

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 5101:2-56-06

**Rule Type:** New

**Rule Title/Tagline:** Termination of the state kinship guardianship assistance program (KGAP) payments.

**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?

This rule has been developed for the implementation of the state kinship guardianship assistance program pursuant to Ohio Revised Code (ORC) 5153.163.
7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

OAC rule 5101:2-56-06 entitled Termination of State Kinship Guardianship Assistance Program (KGAP) Payments provides guidance regarding the termination process including reasons to terminate and the process for termination.

- 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 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).

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 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).

- 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

Payments made under the KGAP and KGAP C21 program have been contemplated in the current agency budget and therefore would not have any additional impact on expenditures.

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

No new costs.

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

## Ohio Department of Job and Family Services

**STATE KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM AGREEMENT**

(This form is used to establish State Kinship Guardianship Assistance Program payments)

**SECTION I: STATE KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM AGREEMENT**☐ Initial Agreement☐ Amendment

☐ Family has an approved Nonrecurring Agreement per rule OAC 5101:2-56-05 (please attach JFS 00135 "Agreement for Payment or Reimbursement for Nonrecurring Expenses Incurred in a Kinship Guardianship Placement.")

The following State Kinship Guardianship Assistance Program (KGAP) agreement has been entered into by the Ohio Department of Job and Family Services, the PCSA listed below, hereinafter called "agency," and the kinship caregiver(s) listed below, hereinafter called the "kinship caregiver(s)."

Public Children Services Agency (PCSA)

Name of Kinship caregiver

Name of Kinship caregiver

Child's Name

Child's Date of Birth

Kinship Caregiver's Street Address City, State and Zip Code

Telephone Number

**SECTION II: SUCCESSOR GUARDIAN**

Name of Successor Guardian: (first and last)

Name of Successor Guardian: (first and last)

Successor Guardian's Street Address, City, State and Zip Code

Telephone Number:

**SECTION III: AMOUNT AND DURATION OF STATE KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM AGREEMENT**

A monthly cash payment will be paid to you in the amount of \$ \_\_\_\_\_ per month for the period beginning \_\_\_\_\_ and ending \_\_\_\_\_. This monthly cash payment will be made on behalf of your child to help meet the costs of food, shelter, clothing and routine medical and dental care.

As outlined in rule 5101:2-56-01 of the Administrative Code, the state KGAP payment amount shall be agreed upon between the Ohio Department of Job and Family Services and the kinship caregiver(s).

The subsidy may be reduced or terminated in the event of judicial, executive or legislative action reducing the appropriation, or suspending or terminating the authority of the agency to continue the state KGAP.

**SECTION IV: RESPONSIBILITIES OF KINSHIP CAREGIVER(S)**

1. Cooperate with the agency and/or ODJFS in fulfillment of all requirements of the state KGAP program.
2. The kinship caregiver will apply for Ohio Works First (OWF) cash assistance within thirty days of the date in which the court grants the kinship caregiver(s) legal custody or guardianship of the child.
3. Responsibly administer state KGAP funds received on behalf of your child.
4. Immediately notify the agency, in writing, when any of the following apply:
  - a. You are no longer responsible for the support of your child or are no longer supporting your child
  - b. There is a substantial change in your child's needs
  - c. There is a change of address for the family
  - d. The successor guardian named in your agreement is no longer able to fulfill the responsibilities.
5. You may provide a written request at any time to terminate the subsidy payment.

## **SECTION V: GENERAL PROVISIONS OF STATE KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM**

1. The child must be in the custody of a PCSA or private child placing agency (PCPA).
2. The child cannot be reunified, and adoption is not a permanency option.
3. The initial state KGAP approval must be issued prior to the legal custody or guardianship judgement.
4. The approval and continuation of state KGAP is contingent upon the availability of funds.
5. State KGAP continues if the kinship caregiver(s) and child move to another county, state or country provided all eligibility requirements are still met.
6. The subsidy will also be redetermined prior to any substantial amendment of the terms and conditions of this approval.
7. At any time, the kinship caregiver(s) may request, in writing, a redetermination of state KGAP. No oral modifications shall have effect.
8. ODJFS shall respond to any written request for redetermination of state KGAP within thirty days of the request.
9. ODJFS shall provide the kinship caregiver with information concerning their right to a state hearing when the kinship caregiver does not agree with the action the agency has taken regarding the state KGAP.
10. The successor guardian is subject to completion of 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.

