

5101:2-56-01**Administration of the state kinship guardianship assistance program (KGAP).**

- (A) The state kinship guardianship assistance program (KGAP) provides financial payments to eligible kinship caregivers who have been granted legal custody or guardianship of a child that was previously in the custody of a public children services agency (PCSA). The Ohio department of job and family services (ODJFS) and the PCSA are to coordinate to administer the program pursuant to section 5153.163 of the Revised Code. ODJFS is to provide payments to the extent funds are appropriated and allocated for this purpose.
- (B) The PCSA is to provide the JFS 00128 "Application for State Kinship Guardianship Assistance Program (KGAP) Payments" to any kinship caregiver(s) upon request and determine eligibility as outlined in rule 5101:2-56-03 of the Administrative Code.
- (C) Kinship caregiver(s) as defined in rule 5101:2-1-01 of the Administrative Code includes any individual who meets one of the following:
- (1) An individual who had an existing relationship with the child or the child's family that is similar to a familial relationship prior to the child's placement into substitute care; or
  - (2) An individual who is a member of a child's current foster family that does not wish to pursue adoption of the child but a court has made a finding pursuant to sections 2151.4119 and 2151.4120 of the Revised Code that the child's current foster family has a kin relationship with the child.
- (D) The PCSA that had custody of a child immediately prior to a court granting legal custody or guardianship of the child to a kinship caregiver of is authorized to enter into a state kinship guardianship assistance agreement with that kinship caregiver.
- (E) The monthly amount of the state KGAP payment is determined by negotiation and mutual agreement between the kinship caregiver(s) and ODJFS. State KGAP payments are to be negotiated as follows:
- (1) The state KGAP payment for a child is to be eighty per cent of the child's current foster care per diem unless this would result in a state KGAP payment of less than three hundred-fifty dollars.
  - (2) For any child for whom the requirement in paragraph (F)(1) of this rule would result in a state KGAP payment of less than three hundred fifty dollars, the state KGAP payment is to be three hundred fifty dollars or the child's current foster care per diem amount, whichever is lower.

- (3) ODJFS and the kinship caregiver(s) can mutually agree to a lower payment.
- (F) The child's supplemental security income (SSI) benefits are to be considered along with the kinship caregiver(s) resources in the negotiation and determination of the state KGAP payment amount.
- (G) The kinship caregiver(s) is to notify the social security administration if the child receives SSI benefits. The child may receive state KGAP and SSI concurrently if the child receives SSI. If there is concurrent receipt of payments from both programs, the social security administration will decrease the monthly SSI benefit by the monthly state KGAP payment amount.
- (H) If ODJFS and the kinship caregiver(s) cannot mutually agree on the monthly state KGAP payment amount after thirty days from the initial negotiation meeting, ODJFS is to notify the kinship caregiver(s) of their rights to a state hearing in accordance with provisions set forth in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.
- (I) If an overpayment or an underpayment of a state KGAP payment occurs, ODJFS is to take immediate action to correct either situation as soon as information is received.
- (1) An underpayment occurs when one of the following circumstances exist:
- (a) The kinship caregiver(s) of a state KGAP child does not receive a payment they are entitled to according to the current agreement.
  - (b) The kinship caregiver(s) of a state KGAP child receives a payment less than the amount they are entitled to according to the current agreement.
- (2) An overpayment occurs when a kinship caregiver(s) receives a payment amount they are not entitled to because of the following reasons.
- (a) The payment was made in excess of the agreed upon amount.
  - (b) The child for whom a state KGAP payment was made was not eligible for such payment the month the payment was made.
- (J) ODJFS is responsible for reviewing payment records for state KGAP cases to determine if an overpayment has occurred. If an overpayment has occurred, ODJFS is to:
- (1) Adjust the overpayment in Ohio SACWIS. Adjustment of the payment is to be effective on the first day of the month following the month in which the change occurred.

- (2) Provide notification to the kinship caregiver(s) when an overpayment is found and identify what action ODJFS proposes to take with regard to the payment.
  - (3) Send notification to the kinship caregiver(s) of the right to request a state hearing in accordance with the provisions set forth in Chapters 5101:6-1 to 5101:6-9 of the Administrative Code.
- (K) A review of the kinship caregiver's agreement may be requested by the successor guardian named in the state KGAP agreement in the event of the death or incapacitation of the kinship caregiver(s). The successor guardian and ODJFS will enter into a new JFS 00129 "State Kinship Guardianship Assistance Program Agreement" to reflect the change in guardian if the criteria in this rule are met. ODJFS is to ensure the following prior to payment:
  - (1) Verification of the primary successor legal guardian named in the kinship caregiver(s) JFS 00129 or in any amendments to the agreement. The successor guardian named cannot be the parent of the child.
  - (2) Termination date of the kinship caregiver(s) JFS 00129 pursuant to rule 5101:2-56-06 of the Administrative Code.
  - (3) Completion of background checks for the primary successor legal guardian and all adult household members 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. The PCSA in the county in which the successor guardian resides is to assist in completing the required background checks. If the successor guardian resides out of state, the PCSA that previously held custody of the child is to assist.
  - (4) If residing in another state, ODJFS is to ensure the kinship caregiver(s) has complied with the background check requirements of that state.
  - (5) Signed JFS 00129 between the primary successor legal guardian and ODJFS.
  - (6) The successor guardian is granted legal custody or guardianship.
- (L) ODJFS is to approve state KGAP funding for eligible caregivers as long as state funds are available. In the event state funding is no longer available, the state KGAP program will close to new applications until July first of the following state fiscal year (SFY). Once state funds have been exhausted, neither ODJFS nor the PCSA may be held responsible for payment.

Effective: 1/1/2023

Five Year Review (FYR) Dates: 01/01/2028

CERTIFIED ELECTRONICALLY

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Certification

10/11/2022

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Date

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Statutory Authority: 5153.163, 5101.1417  
Rule Amplifies: 5153.163, 5153.16