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### Administrative Directive

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<b>To:</b>	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
<b>Issuing Division/Office:</b>	Strategic Planning & Policy Development
<b>Date:</b>	April 1, 2011 (Revised July 6, 2011)
<b>Subject:</b>	<b>Kinship Guardianship Assistance Program (KinGAP)</b>
<b>Suggested Distribution:</b>	Directors of Social Services Foster Care Supervisors Child Protective Services Supervisors Adoption Supervisors Home-finding Supervisors Staff Development Coordinators
<b>Contact Person(s):</b>	Any questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services: Buffalo Regional Office- Dana Whitcomb (716) 847-3145 <a href="mailto:Dana.Whitcomb@ocfs.state.ny.us">Dana.Whitcomb@ocfs.state.ny.us</a> Rochester Regional Office- Karen Buck (585) 238-8201 <a href="mailto:Karen.Buck@ocfs.state.ny.us">Karen.Buck@ocfs.state.ny.us</a> Syracuse Regional Office- Jack Klump (315) 423-1200 <a href="mailto:Jack.Klump@ocfs.state.ny.us">Jack.Klump@ocfs.state.ny.us</a> Albany Regional Office- Kerri Barber (518) 486-7078 <a href="mailto:Kerri.Barber@ocfs.state.ny.us">Kerri.Barber@ocfs.state.ny.us</a> Spring Valley Regional Office- Patricia Sheehy (845) 708-2499 <a href="mailto:Patricia.Sheehy@ocfs.state.ny.us">Patricia.Sheehy@ocfs.state.ny.us</a> New York City Regional Office- Patricia Beresford (212) 383-1788 <a href="mailto:Patricia.Beresford@ocfs.state.ny.us">Patricia.Beresford@ocfs.state.ny.us</a> Native American Services- Kim Thomas (716) 847-3123 <a href="mailto:Kim.Thomas@ocfs.state.ny.us">Kim.Thomas@ocfs.state.ny.us</a> In addition, questions may be mailed to: <a href="mailto:ocfs.sm.sppd.KinGap.Help">ocfs.sm.sppd.KinGap.Help</a> (through Outlook) OR to: <a href="mailto:KinGaphelp@dfa.state.ny.us">KinGaphelp@dfa.state.ny.us</a>
<b>Attachments:</b>	Yes (see last page for list)
<b>Attachments Available Online:</b>	<a href="http://www.ocfs.state.ny.us/kinship/">www.ocfs.state.ny.us/kinship/</a>

## Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR 426.1, 428.5(c), 430.11(c), Part 436 and 443.2(e)	SSL §§458-a--458-f (Part F of Chapter 58 of the Laws of 2010)		Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351)  ACYF-CB-PI-08-07 ACYF-CB-PI-10-01 ACYF-CB-PI-10-11

### I. Purpose

The purpose of this Administrative Directive (ADM) is to provide comprehensive information and guidance to social services districts and voluntary authorized agencies about the Kinship Guardianship Assistance Program (KinGAP). KinGAP is a new program in New York State which goes into effect on April 1, 2011. It is designed to provide a monthly payment and other benefits to qualified relative guardians of foster children who have been discharged from foster care.

### II. Background

The federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) [the federal Act] established, as an option for states, the authority to operate a KinGAP.

The federal Act added section 471(a)(28) to the Social Security Act (SSA), creating an option under Title IV-E of the SSA for states to provide kinship guardianship assistance payments to relatives who assume legal guardianship of children for whom they have cared while foster parents. The federal Act also added a new section 473(d) of the SSA, which established eligibility and other requirements for the Title IV-E Kinship Guardianship Assistance Program. Federal financial participation (FFP), using the applicable federal medical assistance percentage, is available for Title IV-E eligible kinship guardianship assistance payments pursuant to section 474(a)(5) of the SSA. Currently, the percentage reimbursed under Title IV-E in New York State is 50%.

Other states have operated such a program, including eleven federal child welfare demonstrations that were conducted by states in the 1990s and 2000s. Success of these programs instigated, in part, the passage of the federal Act. Currently there are nine federally approved KinGAPs other than New York State's, and ten additional state programs under federal review. For a thorough description of the history of KinGAP and implications for New York State, please refer to the report entitled "Pursuing Permanence for Children in Foster Care: Issues and Options for Establishing a Federal Guardianship Assistance Program in New York State." The report can be found at the following link:

<http://www.ocfs.state.ny.us/main/reports/Pursuing%20Permanence%20for%20Children%20in%20Foster%20Care%20June%202010.pdf>

Part F of Chapter 58 of the Laws of 2010 (Chapter 58) added to Article 6 of the Social Services Law (SSL) a new Title 10, entitled “Kinship Guardianship Assistance Program” (see §§458-a--458-f of the SSL). In addition, Chapter 58 amended the Family Court Act (FCA) and the Surrogate’s Court Procedure Act setting forth standards and procedures relating to the application for and issuance of letters of guardianship to prospective relative guardian(s).

The New York State statute meets all applicable federal requirements to operate a KinGAP and obtain federal reimbursement for eligible foster children. In addition, Chapter 58 includes New York State specific provisions and extends to children who, while not eligible under the Title IV-E kinship guardianship assistance program, are eligible for kinship guardianship assistance payments under New York State’s KinGAP.

As a condition for New York State’s KinGAP law (Chapter 58) to take effect, New York State had to obtain approval from the federal Administration for Children and Families (ACF) of the Department of Health and Human Services of a Title IV-E State Plan Amendment implementing KinGAP. The Office of Children and Family Services (OCFS) filed the required State Plan Amendment with ACF on December 20, 2010, and this plan amendment was approved on April 1, 2011. The effect of the federal approval of the Title IV-E State Plan Amendment is that federal Title IV-E reimbursement is available for otherwise eligible kinship guardianship assistance payments effective on April 1, 2011. It also means that the kinship guardianship assistance and non-recurring guardianship expense programs are in effect in New York State as of April 1, 2011.