## **SECTION VI: TERMINATION OF STATE KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM**

The state KGAP subsidy shall be terminated if any of the following circumstances occur:

1. The kinship caregiver fails to apply for OWF cash assistance within sixty days of the date in which the court grants the kinship caregiver(s) legal custody or guardianship of the child.
2. The death of the child or kinship caregiver.
3. The kinship caregiver is no longer financially supporting the child. Financially supporting means providing the child with shelter, food and clothing or child support.
4. The child reaches the age of eighteen. If the child is enrolled in school, payments will terminate at the end of the school year in which the child turns eighteen years of age.
5. The kinship caregiver(s) requests termination.
6. The child enlists in the military.
7. The terms of the JFS 00129 have been fulfilled.
8. The successor guardian named in the kinship caregiver's JFS 00129 "State Kinship Guardianship Assistance Program Agreement" request to enter into a new agreement due to the death or incapacitation of the kinship caregiver pursuant to rule 5101:2-56-01 of the Administrative Code.
9. The child marries.

## **SECTION VII: RIGHT TO A STATE HEARING**

You have a right to a state hearing before the Ohio Department of Job and Family Services if you disagree with any actions taken regarding this agreement. For a complete explanation of your hearing rights and the hearing process, please read the JFS 04059 "Explanation of State Hearing Procedures." A copy of the JFS 04059 should be given to you along with this form.

## **SECTION VIII: SIGNATURES**

Kinship caregiver's Signature	Date
Kinship caregiver's Signature	Date
Agency Director or Designee Approval	Date
ODJFS Representative Signature	Date

**STATE KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM (KGAP) NOTICE OF ADVERSE ACTION**

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 state 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, state KGAP is to continue until a state hearing decision is issued.

Date of Termination:
Reasons for Termination:
<input type="checkbox"/> The kinship caregiver failed to apply for Ohio Works First (OWF) cash assistance within sixty days of the court date in which the court granted the kinship caregiver(s) legal custody or guardianship of the child.
<input type="checkbox"/> The school year in which the child turned eighteen years of age has ended.
<input type="checkbox"/> The terms of the JFS 00129 "State Kinship Guardianship Assistance Program Agreement" have been fulfilled.
<input type="checkbox"/> The kinship caregiver(s) request termination of state KGAP benefits.
<input type="checkbox"/> The death of the child or kinship caregiver(s).
<input type="checkbox"/> A new agreement is established with the successor guardian upon the kinship caregiver(s) death or incapacitation.
<input type="checkbox"/> The kinship caregiver(s) are no longer financially supporting the child.
<input type="checkbox"/> The child enlists in the military. (Enlistment in the military is defined as the date of report for active duty.)
<input type="checkbox"/> The child marries.

Date of Denial:
Reasons for Denial:
<input type="checkbox"/> The JFS 00128 "Application for State Kinship Guardianship Assistance Program Payments 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(s) have not named a successor guardian.
<input type="checkbox"/> The JFS 00129 "State Kinship Guardianship Assistance Program Agreement" was not signed by the kinship caregiver(s) prior to court issuing an order of legal custody or guardianship.

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

Name of State KGAP Representative	Date	Email
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Kinship Caregiver(s') name	Child's name	Mailing Date
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### Your Right to a State Hearing

This notice tells you what we are doing on your case. Contact your worker if you do not understand this notice. We can explain it. We also may be able to change what we are doing. 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.

Sign Here	Date	Telephone Number (     )
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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.