

5101:2-46-09**Termination of a Title IV-E kinship guardianship assistance program (KGAP) agreement.**

(A) Ohio department of job and family services (ODJFS) is to terminate the JFS 00133 "Title IV-E Kinship Guardianship Assistance Program (KGAP) Agreement" in any of the following circumstances:

- (1) At the end of the month of the child's eighteenth birthday.
- (2) The kinship caregiver(s) has not contacted ODJFS and provided documentation that meets the ongoing verification requirement within ninety days of the notice to suspend a KGAP payment pursuant to rule 5101:2-46-08 of the Administrative Code.
- (3) If the child is no longer receiving any support from the kinship caregiver(s) as defined in paragraph (B) of this rule.
- (4) If the kinship caregiver(s) is no longer legally responsible for supporting the child as defined in paragraph (C) of this rule.
- (5) If 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.
- (6) If the kinship caregiver(s) requests termination of the KGAP benefits.
- (7) If the kinship caregiver(s) is deceased.
- (8) If a new agreement was established with the successor guardian upon the kinship caregiver(s) death or incapacitation.
- (9) If the child is deceased.

(B) A kinship caregiver(s) is not supporting the child if the kinship caregiver(s) is not providing the child with shelter, food, clothing, or any financial support regardless of the physical location of the child.

(C) A kinship caregiver(s) is not legally required to support the child if the child becomes emancipated. A child becomes emancipated if the child:

- (1) Enlists in the military services, defined as the date of report for active duty.
- (2) Marries.

- (3) Has been determined to be an emancipated minor by a court of competent jurisdiction or the state of residence.
- (4) Is self-supporting by paying for shelter, food, and clothing even though they may still reside with the kinship caregiver(s).
- (D) When ODJFS proposes to terminate the KGAP agreement, ODJFS is to provide the kinship caregiver(s) with a notice of the proposal to terminate and the right to a state hearing.
- (E) When ODJFS proposes to terminate the KGAP agreement, and the kinship caregiver(s) has requested a state hearing, the following will apply:

 - (1) If a state hearing is requested within fifteen days of the date on the notice in accordance with provisions set forth in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code, KGAP is to continue until a state hearing decision is issued.
 - (2) If a state hearing is requested within fifteen days of the date on the notice and the hearing decision is favorable to the kinship caregiver(s), KGAP is to continue in accordance with the terms of the KGAP agreement or an amended agreement may be entered into by mutual agreement.
 - (3) If a state hearing is requested within fifteen days of the mailing date on the notice and the hearing decision is to terminate the KGAP, the kinship caregiver(s) is not required to return the payments received prior to the issuance of the state hearing decision.
 - (4) If no timely hearing is requested, KGAP is to be terminated.
- (F) When ODJFS determines that KGAP should be terminated, ODJFS is to provide notification to the kinship caregiver(s) of Ohio's intent to terminate the KGAP subsidy. Notification is to include, at a minimum, all of the following:

 - (1) The effective termination date.
 - (2) Provide the JFS 04059 "Explanation of State Hearing Procedures."
 - (3) Complete the JFS 04065 "Prior Notice of Right to A State Hearing."
 - (4) Include the JFS 04069 "State Hearing Request."
 - (5) A completed JFS 00127 "Notice of Adverse Action for the Federal Kinship Guardianship Assistance Program (KGAP)."

(6) Complete the ODM 01958 "Referral for Medicaid continuing eligibility review" pursuant to rule 5160:1-2-01 of the Administrative Code and send the ODM 07236 "Your Rights & Responsibilities as a Consumer of Medicaid Health Coverage" to the kinship caregiver(s).

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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