OCFS filed implementing regulations on an emergency basis, as authorized by Part F of Chapter 58 of the Laws of 2010, and at the same time filed these regulations for public comment on December 17, 2010. The regulations are effective April 1, 2011. They can be found at the following link:  
<http://www.ocfs.state.ny.us/main/legal/Regulatory/final/>

### **III. Program Implications**

KinGAP is a new program in New York State. It is expected that this program will promote permanency for foster children who do *not* have a discharge goal of return to parent or adoption by providing safe permanent placements with relatives who receive financial and medical coverage for the continued care of a relative child who was in foster care.

KinGAP will likely encourage relatives who are currently serving as foster parents for a related foster child to agree to be a permanent resource for the child. Often, such relatives are reluctant to see the foster care relationship end and to assume legal guardianship because of the corresponding loss of necessary financial and medical coverage for the child.

KinGAP will assist in addressing those cases where return to the parent is not safe or suitable and adoption is also not a viable or appropriate option. Often, especially with older foster children, the child will not consent to adoption. In some cases, the severing of parental rights required for an adoption with the child remaining with a relative caretaker can cause conflict and confusion for the child and can create issues and pressures within the family. Sometimes, adoption may actually destabilize family relationships because of the legal changes in relatives’ roles, relationships and responsibilities. Moreover, adoption may be in conflict with the family’s hopes for a parent/child

reunification. Finally, the process required for the involuntary termination of parental rights is time consuming and uncertain.

KinGAP establishes requirements for assessing when the child and the prospective relative guardian are eligible for kinship guardianship assistance payments. These requirements include a number of legal, clinical and assessment considerations that must be made before proceeding with a kinship guardianship assistance arrangement. Foremost is that the child has demonstrated a strong attachment to the relative and that the relative has a strong commitment to permanently caring for the child. All eligibility requirements will be detailed in Section IV.

KinGAP also assists a relative who is eligible for kinship guardianship assistance payments by providing up to \$2,000 per child as part of the Non-Recurring Guardianship Expense Program for payment of the costs directly associated with securing letters of guardianship over the foster child. Furthermore, KinGAP assists children after they leave foster care as part of a kinship guardianship assistance arrangement by making independent living services and education and training vouchers available to both support permanency and to prepare the child to live independently after the termination of the kinship guardianship assistance arrangement.

KinGAP has many facets to it; in many ways it resembles the New York State adoption subsidy program, but there are many significant differences, as well. It is very important for social services districts and voluntary authorized agencies to understand the legal and program requirements, policies and procedures that make up this program. A complete description is provided in this ADM.

#### **IV. Required Action**

##### **A. Notice and Information about KinGAP**

Both federal and state law require that due diligence be exercised to identify and locate a child's relatives within 30 days of the child's removal from the custody of the child's parent(s). The social services district must provide the relatives with notification of the child's removal and explain the options under which the relatives may provide care of the child through foster care or direct legal custody or guardianship, including kinship guardianship assistance, and any options that may be lost by failure to respond timely to the notification [see also 18 NYCRR 430.11(c)(4)]. OCFS permits social services districts to make the notification verbally or in writing and does not prescribe a required format for the written notification. However, it is strongly recommended by OCFS and ACF that written notice be made. OCFS requires that relatives be given a copy of *Having a Voice and a Choice: New York State Handbook for Relatives Raising Children*, if the relative is considering becoming the child's caregiver (see 09 OCFS-ADM-04). As an option, OCFS also developed a brochure *Know Your Options: Relatives Caring for Children* (see 10 OCFS-INF-03). Those policies remain in place.

With this ADM, OCFS has developed a model notification letter that includes a brief description of the KinGAP option [see Attachment A] for relatives (other than a non-custodial parent). Social services districts may use this model or develop their own relative notification letter, as long as it includes information on KinGAP, or verbally share this information with the relative(s). In addition, OCFS has developed a supplementary publication [publication # 5108]

to the handbook and brochure. This new publication, entitled ***Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)*** must accompany the handbook in situations where the handbook is required, per 09 OCFS-ADM-04. The publication can be found at [www.ocfs.state.ny.us/kinship/](http://www.ocfs.state.ny.us/kinship/)

Training for all foster parents must include information on the availability and eligibility requirements for KinGAP, including non-recurring guardianship expenses and medical coverage available under KinGAP (see 18 NYCRR 443.2). The publication, ***Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)*** must be made available at training classes. The expectation is that the information will be reviewed with training class participants.

Social services districts must provide information on the availability and eligibility requirements for KinGAP, including non-recurring guardianship expenses and medical coverage available under KinGAP, to any prospective relative guardian, upon request. The publication ***Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)*** is to be used for that purpose, augmented by reviewing the information with the prospective relative guardian and responding to any questions the person may have.

Social services districts must review their foster care caseloads and identify all foster children placed with a relative foster parent (including foster homes that have been approved, and also those homes that have been certified and are caring for a foster child that is related to them by blood, marriage or adoption) and provide all such potentially eligible foster parents with information about KinGAP within 90 days of the effective date of this ADM. The social services district must provide the publication ***Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)*** and provide a face-to-face explanation of the program, and respond to any questions posed by the foster parent.

Social services districts may also consider holding information nights and group meetings, providing introductory letters, and using other engagement techniques to promote understanding of KinGAP and the benefits available as a permanency option.

