

	Indiana Department of Child Services Child Welfare Policy	
	Chapter 14: Guardianship	Effective Date: November 1, 2019
	Section 01: Guardianship Assistance Program (GAP)	Version: 5

STATEMENTS OF PURPOSE

The Indiana Department of Child Services (DCS) will provide the Guardianship Assistance Program (GAP) to eligible [relatives](#) (including those defined as [other relative](#)) of a child for whom the permanency option of guardianship is in the best interest of the child and reunification and adoption are not feasible.

Children who are wards of DCS or Juvenile Delinquency/Juvenile Status (JDJS) and meet all of the following criteria will be eligible for GAP:

1. The child is age 13 or older; and

Exception: In some circumstances, a child under age 13, with a medical condition or physical, mental, or emotional disability as determined by a physician or psychiatrist licensed to practice in Indiana or another state may also be eligible for GAP if the Regional Manager (RM) approves application submission. DCS Central Eligibility Unit (CEU) will determine the final eligibility based on the RM approval and all other eligibility criteria listed in this policy.

2. The child has been placed in the licensed relative placement for at least six (6) consecutive months; and

Note: The relative must be licensed for the six (6) consecutive months that the child is placed in the relative's care to be eligible for GAP.

3. The child has an approved permanency plan of legal guardianship indicating that neither reunification nor adoption are viable options; or

Sibling of the eligible child for GAP if:

1. The sibling is being placed in the same home as the eligible child;
2. DCS and the guardian agree on appropriateness of the guardianship arrangement for the siblings; and
3. The RM provides approval.

Any child eligible for a GAP payment is also eligible for payment of Nonrecurring Expenses associated with obtaining legal guardianship of the child. In order to be eligible for Medicaid, a IV-E GAP payment must be made.

Note: Eligible children who are wards of DCS or JD/JS and are placed out of state with relatives are also eligible for IV-E GAP.

Any child eligible for state-funded GAP will need a separate Medicaid eligibility determination by the Division of Family Resources (DFR) to receive Medicaid. See [Practice Guidance](#) for additional information.

DCS will ensure all children age 13 and older who are under DCS care and supervision and have a permanency plan of legal guardianship are consulted regarding the permanency option of legal guardianship. See policy [5.8 Developing the Case Plan/Prevention Plan](#) for additional information.

DCS will ensure any child whose guardianship is finalized in court on or after the child's 16th birthday is notified of the availability of Chafee Independent Living Services. Any interested child will be referred for IL services. See policies, [11.01 Older Youth Services \(OYS\)](#) and [11.2 Eligibility for Older Youth Services \(OYS\)](#) for further information.

All applications for GAP must be submitted to the [DCS Central Eligibility Unit \(CEU\)](#) for an eligibility determination. Prior to the entry of the order establishing legal guardianship, the GAP agreement must be signed by all required parties in order for the child to be eligible for GAP payments.

Note: The GAP application must be initiated in the DCS local office where the wardship or JD/JS was established.

GAP payments *shall* be administratively suspended or terminated based on the date the guardian no longer legally or financially supports the child.

Code Reference

1. [IC 29-3-1-7.5 Incapacitated person](#)
2. [IC 29-3-2-1\(b\) Application of article; jurisdiction of courts](#)
3. [IC 29-3-2-1\(c\) Jurisdiction of Juvenile Court](#)
4. [IC 31-30-1-1 Exclusive Original Jurisdiction](#)
5. [IC 31-9-2-17. 8\(1\) \(E\) Authorization for GAP as component of " child services"](#)
6. [IC 31-9-2-107: "Relative"](#)
7. [IC 29-3-8-9\(f\) Guardian obligation to support child who is GAP beneficiary](#)
8. [42 U.S.C. 673\(d\) GAP eligibility and other conditions for payment under Title IV-E](#)
9. [465 IAC 4-2-1 Title IV-E Guardianship Assistance Program and State Guardianship Assistance Program](#)

PROCEDURE

The Family Case Manager (FCM) will:

1. Convene a Child and Family Team (CFT) Meeting or Case Plan Conference to review and discuss legal guardianship as a permanency goal for the child. The discussion should include:
 - a. The application process for participation in GAP,
 - b. The provisions necessary for assistance and support to the child and family, and/or
 - c. The possibility of a sibling group being placed together, if applicable.
2. Ensure the required documentation is included and the [Explanation of Indiana GAP Program and Background Information](#) form and the [Indiana GAP Program Application](#) are signed by all required parties;
3. Change the [Case Plan/Prevention Plan](#) goal to legal guardianship, and ensure all GAP requirements are completed on the Case Plan/Prevention Plan;
4. Obtain RM approval for exceptions to program eligibility, if applicable;
5. Obtain court approval of legal guardianship as the permanency plan if the CFT

