

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-46-09

**Rule Type:** New

**Rule Title/Tagline:** Termination of a Title IV-E kinship guardianship assistance program (KGAP) agreement.

**Agency Name:** Department of Job and Family Services

**Division:** Division of Social Services

**Address:** OFC- 4200 E. 5th Ave., 2nd fl. L2-01 P.O. Box 183204 Columbus OH 43218-3204

**Contact:** Michael Lynch **Phone:** 614-466-4605

**Email:** Michael.Lynch@jfs.ohio.gov

#### I. Rule Summary

1. Is this a five year rule review? No
  - A. What is the rule's five year review date?
2. Is this rule the result of recent legislation? Yes
  - A. If so, what is the bill number, General Assembly and Sponsor? HB 110 - 134 - Scott Oelslager
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 5153.163, 5101.1417
5. What statute(s) does the rule implement or amplify? 5153.163, 5153.16
6. What are the reasons for proposing the rule?

The reason for proposing the rule is to implement a statewide federal kinship guardianship assistance program (KGAP) pursuant to Ohio revised code 5153.163.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

OAC rule 5101:2-46-09 entitled "Termination of a Title IV-E Kinship Guardianship Assistance Program (KGAP) Agreement" outlines the circumstances that result in the termination of a KGAP agreement between the kinship caregiver(s) and ODJFS.

- 8. Does the rule incorporate material by reference? Yes**
- 9. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

This rule incorporates one or more references to a form or a digital application into which data is entered. This question is not applicable to any incorporation by reference to forms or digital data applications because such reference is exempt from compliance with RC 121.75 to 121.74 pursuant to RC 121.75(B)(4).

This rule incorporates one or more references to another rule or rules of the Ohio Administrative Code. This question is not applicable to any incorporation by reference to another OAC rule because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(d).

This rule incorporates one or more references to the Ohio Revised Code. This question is not applicable to any incorporation by reference to the Ohio Revised Code because such reference is exempt from compliance with RC 121.71 to 121.74 pursuant to RC 121.75(A)(1)(a).

- 10. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 11. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

12. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?

No new cost.

13. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No

15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not Applicable.

### **III. Common Sense Initiative (CSI) Questions**

16. Was this rule filed with the Common Sense Initiative Office? No

17. Does this rule have an adverse impact on business? No

- A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
- B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No
- C. Does this rule require specific expenditures or the report of information as a condition of compliance? No
- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

### **IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))**

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? No

**A. How many new regulatory restrictions do you propose adding to this rule?**

Not Applicable

**B. How many existing regulatory restrictions do you propose removing from this rule?**

Not Applicable

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not Applicable

**NOTICE OF ADVERSE ACTION FOR THE FEDERAL KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM (KGAP)**

Name of Kinship caregiver(s)	Name of Kinship caregiver(s)	Mailing Date
Street Address	City, State, and Zip Code	
Child's Name	Child's Date of Birth (mm/dd/yyyy)	

This is a notice of denial or termination from the Federal Kinship Guardianship Assistance Program (KGAP). Please review this notice carefully as it outlines the reason(s) for this decision. You have until \_\_\_\_\_ to request a state hearing. **For termination**, if a state hearing is requested within fifteen days of the mailing date on the notice in accordance with provisions set forth in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, Federal KGAP is to continue until a state hearing decision is issued.

Date of Denial:
Reasons for Denial:
<input type="checkbox"/> The JFS 00131 "Title IV-E Kinship Guardianship Assistance Program (KGAP) Application for Initial Eligibility" is incomplete. <input type="checkbox"/> The child has not resided in the kinship caregiver's home for six consecutive months as a foster care placement. <input type="checkbox"/> The case plan requirements have not been met in accordance with rule 5101:2-38-05.2 of the Administrative Code. <input type="checkbox"/> The kinship caregiver has not named a successor guardian. <input type="checkbox"/> The JFS 00133 "Title IV-E Kinship Guardianship Assistance Program (KGAP) Agreement" was not signed by the kinship caregiver(s) prior to court issuing an order of legal custody or guardianship.