## **B. Application for KinGAP**

Upon request, the prospective relative guardian is also to be provided with an application for KinGAP. The application, OCFS 4430, is an OCFS prescribed form (see 18 NYCRR 436.2) and is an attachment to this ADM [Attachment B]. (Note: Social services districts that wish to create and utilize a local equivalent application must obtain prior written OCFS approval to do so, by submitting the proposed local equivalent to the appropriate OCFS Regional Office.) Prospective relative guardians must apply to the social services district in order to obtain approval to receive kinship guardianship assistance payments. (Note: Applications may be obtained from and submitted to a voluntary authorized agency, where the agency has responsibility for the foster child on whose behalf kinship guardianship assistance is being requested. Although the voluntary authorized agency may make a recommendation, the actual and final determination on the application rests with the social services district, and the social services district must adhere to the 30-day time frame for making the determination.)

The prospective relative guardian(s) must complete and sign the application, and any youth age 18 or over must also sign (as a confirmation of his or her consent). Where a prospective relative guardian is married, both spouses are encouraged to apply together, unless there is a legal separation. If married couples do not wish to jointly apply for kinship guardianship assistance payments, the caseworker should determine and assess the reasons why and the effect this might have on the child's potential permanency. The prospective relative guardians should be made aware of the consequences of not applying jointly. If they do not apply jointly and kinship guardianship assistance payments are awarded to just one relative guardian and that relative guardian dies or otherwise cannot continue as guardian, the right to receive kinship guardianship assistance payments cannot be transferred to the other spouse.

If a person is not related to the foster child by blood, marriage or adoption, even if the person is the unmarried partner of a relative guardian, such person does not qualify to receive kinship guardianship assistance payments on behalf of the non-related child.

Within 30 days of receiving a completed application filed by the prospective relative guardian(s), the social services district must make a determination whether to approve or disapprove the application for KinGAP. The 30-day time period commences when the filed application is complete. In order to be considered complete, certain requirements must have already been met. These specific requirements are detailed below, under: *eligible relative / time in foster care and court hearings*.

Applicants have a right to a fair hearing before OCFS if a determination is not reached within 30 days of the filing of a completed application by the prospective relative guardian(s) (see Section L. Fair Hearings). As previously stated, voluntary authorized agency caseworkers who have case planning responsibility for an applicable foster care case, or voluntary authorized agency caseworkers responsible for a particular foster child, may disseminate the application and make a recommendation as to whether it should be approved or denied, but the social services district has the ultimate responsibility for the final decision whether to approve or deny the application. It is recommended that staff responsible for approving or denying an application complete the application in tandem with Section II of the eligibility checklist (OCFS 4435). The eligibility checklist and instructions for completion can be found in the ***Kinship Guardianship Assistance Practice Guide (Appendices G and H of that Guide)***. This Guide is posted at [www.ocfs.state.ny.us/kinship/](http://www.ocfs.state.ny.us/kinship/) (See also Section C. Eligibility and Section L. Fair Hearings.)

### C. **Eligibility**

In order for a prospective relative guardian and foster child to be eligible for kinship guardianship assistance payments, the following criteria must be met:

- ***Eligible relative / time in foster care*** – the prospective relative guardian(s) must be related to the foster child by blood, marriage or adoption and must have cared for the foster child as a fully certified or fully approved foster parent for ***at least six consecutive months*** before application for KinGAP. This definition of a relative for KinGAP is a broader definition than that of an approved relative foster parent, who must be within the second or third degree by blood or marriage to the child's parent. Any relative, whether an approved foster parent or a certified foster parent, is considered an eligible relative for

KinGAP. The approval or certification must be full certification or full approval, with no lapses in certification or approval during this period. Any period where the child resided with the foster parent on an emergency basis while the full certification or approval was still underway cannot be counted in meeting the six months time frame. However, the six months clock may be interrupted by brief, temporary periods of less than 30 days, due to hospitalization, stay(s) in psychiatric facilities, respite and comparable absences of the child from the foster home.

- ***Court Hearings*** – for all children in foster care, prior to being eligible for kinship guardianship assistance payments, the foster child's *first permanency hearing* must have been completed. First permanency hearings for abused, neglected or voluntarily placed children are generally held at eight months. Usually, the date certain established for the initial permanency hearing is the date of removal from home plus 60 days plus 6 months. The court has the authority to establish a date certain at an earlier date than this time frame. For PINS or juvenile delinquents, the initial permanency hearing is generally held within 12 months of placement. In addition, for children placed into foster care pursuant to Article 10 of the Family Court Act (abuse/neglect), the *fact finding* (FCA §1051) must also have been completed for the child to be eligible.

The time frames provided above are *minimum* time frames.

- ***Return home and adoption are not appropriate permanency options***

***Return home:*** Federal and state law provide that for a kinship guardianship assistance arrangement, return of the child to his or her home is not an appropriate permanency goal. In addition, state standards provide that the social services district must determine that it is in the best interests of the child for the relative to become the guardian of the child. As part of that determination, the social services district must determine and document that compelling reasons exist that return home is not in the best interests of the child. (Such a determination must also be made in regard to the permanency goal of adoption.)

It is critical that diligent work be undertaken in all foster care cases to attempt to safely reunite the foster child with his or her parent(s). No application for kinship guardianship assistance should be determined until there is compelling reason to believe that:

- the child would not be able to be safely returned home in a reasonable time frame, considering the child's age and developmental level;
- the parent(s) circumstances and conditions cannot be sufficiently ameliorated with direct services and supports and/or referral for services and supports; and
- the reason(s) for the removal have been thoroughly considered and the circumstances and conditions that led to the removal still exist.

In the course of permanency work undertaken in all foster care cases, such as development of Family Assessment and Service Plans (FASPs), Service Plan Reviews, case consultations to develop the Permanency Hearing Report, and regular

casework contacts with foster children, parents and foster parents, the options are to be fully discussed and evaluated, in order to make the most appropriate permanency decision.