- determines this is the best permanency option for the child;
6. Verify the child has been placed with a licensed relative caregiver for an entire six (6) consecutive months. See policy [12.13 Licensing Recommendation and Approval Process](#) for additional information.
 7. Submit the GAP application with supporting documentation to DCS CEU, including:
 - a. The current Foster Care License, and
 - b. The required background checks (including the prospective relative guardian's household members at the time of the GAP application) from the licensing file, including:
 - i. Child Protection Services (CPS) for all individuals ages 14 and older;
 - ii. Sexual Offender Registry for all individuals ages 14 and older; and
 - iii. Finger-print based national criminal history check results (i.e., Qualified letter) for all individuals ages 18 and older.
 - c. A letter or statement from a licensed physician or psychiatrist detailing the child's mental, emotional, medical, or physical disabilities is required if the child was approved by the RM as an exception to the age requirement based on the child's disability, if applicable.
 8. Verify that the guardian is not disqualified for placement of a child, based on the background check results. See policy [13.10 Evaluation of Background Checks for Foster Family Home Licensing](#) for additional information;
 9. Obtain a copy of the petition for each child for whom legal guardianship is being sought;
 10. Meet with prospective guardian to discuss the final GAP determination, proposed GAP agreement, [Payment Request Information \(PRI\) Indiana GAP](#) form and the [Request for Administrative Review Indiana GAP](#) (if applicable);
 11. Inform the prospective guardian of the option to add a [successor guardian](#) to the proposed GAP agreement. See [Related Information](#) for more information about [successor guardian](#);

Note: In the event that the [successor guardian](#) assumes responsibility for the child, he or she will need to complete background checks and be appointed by the court in the guardianship proceeding, prior to receiving GAP assistance payments for the child.

12. Provide the DCS Staff Attorney with the Final Guardianship Eligibility Determination, the un-finalized legal guardianship agreement, the GAP PRI completed and signed by the guardian and any information that may assist him or her in negotiating the GAP periodic payment. See policy [14.02 Negotiations for Guardianship Assistance Program](#) for additional information;
13. Return the signed legal guardianship agreement and court order establishing legal guardianship to the DCS CEU for processing (centralized.eligibility@dcs.in.gov) if the prospective guardian agrees to the amount of the periodic payment;

Note: If the prospective guardian disagrees with the Final Guardianship Eligibility Determination or the amount of the proposed legal guardianship agreement, the prospective guardian may submit a [Request for Administrative Review Indiana GAP](#) within 30 days of the date of the Final Guardianship Eligibility Determination or receipt of the DCS Final Offer letter concerning the periodic payment amount; and

14. Notify any child who entered GAP on or after the child's 16th birthday about the availability of Older Youth Services (OYS) and refer interested youth for OYS. See

policies [11.1 Older Youth Services \(OYS\)](#) and [11.2 Eligibility for Older Youth Services \(OYS\)](#) for additional information;

The FCM Supervisor will:

1. Review the file to ensure that the required documentation is included and the [Explanation of Indiana GAP Program and Background Information](#) form and the [Indiana GAP Program Application](#) are signed;
2. Ensure that the FCM has received required paperwork from the prospective guardian and submitted to the DCS CEU;
3. Ensure the Local Staff Attorney has received the completed PRI form and any related documentation; and
4. Ensure all parties sign the GAP agreement prior to the entry of order establishing legal guardianship.

The DCS Local Staff Attorney will:

1. Contact the prospective guardian or their attorney, to negotiate the periodic payment amount and obtain signatures on the legal guardianship agreement;
2. Work with the FCM to obtain any information needed for the legal guardianship;
3. Meet with the prospective guardian and/or their attorney to review the Final Guardianship Eligibility Determination and negotiate the periodic payment amount; and
4. Ensure all parties, prior to the legal guardianship being finalized in court, sign the Guardianship agreement.

RM will determine whether to approve a child for GAP if:

1. The child is a member of a sibling group in which at least one (1) child in the sibling group is an eligible child, or
2. The child has a medical condition or physical, mental, or emotional disability as determined by a physician or psychiatrist licensed to practice in Indiana or another state.

Note: The RM will only approve the submission of the GAP application. The final approval of eligibility will come from DCS CEU.

The DCS CEU will:

1. Make the eligibility determination once the GAP application is completed;

Note: CEU is not responsible for Medicaid eligibility determinations for state-funded GAP.

2. Review the case once the signed legal guardianship agreement and court order establishing legal guardianship is received to ensure all parties signed the agreement on or prior to the date of the legal guardianship order and that the negotiated amount does not exceed what the child would have received in foster care.

PRACTICE GUIDANCE

State-Funded GAP and Medicaid

A separate Medicaid determination is needed for all children on state-funded GAP. It is the responsibility of the family to apply for Medicaid through DFR.