Date of Termination:
Reasons for Termination:
<input type="checkbox"/> At the end of the month the child's _____ birthday (mm/dd/yyyy) pursuant to rule(s) 5101:2-46-14 of the Administrative Code. <input type="checkbox"/> The kinship caregiver(s) has not contacted ODJFS and provided documentation that meets the ongoing verification requirement within ninety days of the written notice to suspend a KGAP payment pursuant to rule 5101:2-46-08 of the Administrative Code. <input type="checkbox"/> The child is no longer receiving any support from the kinship caregiver(s). <input type="checkbox"/> The kinship caregiver(s) is no longer legally responsible for supporting the child. <input type="checkbox"/> A court of competent jurisdiction has terminated legal custody/guardianship of the kinship caregiver(s) or the kinship caregiver(s) has voluntarily surrendered legal custody/guardianship. <input type="checkbox"/> The kinship caregiver(s) request termination of the KGAP benefits. <input type="checkbox"/> The kinship caregiver(s) dies. <input type="checkbox"/> The kinship caregiver(s) is incapacitated. <input type="checkbox"/> The kinship caregiver(s) is not supporting the child. <input type="checkbox"/> The child marries. <input type="checkbox"/> The child became emancipated. <input type="checkbox"/> The child enlisted in the military. (Enlistment in the military is defined as the date of report for active duty.) <input type="checkbox"/> The child died.

**If you have questions regarding this decision, you may contact:**

Name of Federal KGAP Representative	Email	Date
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Name of Kinship caregiver(s)	Name of Kinship caregiver(s)	Child's Name	Date
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### Your Right to a State Hearing

This notice is an explanation of actions that are being taken that will affect your payments from the KGAP program. Please contact your caseworker at ODJFS for explanation. Your communication could resolve concerns and prevent further action from being taken.

#### IF YOU DISAGREE WITH THIS DECISION, ASK FOR A STATE HEARING

You can ask for a state hearing if you disagree with the Ohio Department of Job and Family Services' (ODJFS) action or think that ODJFS may have made a mistake. If you want a hearing, ODJFS must receive your request 90 days from the date this notice was mailed to you. If the 90th day falls on a holiday or weekend, the deadline will be the next working day.

You can ask your local Legal Aid program for free help with your case. Contact your local Legal Aid office by phoning 1-866-LAW-OHIO (1-866-529-6446) or by searching the Legal Aid directory at <http://www.ohiolegalservices.org/programs> on the internet.

If someone is helping you with your case, ODJFS will need a signed "authorized representative" notice from you saying it's okay for that person to represent you for the hearing process.

On the Day of the State Hearing: You, or someone else helping you with your case, can explain the reason(s) why you don't think the decision is right. The agency will explain its reasons. Then, an ODJFS hearing officer will make a decision after the hearing.

**Step 1:** Read, sign, date, and fill in your telephone number. Another person may sign this for you if they send us your signed "authorized representative" notice.

Name of Kinship caregiver(s)	Name of Kinship caregiver(s)	Telephone Number (      )	Date
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**Step 2:** Fill out the information, as it applies to your situation.

- ☐ I want to do my hearing by telephone. Phone Number \_\_\_\_\_
- ☐ I need an interpreter at my state hearing. Language \_\_\_\_\_
- ☐ I am not available for a hearing on: \_\_\_\_\_  
(Please note: ODJFS may not be able to give you the preferred date.)
- ☐ I want a County Conference. (This is a meeting to discuss your case with your local agency.)
- ☐ This person has agreed to help me with my state hearing (my "authorized representative")

Name	Telephone Number (      )
Address	Fax (      )
City, State, Zip	Email

**Step 3:** ODJFS must receive your request 90 days from the date this notice was mailed to you. You must choose one of the following ways to send this state hearing request to us. You should keep proof of when and how you sent this hearing request to us.

**Please only submit your hearing request one time. Return all the pages of this notice.**

**Electronically:** Submit the hearing request to the Bureau of State Hearings SHARE Portal at <https://hearings.ifs.ohio.gov/SHARE>. Log into the SHARE Portal using your Ohio Benefits ID and password to submit your request. (If you do not have an Ohio Benefits account, sign up at [ssp.benefits.ohio.gov](http://ssp.benefits.ohio.gov)); or

**Email:** Email the ODJFS Bureau of State Hearings at [bsh@ifs.ohio.gov](mailto:bsh@ifs.ohio.gov). In the subject, put "State Hearing Request". In the message, put all of the information from the boxes at the top of this page and from Steps 1, 2, and 3; or

**Phone:** Phone the ODJFS Consumer Access Line at 866-635-3748. Follow the instructions for State Hearings. Mention this notice; or

**Fax:** Fax all pages of this notice to the ODJFS Bureau of State Hearings at (614) 728-9574; or

**Mail:** Mail all pages of this notice to ODJFS Bureau of State Hearings, P.O. Box 182825, Columbus, Ohio 43218-2825.

**Contact KGAP:** It is better to send this request using one of the other methods above. However, you may give this page (completed and signed) to your state KGAP representative. Or you may phone the State KGAP representative listed above and mention this notice.