Consistent with 18 NYCRR 428.5, the steps taken to determine that it is not appropriate for the child to return home and the compelling reasons why return home is not in the child's best interests must be documented in the case progress notes. The ***Kinship Guardianship Assistance Case Practice Guide*** contains additional tools and materials to help with this assessment and determination.

**Adoption:** Once it is determined that a child cannot be safely returned home, adoption must also be explored and ruled out for the child to be eligible for KinGAP. Although both children freed for adoption and children not freed for adoption are potentially eligible for KinGAP, a number of factors must be considered for children not yet freed. These include: whether the adversarial process of a termination of parental rights (TPR) is the best way of bringing permanency to the child. It is important to consider both the parents' and prospective relative guardian's perspective on the issue of termination of parental rights; the length of time it would take to achieve a termination; whether it is in the child's best interests to have his or her parents' rights severed; and the potential grounds for termination. It should be noted that an acceptable reason for not filing a TPR when the child has been in foster care for 15 of the most recent 22 months is when a child is living in foster care with a relative. This confirms that federal and state law each recognize the significance of relative placements as permanent placements, regardless of the status of the parents' rights to the child. OCFS has issued guidance in the past about acceptable circumstances for ***not*** filing a TPR in 18 NYCRR 431.9, 98 OCFS-INF-03, and in CONNECTIONS Help. A forthcoming ADM regarding incarcerated parents and parents in residential drug treatment, and the applicability of TPR in those situations, will implement Chapter 113 of the Laws of 2010.

For children already free for adoption, especially those children age 14 and older who can refuse consent to adoption, the child's perspective and input into the adoption decision must also be taken into account.

Consistent with 18 NYCRR 428.5, the steps taken to determine that it is not appropriate for the child to be adopted and the compelling reasons why adoption is not in the child's best interests must be documented in the case progress notes. In addition, the efforts made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship, and if the relative has chosen not to pursue adoption, the reasons for such choice, must also be documented in the case progress notes. The ***Kinship Guardianship Assistance Case Practice Guide*** contains additional tools and materials to help with this assessment and determination.

- ***Attachment to relative and consultation with the child*** – the child must demonstrate a strong attachment to the prospective relative guardian. State law requires that age appropriate consultation has been held with the child. For any child age 14 or older, or

younger children who demonstrate sufficient maturity, a process of frank discussions with the child is necessary to ascertain the child's feelings about a kinship guardianship arrangement. It is strongly recommended that whenever possible, such discussions occur with children between the ages of 10 through 14, as well. The child's caseworker, therapist (if appropriate), child's attorney, and/or other service providers may collaborate in meeting with the child and determining that the child has been sufficiently informed, understands the implications of the kinship guardianship arrangement, and feels prepared and comfortable with the decision. For children under the age of 10 who have not been consulted because they are very young or developmentally unable to verbally express an opinion, it is incumbent upon the worker to gauge attachment by the child's actions and reactions while with the prospective relative guardian. Youth, age 18 and over, must consent to the kinship guardianship assistance arrangement.

Consistent with 18 NYCRR 428.5, the steps taken to hold age appropriate consultation with the child regarding the kinship guardianship assistance arrangement, including the required consultation with a child who is 14 years of age or older, and the steps taken to secure consent of a child who is 18 years of age or older must be documented in the case progress notes. The ***Kinship Guardianship Assistance Case Practice Guide*** contains additional tools and materials to help with this assessment and determination.

- ***Relative commitment to permanently care for the child*** – it must be determined that the prospective relative guardian is ready, willing and able to provide a permanent home for the child until the child reaches adulthood. A series of meetings may be necessary to answer all of the questions the relative may have before making this commitment. The ***Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)*** for relatives on KinGAP may be useful in providing the necessary factual information. However, the relative's specific situation, especially regarding the relative's relationship with the child's parent(s) and other family dynamics, are also key factors in considering the kinship guardianship option. The ***Kinship Guardianship Assistance Case Practice Guide*** contains additional tools and materials to help with this assessment and determination.
- ***Criminal History / SCR checks*** - a criminal history record check in New York State, through the Division of Criminal Justice Services (DCJS), and nationally through the Federal Bureau of Investigation (FBI), must be made for all applicant(s) and all members of the prospective guardian's household age 18 and over. Furthermore, a Statewide Central Register of Child Abuse and Maltreatment database check through OCFS must be made, and if any applicant or other adult household member resided in another state within five years prior to the application for KinGAP, a request for child abuse and maltreatment information maintained by the child abuse and maltreatment registry from the applicable child welfare agency in each such state of previous residence must also be made. Each of the above noted checks already made for the purpose of certifying or approving the foster home satisfy these KinGAP requirements. Any household member age 18 and over who had not had such checks must have them completed prior to the approval of an application submitted by the prospective relative guardian(s) for KinGAP.

**If the court wishes updated fingerprint information prior to issuing letters of guardianship:**

An update can be requested by the court from the OCFS Fingerprint Unit by calling (518) 473-8595. The update process is not a reprocessing of the fingerprints, but merely results in a file review of the criminal history record by OCFS. An updated summary letter will be provided that acts as an addendum to the original clearance or criminal summary letter. The updated summary letter simply provides a current date with a reference to the original letter date and indicates whether there have or have not been any changes to the criminal history since then. This process only includes DCJS history; there is no search and retain for FBI checks. If requested by the court, both the original letter and the summary update letter should be submitted to the court, along with any other necessary documents required by the court prior to issuing letters of guardianship. Note: OCFS does not provide updated summary letters on closed records, nor on records where a mandatory disqualification has been reported previously. If OCFS receives a request on a closed record, the agency is informed that the individual will need to be reprinted. If a mandatory disqualification has been reported on the foster or adoptive parent, the agency is reminded that it cannot approve or certify the home.