FORMS AND TOOLS

1. [GAP Application](#) – Available via CEU
2. [Case Plan/Prevention Plan](#) – Available in the case management system
3. Payment Request Information (PRI) Indiana GAP (SF 55040) – Available via CEU
4. [Request for Administrative Review Indiana GAP](#)
5. Final Guardianship Eligibility Determination – Available via CEU
6. [Explanation of Indiana GAP Program and Background Information](#)

RELATED INFORMATION

Definition of Relative

Relative is defined in [IC 31-9-2-107](#) as any of the following in relation to a child:

1. A parent
2. A grandparent
3. A brother
4. A sister
5. A stepparent
6. A stepbrother
7. A stepsister
8. A first cousin
9. An uncle
10. An aunt
11. Any other individual with whom a child has an established relationship

Other Relative

An individual who is not related by blood, marriage or adoption may be considered a relative for purposes of placement and the Guardianship Assistance Program when the individual has an established and significant relationship with the child. The relationship with the child will be other relative and must:

1. Have the characteristics of a family relationship. The relationship should have the same characteristics or be similar to the relationship that the child has with an individual related to them by blood, marriage, or adoption;
2. Have existed prior to the agency's current involvement with the child or family; and
3. Be verified through interviews or attested by the written [Statement of Attestation Regarding Relationship \(SF 52727\)](#) or oral designation of the child or of another person, including other relatives related to the child by blood, marriage, or adoption.

Former long-term resource parents may be considered as relative placements in cases where the child is the victim of repeat maltreatment or returning to out-of-home care. The FCM should staff with the FCM Supervisor and Local Office Director (LOD) to determine which type of placement is appropriate, Foster Care or Relative Placement. Consideration should be given to the child's report of the relationship and the potential for permanency.

Credible evidence showing that the individual performs or has performed a substantial role in the upbringing or material support of the child should be documented in the case management system. The placement recommendation should be staffed with the FCM Supervisor and, if needed, the LOD. DCS and the court must agree with the placement.

Note: Placement with a suitable and willing relative related by blood, marriage, or adoption must be ruled out before considering any other out-of-home placement, with the first consideration being given to a suitable and willing noncustodial parent.

Temporary Guardianships

Temporary guardianship should not be sought in these cases. If a temporary guardianship is granted, the relatives are not eligible for foster care payments or GAP payments.

Licensing Requirements

The relative caregiver's valid foster care license, including required background checks, may suffice for GAP background check requirements.

Definition of Financial Support for the Purposes Guardianship

If a guardian is no longer providing any form of financial support to or for the child, guardianship assistance benefits may be terminated. DCS may determine that if the guardian is maintaining regular visitation with the child and is making reasonable efforts to ensure the child can return home, and if one (1) of the following are met, the guardian should be considered as providing financial support to the child:

1. The guardian is making regular payments, or otherwise providing support for the child for:
 - a. Family therapy,
 - b. Tuition,
 - c. Clothing,
 - d. Maintenance of special equipment in the home, or
 - e. Services for the child's special needs, such as occupational, physical, or speech therapy;
2. The guardian is providing support for the child while the child is in out-of-home care, in the form of regular monetary payments of not less than \$100.00 per month or provision of materials, supplies or services having an equivalent monetary value; or
3. The guardian is paying child support pursuant to a court order.

Processing Medicaid Eligibility

All cases regarding eligible children who are Indiana residents and will be placed with his/her guardian in Indiana will be processed by MEU for Medicaid eligibility. All cases that involve eligible children who are Indiana residents being placed outside of Indiana will be processed by CEU for Medicaid eligibility.

In order to be eligible for Medicaid under the IV-E GAP plan, a IV-E GAP payment must be made on behalf of the child.

Successor Guardian for the purpose of GAP

DCS shall make monthly assistance payments to a [successor guardian](#) on behalf of the child, if the [successor guardian](#):

1. Is named in the guardianship assistance agreement (including any amendment to the agreement that was effective before the date of death or determination of incapacity [[IC 29-3-1-7.5](#)] of the original guardian);
2. Has completed all required background checks which includes Fingerprint-Based National Criminal History Check (Fingerprint-Based Check); Child Protection Service (CPS) History Check; National Sex Offender Registry Check; and Local Criminal Court Records Check;
3. Has been appointed by the court in the guardianship proceeding as the child's guardian; and

4. Complies with all statutory duties and responsibilities of the guardian and the guardianship assistance agreement as approved and signed by the department and the original guardian, or any new guardianship assistance agreement signed by the department and the [successor guardian](#).

Note: The home of the [successor guardian](#) does not need to be licensed as a foster family home at the time of placement of the child in that home or receipt of guardianship assistance on behalf of the child

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