAP agreement is binding, but the payments may be amended at any time in response to a request made either by the kinship caregiver(s) or ODJFS if the kinship caregiver(s) and ODJFS agree to the change.
- (D) The KGAP agreement is to be effective on the date specified on the JFS 00133.
- (E) The PCSA is to ensure legal status change entry into Ohio statewide automated child welfare information system (SACWIS) within ten days from the receipt

of the journalized court order granting the kinship caregiver(s) legal custody or guardianship.

(F) The KGAP payments and services are not to begin prior to the court issuing an order granting legal custody/guardianship to the specified kinship caregiver(s). Once the kinship caregiver(s) has committed to care for the child and has assumed legal custody/guardianship of the child, ODJFS may then pay kinship guardianship assistance payments on behalf of a child to the kinship caregiver(s) provided that the agreement meets, or is amended to meet, all the requirements.

(G) The KGAP agreement is to remain in effect regardless of the county, state, or country where the kinship caregiver(s) resides unless the agreement is terminated pursuant to rule 5101:2-46-09 of the Administrative Code.

(H) The terms of the KGAP agreement may be amended at any time if both parties agree to the change in accordance with rule 5101:2-46-07 of the Administrative Code.

(I) In accordance with federal requirements, section 42 U.S.C. 673(d)(3)(C), effective September 29, 2014, language may not be added to the KGAP agreement that makes the agreement subject to the availability of funds.

(J) The kinship caregiver is to name a primary successor legal guardian in the agreement or in any amendments to the agreement. The primary successor legal guardian cannot be the parent(s) of the kinship guardianship child in accordance with section 42 U.S.C. 673(d)(3)(C). A new JFS 00133, with a successor guardian, will be entered into if all of the following are met:

(1) The kinship caregiver(s) dies or becomes incapacitated.

(2) The primary successor legal guardian(s) is named in the current agreement.

(3) The primary successor legal guardian(s) and all adult household members complete and pass criminal background checks in accordance with rules 5101:2-46-05 and 5101:2-5-20, 5101:2-5-24, 5101:2-5-30 and 5101:2-5-09.1 of the Administrative Code.

(4) The primary successor legal guardian(s) obtains legal guardianship by a court of competent jurisdiction.

(K) If the KGAP payment is made to a primary successor legal guardian, ODJFS is to ensure all of the following prior to payment:

(1) Verification of the primary successor legal guardian named in the kinship caregiver(s) JFS 00133 or in any amendments to the agreement.

- (2) Termination date of the JFS 00133 with the previous kinship caregiver(s) pursuant to rule 5101:2-46-09 of the Administrative Code.
- (3) Completion of primary successor legal guardian background checks in accordance with rules 5101:2-5-20, 5101:2-5-24, 5101:2-5-30 and 5101:2-5-09.1 of the Administrative Code.
- (4) The PCSA in the county in which the successor resides is to assist in completing the required background checks.
- (5) If residing in another state, the PCSA that previously held custody of the child is to assist in completing the required background checks.
- (6) Completed and signed JFS 00133 between the primary successor legal guardian, as the kinship caregiver(s), the PCSA director or designee and ODJFS.
- (7) Establish legal custody/guardianship of the primary successor legal guardian pursuant to rule 5101:2-46-04 of the Administrative Code as the kinship caregiver.
- (L) ODJFS will not have a general policy limiting KGAP prior to the child's eighteenth birthday.
- (M) ODJFS is to give a copy of the signed agreement and all amendments to the kinship caregiver(s) and keep a copy in the KGAP case record.
- (N) ODJFS is to secure Title XIX medicaid and Title XX social services block grant services if the services are not available in the state or county where the child resides in accordance with rule 5101:2-46-13 of the Administrative Code.
- (O) Nothing is to prohibit the kinship caregiver(s) family from seeking Title XX services available in the county of residence even if they are not already specified in the KGAP agreement. The kinship caregiver(s) may:

  - (1) Apply for the Title XX services in the county where they reside.
  - (2) Seek to amend the child's KGAP agreement.
- (P) The kinship caregiver(s) is to inform ODJFS of circumstances that would make them ineligible.
- (Q) The kinship caregiver(s) has the right to a state hearing under any of the following circumstances:

- (1) The PCSA denies eligibility for KGAP.
  - (2) ODJFS denies the amount of payment requested by the kinship caregiver(s) in the child's initial JFS 00131 "Title IV-E Kinship Guardianship Assistance Program (KGAP) Application for Initial Eligibility."
  - (3) ODJFS proposes to reduce, suspend, or terminate the amount of KGAP payment specified on the current KGAP agreement.
  - (4) ODJFS denies a request by the kinship caregiver(s) to amend the terms of the current KGAP agreement.
- (R) ODJFS is to provide written notification to the kinship caregiver(s) when any of the following occur:
- (1) A denial for a request to increase the amount of the monthly KGAP payment.
  - (2) A reduction, suspension, or termination of the monthly KGAP payment.
- (S) ODJFS is to inform the kinship caregiver(s) of all decisions to deny or approve KGAP and provide a copy of the JFS 04059 "Explanation of State Hearing Procedures."

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under:	119.03
Statutory Authority:	5153.163, 5101.1417
Rule Amplifies:	5153.163, 5153.16