- **Education/Employment/Incapacity Status of Youth Age 18 and Over** – in order to continue to make kinship guardianship assistance payments for youth over the age of 18 who had attained the age of 16 when the Kinship Guardianship and Non-Recurring Expenses Agreement became effective, the youth must meet one of the following criteria. The child is:
  - completing secondary education or a program leading to an equivalent credential; or
  - enrolled in an institution which provides post-secondary or vocational education; or
  - participating in a program or activity designed to promote, or remove barriers to, employment; or
  - employed for at least 80 hours per month; or
  - incapable of doing any of the activities described above due to a medical condition.

**Federal Eligibility**

In order to meet **federal Title IV-E** kinship guardianship assistance eligibility requirements, in addition to satisfying the state statutory and regulatory requirements for New York State KinGAP, the following additional federal criteria must be met:

- the child has been removed from the child's home pursuant to a voluntary placement agreement (section 384-a of the SSL) **or** by a court determination that continuation of the child in the child's home would be contrary to the welfare of the child (or that removal of the child from the child's home is in the best interests of the child); **AND**

- the child was eligible for Title IV-E foster care maintenance payments while residing for at least six consecutive months in the home of the prospective relative guardian(s).

**Note:** If one sibling satisfies *all* state and federal eligibility requirements and another sibling(s) or half-sibling(s) is to be part of the same kinship guardianship arrangement, the other sibling or half-sibling must meet the state eligibility requirements in his or her own accord, but the additional federal Title IV-E requirements listed above are considered met by virtue of the first sibling having met them.

Workers must complete eligibility documentation in the case progress notes, pursuant to 18 NYCRR 428.5 (c) (12) (iv), and on the specially constructed KinGAP Eligibility Checklist [OCFS 4435] for this purpose. The checklist is to be used to establish federal Title IV-E eligibility for kinship guardianship assistance payments, as well as to document that all state eligibility factors have been met. As appropriate, the progress note entries will serve as the backup documentation for entries made on the checklist, in addition to other necessary documentation such as foster home certifications or letters of approval; court orders documenting: the first permanency hearing; where applicable, the fact finding hearing under Article 10 of the Family Court Act; and where applicable, court orders issued upon the child's initial entry into foster care which stipulate that continuation in the child's current living situation would be "contrary to the welfare" of the child, or that foster care was in the child's "best interests." If the child entered foster care through a voluntary placement agreement, a copy of the voluntary placement agreement executed by a parent or guardian would be required documentation. The *Kinship Guardianship Assistance Case Practice Guide* contains an Eligibility Checklist and instructions for determining and documenting eligibility for the KinGAP (see Appendices G and H of that Guide). The *Eligibility Manual for Child Welfare Services* available at <http://www.ocfs.state.ny.us/main/fostercare/titleiv-e/chapter5.asp> will be updated at a later time with the same checklist and instructions.

Once the eligibility criteria have been met, it is appropriate to change the child's permanency goal (PPG) on the Permanency Hearing Report to "refer for legal guardianship," if it has not already been changed. In CONNECTIONS, the appropriate PPG is represented as "Relative Legal Guardianship/Custody." It is not necessary to have a permanency hearing and/or court approval to change the goal, unless expressly specified in an existing court order.

#### **D. Case Plan Requirements**

In addition to the individual eligibility requirements detailed above, a number of case plan requirements must also be met, although they do not affect the child or prospective relative guardian's eligibility to receive kinship guardianship assistance payments.

For each child in foster care placed with related foster parent(s), where the child's permanency plan is placement with such relative(s), and the plan is for a kinship guardianship assistance arrangement, the following must be documented in the case progress notes:

- **the reasons for any separation of siblings during placement**—Federal law requires that reasonable efforts must be made to place siblings and half-siblings who are in foster care in the same kinship guardianship assistance arrangement, unless joint placement

would be contrary to the safety or well-being of any of the siblings. New York State has a long history of requiring foster children and children placed for adoption to be placed with their siblings or half-siblings. It is expected that in regard to the foster care placement of the child involved in a potential kinship guardianship assistance arrangement that the standards for sibling placements were addressed with regard to siblings and half-siblings also in foster care. That state standard is that siblings in foster care are to be placed together unless it is determined to be contrary to the health, safety or welfare of one or more of the siblings. [See 18 NYCRR 421.2(e), 421.18(d)(3), 430.11(c)(2)(vi) and 431.10 and 92-OCFS-ADM-24 Foster Care, Adoption: Requirements for Siblings Placement, Visitation and Communication; 07-OCFS-INF-04 Keeping Siblings Connected: A White Paper on Siblings in Foster Care and Adoptive Placements in New York State; and 10-OCFS-INF-07 Flexibility in Sleeping Arrangement Requirements for Sibling Foster Care Placement.] Accordingly, when contemplating a kinship guardianship assistance arrangement, it is expected that the social services district will consider the placement of siblings who are in foster care and otherwise eligible for KinGAP into the same kinship guardianship arrangement, consistent with applicable federal and state standards relating to the placement of siblings or half-siblings.

As stated previously, each sibling must individually satisfy the standards for New York State KinGAP. Each foster child must be the subject of a kinship guardianship agreement. Siblings may be part of the same kinship guardianship agreement with the same relative guardian(s), or separate kinship guardianship agreements with the same relative guardian(s). Following entry into the required kinship guardianship agreement, letters of guardianship may either be issued for the whole sibling group together, or at separate times. That said, if the prospective relative guardian fully intends to be the guardian for a sibling group in foster care, all the children in the sibling group should be placed in that home, if they are not already, despite one or more of the children remaining in foster care status until kinship guardianship assistance can be achieved.