# TITLE IV - KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM (KGAP) AGREEMENT

## KINSHIP GUARDIANSHIP ASSISTANCE AGREEMENT

The following kinship guardianship assistance agreement, hereinafter called "the agreement" has been entered into by and between Ohio department of job and family services (ODJFS) hereinafter called "agency," the kinship caregiver(s) hereinafter called the "kinship caregiver(s)," residing at .

This is an: ☐ Initial Agreement ☐ Amended Agreement

☐ Family has an approved Nonrecurring Agreement per rule OAC 5101:2-46-12 (*please attach JFS 00135 "Agreement for Payment or Reimbursement for Nonrecurring Expenses Incurred in a Kinship Guardianship Placement."*)

### ARTICLE I: GENERAL PROVISIONS

1. The kinship caregiver intends to pursue legal custody/guardianship of the child that is  
☐ Under the custody of (Agency Name)
2. Name of child.
3. The kinship guardianship assistance agreement must be signed and dated by ODJFS, the kinship caregiver(s), public children service agency (PCSA) Director or designee prior to the legal custody/guardianship. The agreement is to be effective once it is signed and dated by all parties, prior to the court issuing an order granting legal custody/guardianship to the kinship caregiver(s).
4. The KGAP payments and services are not to begin prior to the court issuing an order granting legal custody/guardianship. 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.
5. The initial kinship guardianship assistance agreement or any that is subsequently amended shall remain in effect regardless of the county or state in which the kinship caregiver(s) and the child are residents.
6. The agreement remains in effect as long as the kinship caregiver(s) continues to be legally responsible for the child's care and **continues to provide support for the child through the month of the child's eighteenth birthday.**
7. The kinship guardianship assistance payment is to be provided to assist the kinship caregiver(s) in incorporating the child into the family. The kinship guardianship assistance payment is not restricted to meeting the daily support of the child but may be used or put aside to fund any other needs of the child, including such services as education.
8. The agreement may be amended or terminated at any time by the mutual consent of the kinship caregiver(s) and ODJFS.
9. The kinship caregiver is to name a primary successor legal guardian in the agreement or in any amendments to the agreement:
  - Name of primary successor legal guardian \_\_\_\_\_.
  - Address \_\_\_\_\_.
  - Phone Number \_\_\_\_\_.
  - E-mail Address \_\_\_\_\_.
  - Criminal background checks completion and passing dates in accordance with rules 5101:2-46-05 and 5101:2-5-09.1 of the Administrative Code.
10. Both the kinship caregiver(s) and ODJFS are legally bound by this agreement.



## **ARTICLE II: OBLIGATIONS OF THE KINSHIP CAREGIVER(S)**

1. The kinship caregiver(s) will
  - Notify ODJFS within fifteen calendar days of a change if the kinship caregiver(s) is no longer legally responsible for the child's care, no longer providing support to meet the child's needs, or the child emancipated.
  - Notify ODJFS within fifteen calendar days when the family and/or child has a change of address or relocates.
  - Comply with any interstate requirements for kinship guardianship assistance in the event that the family moves to another state.
  - Notify ODJFS if health care insurance coverage is made available to the child and submit the ODM 06612 "Health Insurance Information Sheet."
  - Provide documentation that the child is enrolled in school or is incapable of attending school full-time by completing and returning the JFS 00136 "Title IV-E Kinship Guardianship Assistance Program (KGAP) Annual Assurance of Legal Responsibility, School Attendance and Eligibility for Continued Medicaid Coverage."

## **ARTICLE III: OBLIGATIONS OF ODJFS ADMINISTRATION**

1. ODJFS will notify the kinship caregiver(s) of changes in agency, state, or federal policy that have a potential effect on the amount of the kinship guardianship assistance payment.
2. ODJFS will verify annually the child's continuing eligibility for kinship guardianship assistance. The criteria for continuing eligibility are:
  - The kinship caregiver(s) continues to be legally responsible for the child's care.
  - The kinship caregiver(s) continues to provide support for the child.
  - The child is under 18 years of age.