***Also note:*** if any one child in the sibling group was Title IV-E KinGAP eligible upon initial entry into foster care, the siblings or half-siblings for which a kinship guardianship assistance arrangement is established with the same guardian, are all deemed to have met that criteria of Title IV-E eligibility for KinGAP. [See also note in Section C.]

Consistent with 18 NYCRR 428.5, the reasons for any separation of siblings or half-siblings must be documented in the case progress notes.

- **the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment-** See Section C, for all eligibility requirements.
- **the efforts made to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made**

***Discussions with Child's Parent(s)*** – Unless the child is already freed for adoption, in a kinship guardianship assistance arrangement, the child's parent(s) maintains parental rights. It is very important that parent(s) be made aware and understand what the potential kinship guardianship arrangement means in terms of decision making for the child (education, health and medical, and all other important aspects of the child's life), contact and visitation, etc., and how or if it may result in the parent(s) ever retaking their parental role. At any time in the future a parent(s) may file a petition to ask for return of custody of the child. While the judge can grant the petition for the return of custody of the child if the parent shows a substantial change in circumstances since the original letters of guardianship were issued, the judge can also refuse to revoke or terminate the guardianship order if there has not been a substantial change in circumstances, or if the change is not in the child's best interests. The factors the judge will look at may vary depending on whether the parent(s) agreed to the original order issuing letters of guardianship or whether such order was made against the parent(s) wishes. In most cases the guardianship arrangement is likely to be a long-term arrangement, lasting until the child becomes an adult.

Full disclosure to the child's parent(s) is very important so that informed consent can be given. Obtaining the consent of the parent(s) is ideal; however, it is not required for the court to grant letters of guardianship if extraordinary circumstances can be proven to the court. Generally, extraordinary circumstances include: abandonment, persistent neglect, unfitness, abuse, and if the child has already lived with the relative for an extended period of time (at least two years for grandparents; no stated time period in law for other relatives).

Consistent with 18 NYCRR 428.5, the efforts made to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made, must be documented in the case progress notes. The ***Kinship Guardianship Assistance Case Practice Guide*** contains additional tools and materials to help with this topic.

**E. Kinship Guardianship and Non-Recurring Guardianship Expenses Agreement and Kinship Guardianship Assistance Payments**

A written agreement between the social services official and the prospective relative guardian(s) must be made, and the agreement (the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement) must be signed by the prospective relative guardian(s) and the social services official (commissioner or designee) and must always precede the awarding of letters of guardianship by the court in order for kinship guardianship assistance payments to be made. The amount of payment must be determined (see below). Kinship guardianship assistance payments must be made monthly.

The agreement also specifies, among other things:

- that the payment may be adjusted periodically, in consultation with the relative guardian(s), based on the circumstances of the relative guardian(s) and the needs of the child;
- that independent living services are available to the child in accordance with 18 NYCRR section 436.9;
- the procedures by which the relative guardian may apply for additional services, as needed;
- that the social services district will pay the total cost of nonrecurring expenses directly associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000 per child;
- that medical coverage is available to a child in a kinship guardianship assistance arrangement;
- that the relative guardian(s) must notify the social services official of any changes in circumstances that would impact continued eligibility for kinship guardianship assistance payments; and
- that such agreement will remain in effect regardless of the state of residence of the relative guardian throughout the duration of the agreement.

The Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement (OCFS 4431) is a state-prescribed form and is Attachment C to this ADM.

### **The Amount**

The social services official must designate in the Kinship Guardianship Assistance and Non-Recurring Guardianship Expense Agreement the amount of kinship guardianship assistance payments that will be provided. The social services district has the option to either pay 100% of the applicable board rate, as defined below, or to take into consideration the income and family size of the relative guardian(s) in determining a percentage of the applicable board rate less than 100% of such rate.

If the social services district chooses for the kinship guardianship assistance program to apply the income and family size of the relative guardian(s), the amount of the monthly kinship guardianship assistance payment may not be less than 75% of the applicable board rate (foster care board rate, including any special or exceptional rate or an expanded rate provided to a minor parent / infant; clothing; and diaper allowance, if appropriate, paid as part of the foster care board rate) nor more than 100% of such rate. The rate chosen by the social services district must be *equal to* the rate used by the social services district for adoption subsidy payments under Section 453 of the SSL. The social services official may consider the financial status and family size of the prospective relative guardian or relative guardian only for the purpose of determining the amount of the payments to be made.

The social services district must use the same option for all kinship guardianship assistance cases. If a social services district wishes to change from one option to another option, the district must inform OCFS in writing of the intended change at least 30 days prior to the effective date of the change. In addition, any such change in option must also apply to the district's adoption subsidy payments. The district must use the newly selected option for all new kinship guardianship assistance agreements entered into on or after the effective date of the change. Kinship

guardianship assistance agreements finalized prior to the effective date of the change will not be affected by the change.

### **Computing the Amount of Annual Income and Determining the Amount of Assistance**

For the purpose of the necessary calculations:

- family size is defined as the proposed relative guardian or guardian(s); any spouse of the proposed relative guardian, if he or she is not entering into the kinship guardianship agreement; any partner of the proposed relative guardian living in the home; and all children living in the home under the age of 21, including the prospective ward(s), but excluding any foster children not the subject of the Agreement; and
- family members whose income is countable is defined as only the income of the prospective relative guardian(s). The income of persons other than the prospective relative guardian may not be considered.

Only income earned as wages or salary from employment and net income from non-farm self-employment or net income from farm self-employment may be considered in computing annual income. As evidence of income, a social services official may request wage stubs, or a recent W-2, or an employer's statement of wages, or, in the case of income other than wages or salary, a copy of the prospective kinship guardian's latest federal income tax return.

**Note:** Consistent with the adoption subsidy program, when a person assuming guardianship is 62 years old or older, or will be subject to mandatory retirement from present employment within five years of the date of kinship guardianship placement, such person's income must be disregarded in computing annual income.

Once the annual income is computed, the following chart should be used in designating the amount of the kinship guardianship assistance payment. The applicable State Income Standard (SIS) is based on the most recent federal income official poverty level, adjusted by OCFS for family size. The applicable SIS is **275%** of the federal poverty level. The prospective relative guardian(s) may voluntarily agree to a lower rate than would otherwise be paid, as long as such request is submitted in writing to the social services district.

#### **KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS SCHEDULE**

Annual income of relative guardian(s) Percentage of applicable State Income Standard	Amount of kinship guardianship assistance payment
Less than or equal to 100%	100% of Applicable Board Rate
Over 100% but not more than 110%	95% of Applicable Board Rate
Over 110% but not more than 120%	90% of Applicable Board Rate
Over 120% but not more than 130%	85% of Applicable Board Rate

Over 130% but not more than 140%	80% of Applicable Board Rate
Over 140%	75% of Applicable Board Rate

**Note:** The Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement is subject only to approval at the local district level. Unlike adoption subsidy agreements, the Kinship Guardianship and Non-recurring Guardianship Expenses Agreement is not submitted to OCFS for approval.

### **Amendments**

Certain circumstances may allow the original Kinship Guardianship Assistance and Non-Recurring Guardianship Expense Agreement to be amended, as described below. The provisions of this section apply when the request for an amendment is made after the issuance of the letters of guardianship. Prior to the issuance of the letters of guardianship, if changes to the agreement are necessary and accepted, a new Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement should be executed.

After the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement is in effect, if the child exhibits a condition not known at the time of the signing of the agreement, or the child's condition worsens, the relative guardian(s) may apply to the social services district for an upgrade. An upgrade raises the amount of the payment rate (i.e., from basic to special, or from special to exceptional). There is no specific form for a relative who is receiving kinship guardianship assistance payments to *apply* for an upgrade. Relative guardians who make a request are to be advised, unless they have already done so, to submit a written, dated request to the social services district, explaining why an upgrade is needed, along with documentation that is pertinent to the child's condition or behavior, from a physician or other professional who has evaluated, assessed or treated the child for the condition or behavior which may warrant an upgrade. The social services district must use the definitions provided in 18 NYCRR 427.6 (c) and (d) in order to make the determination as to whether an upgrade is warranted.

It is the decision of the social services district that had entered into the original kinship guardianship assistance agreement whether to approve or deny the request. If the social services district approves the request, an amended kinship guardianship assistance agreement form (OCFS 4432) [see Attachment D] must be completed and signed by the relative guardian(s) and the social services district representative. If denied, the social services district must send a Denial of Upgrade notice [see Attachment H] that informs the relative guardian(s) of the denial and of the right to a fair hearing before OCFS.

If a fair hearing is requested because the upgrade request is denied, and the hearing decision is rendered in favor of the relative guardian, an amendment to the original agreement must be made.

Lastly, an amendment to the Agreement can be made to change the type of medical coverage that is provided to the child. For example: a guardian who used his or her own health insurance to cover

the child loses coverage, and the child will consequently receive coverage through Child Health Plus or Medical Subsidy.

The amended Agreement form resembles the original agreement. It contains a section to indicate the reason for the Amendment, but only includes applicable sections pertinent to the reason.

If a relative guardian dies and there is a remaining relative guardian, or if relative guardians divorce, or there are other comparable reasons for changing the payee of the kinship guardianship assistance payments, no amendment to the Agreement is necessary. If appropriate, social services districts are to make the necessary changes in the system to accommodate the request.

### **Duration of Payment**

Kinship guardianship assistance payments must be made to the relative guardian or guardians until the child's 18<sup>th</sup> birthday or, if the child was age 16 or older before the kinship guardianship assistance agreement became effective, then such assistance payments are to be made until the child reaches age 21, and the child is:

- completing secondary education or a program leading to an equivalent credential; or
- enrolled in an institution which provides post-secondary or vocational education; or
- participating in a program or activity designed to promote, or remove barriers to, employment; or
- employed for at least 80 hours per month; or
- incapable of doing any of the activities described above due to a medical condition.

Kinship guardianship assistance payments must be discontinued if the social services official determines that the child is no longer receiving any support from the relative guardian or that the relative guardian is no longer legally responsible for the support of the child. The term *any support from the relative guardian* is defined as actual documented use of at least 50% of such monthly kinship guardianship assistance payments by the relative guardian for the food, clothing, medical, education and/or shelter needs of the child. *That the relative guardian is no longer legally responsible for the support of the child* includes but is not limited to when the status of the legal guardian is revoked, terminated, suspended, or surrendered, or when the child is removed from the home of the relative guardian and placed into foster care and the Family Court has approved a permanency planning goal for the child of *other than* return to the home of the relative guardian. See Section F. Annual Notification, below for other factors which may influence the duration of kinship guardianship assistance payments.

### **F. Annual Notification**

There are notification and certification requirements that cover all children in kinship guardianship arrangements, and notification, certification and documentation requirements specific to the educational status of school-age children, and additionally, notification, certification and documentation requirements exist for youth age 18 and over in kinship guardianship arrangements who attained 16 years of age before the kinship guardianship assistance agreement became effective.