## **ARTICLE IV: KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT**

1. ODJFS has presented the kinship caregiver(s) with information about the following kinship guardianship assistance programs: Title IV-E kinship guardianship assistance program (KGAP), KGAP Nonrecurring and kinship guardianship assistance program connections to age twenty-one (KGAP C21).
2. Kinship guardianship assistance payments in the amount of \$            per month will be provided on behalf of (child's name)            for the identified service needs to begin on            (MM/DD/YY) when the kinship caregiver(s) has obtained legal custody/guardianship pursuant to rule 5101:2-46-04 of the Administrative Code.

## **ARTICLE V: MEDICAL CARE**

1. The child is eligible for Medicaid benefits provided under Title XIX of the Social Security Act for as long as the agreement is in effect.
2. The child is eligible for Medicaid benefits in the state where the child resides.

## **ARTICLE VI: TITLE XX SOCIAL SERVICES AND OTHER SERVICES**

1. The child is eligible for Title XX funded social services as long as the agreement is in effect.
2. The child is eligible for Title XX funded social services in the state in which the child resides. If a needed service(s) specified in the kinship guardianship assistance agreement is not available in the new state of residence, the state making the original kinship guardianship assistance payments remains financially responsible for providing the specified service(s).
3. If the child moves to another Ohio county, the child will be provided with Title XX funded social services in the county where the child resides. If any of the Title XX funded social services specified in the kinship guardianship agreement are not available in the county where the child resides, the county that determined eligibility for federal KGAP shall be responsible for securing those services. Nothing shall prohibit the kinship caregiver(s) from applying for Title XX funded social services in the county of residence, even if the services are not already specified in the kinship guardianship agreement.
4. The child will be provided the following Title XX funded social services.
5. ODJFS shall provide or secure funding for the following services, whether or not they are available through Title XX.

## **ARTICLE VII: SUSPENSION**

The kinship guardianship assistance payment is subject to suspension if ODJFS cannot establish contact through concerted efforts with the kinship caregiver(s) to determine if the kinship caregiver(s) is providing any support to the child after concerted efforts were made in accordance with 5101:2-46-08.

## **ARTICLE VIII: TERMINATION**

1. The agreement is subject to termination when the child reaches the age of 18.
2. The agreement is subject to termination if ODJFS determines that the kinship caregiver(s) is no longer legally responsible for the child's care, no longer providing support to meet the child's needs, or the child emancipates.
3. The kinship caregiver is to name a primary successor legal guardian in the agreement or in any amendments to the agreement.
4. The agreement is subject to termination when it has been determined that the kinship caregiver(s) has died or become incapacitated, and a new agreement has been completed with the named primary successor guardian in accordance with rule 5101:2-46-09 of the Administrative Code

## **ARTICLE IX: APPEAL**

1. The kinship caregiver(s) may appeal any agency and/or ODJFS decision to deny, reduce, suspend or terminate kinship guardianship assistance or to deny the amount of kinship guardianship assistance payment requested by the kinship caregiver(s).
2. ODJFS must inform the kinship caregiver(s) in writing of any decision to deny, reduce, suspend, or terminate kinship guardianship assistance or to deny the amount of the kinship guardianship assistance payment requested by the kinship caregiver(s). The notice of denial must inform the kinship caregiver(s) of the right to appeal through a state hearing as well as the procedure for requesting a state hearing.
3. The kinship caregiver(s) may also appeal through a request for a state hearing in any case in which the agency fails to inform the kinship caregiver(s) about potential financial, medical, or service benefits that may be available to the child through the Title IV-E kinship guardianship assistance program.

## **ARTICLE X: AGREEMENT EFFECTIVE DATE**

1. This agreement is effective on \_\_\_\_\_.

This agreement shall be signed, dated and in effect prior to the court issuing an order granting legal custody/guardianship to the kinship caregiver(s). ***(This is not the court date to obtain legal custody/guardianship.)***

2. Payments and services shall not begin prior to the court issuing an order granting legal custody/guardianship to the kinship caregiver(s).

#### **SIGNATURES**

Kinship Caregiver Signature	Email	Date (mm/dd/yyyy)
Kinship Caregiver Signature	Email	Date (mm/dd/yyyy)
PCSA Director Signature or Designee	Email	Date (mm/dd/yyyy)
ODJFS Representative Signature	Email	Date (mm/dd/yyyy)

A signed copy of this agreement was provided to the kinship caregiver(s) on:

Date (mm/dd/yyyy)

***The PCSA Director or Designee signature is an acknowledgment by the PCSA that the court hearing issuing an order granting legal custody/guardianship to the kinship caregiver can be held.***