OCFS regulation 18 NYCRR 436.6 provides that the social services official must issue, on an annual basis, in written form, a reminder to relative guardians in receipt of kinship guardianship assistance payments of their continued obligation to support the relative child, and to notify the social services official if they are no longer providing any support or are no longer legally responsible for the support of the relative child.

In addition, OCFS regulation 18 NYCRR 436.6 requires that the relative guardian(s) provide a certification and documentation of the education status of the school-age child, and requires that the relative guardian(s) provide a certification and documentation of the status of children over the age of 18, if the child had attained 16 years of age before the kinship guardianship assistance agreement became effective.

Federal law requires assurances pertinent to the educational status applicable to each child eligible for Title IV-E KinGAP funding who has attained the minimum age for compulsory education under state law, and the education / employment status of each youth over the age of 18 who had attained 16 years of age before the kinship guardianship assistance agreement became effective. In implementing the federal law, the applicable New York State standards will apply to *all* children in receipt of kinship guardianship assistance payments, irrespective of whether or not they are eligible for Title IV-E KinGAP funding.

### **School-age children**

For children in receipt of kinship guardianship assistance payments who are of school age under the laws of the state in which the child resides, the relative guardian(s) must certify and provide documentation that the child is one of the following:

- a full-time elementary or secondary student;
- has completed secondary education; or
- is incapable of attending school on a full-time basis due to the child's medical condition, which incapacity is supported by annual information submitted by the relative guardian as part of this certification.

The federal Administration for Children and Families (ACF) allows states flexibility to determine whether and how to document the medical condition and incapability for such youth, as there is no case plan for youth who have entered a kinship guardianship assistance arrangement.

With regard to the educational status of the school-age child, if a reply is received indicating the child has a medical condition which incapacity makes the child unable to attend school full-time, the OCFS requirement is that the child's condition must be documented by a physician, or a physician's assistant, or nurse practitioner under the supervision of a physician, or a licensed psychologist.

For purposes of this certification, an elementary or secondary school student means a child who is:

- enrolled, or in the process of enrolling, in a school which provides elementary or secondary education, in accordance with the laws of the jurisdiction in which the school is located;

- instructed in elementary or secondary education at home, in accordance with the laws of the jurisdiction in which the child's home is located; or
- in an independent study elementary or secondary education program, administered by the local school or school district, in accordance with the laws of the jurisdiction in which the child's school or school district is located.

**Youth age 18 and over who entered KinGAP at age 16 or later**

For children placed in a kinship guardianship assistance arrangement, payments must continue until the youth reaches age 21, if the youth had attained 16 years of age before the kinship guardianship agreement became effective and the youth is:

- completing secondary education or a program leading to an equivalent credential; or
- enrolled in an institution which provides post-secondary or vocational education; or
- participating in a program or activity designed to promote, or remove barriers to, employment; or
- employed for at least 80 hours per month; or
- incapable of doing any of the activities described above due to a medical condition.

The relative guardian(s) must certify and provide documentation that the youth meets one of the above statuses. The federal Administration for Children and Families (ACF) allows states flexibility to determine whether and how to document the medical condition and incapability for such youth, as there is no case plan for youth who have entered a kinship guardianship assistance arrangement.

With regard to the educational/employment status of youth age 18 and over, if a reply is received indicating the youth has a medical condition which incapacity makes the youth unable to attend school full-time, the OCFS requirement is that the youth's condition must be documented by a physician, or a physician's assistant, or nurse practitioner under the supervision of a physician, or a licensed psychologist.

**Model Letter and Certification Form**

This ADM provides a model letter and certification form (OCFS 4433) pertinent to the above requirements. OCFS has created a single letter and certification form which incorporates all three scenarios listed above (see Attachments E and F). Social services districts may use the model letter and form, or create one or more of their own, as long as they contain the certification and documentation elements addressed by the state models.

Copies of all notification (inquiry) letters, and all certifications and associated documentation replying to the inquiry, are to be retained as part of the kinship guardianship payment record for at least six years from issuance of the inquiry letter, and accessible for potential audit purposes.

**Note:** Social services districts are **not**, as a matter of course, to ask for documentation of support (only an attestation), without a reasonable cause to do so.

It is recommended that workers record an Anticipated Future Action (AFA) code in WMS to assist with being reminded of the distribution of the annual notification. For applicable youth over the age of 18, it is suggested that a log be kept of every youth who had attained 16 years of age before the kinship guardianship assistance agreement became effective, in order to assist with keeping track of which kinship families need to respond to the section of the form relevant to such youth. An AFA should be entered one month before the youth's 18th, 19th and 20th birthdays.

### **Discontinuance of kinship guardianship assistance payments**

A time for the return of the certification form and associated documentation must be indicated in the letter or on the certification form. That time period should be a reasonable period of time to enable the relative guardian(s) to gather necessary documentation and to respond to the social services district. In the event the form and associated documentation are not returned by the suggested due date, a second request should be sent with a specified date for the return of the form/documentation. If there is no response to the second inquiry, where possible, a phone call is recommended.

In addition, if the social services district cannot obtain a response, or the response is unsatisfactory, the social services district may send a different letter that requires the relative guardian(s) to meet with the social services district staff in person, by telephone or by other means as specified by the district to review the status of the case. In making this request, the social services district must take into consideration where the relative guardian(s) reside, the relative guardian(s)' employment situation, and the care needs of the child, when determining the time, location and means of contact. If the relative guardian(s) is unable to attend the meeting requested in the district's letter for reasons beyond the control of the relative guardian(s), the social services district must provide the relative guardian(s) with one additional opportunity to meet. Failure to provide the requested documentation or to meet with the social services district, as directed, may be a ground for termination of the kinship guardianship agreement and stopping the payment of kinship guardianship assistance. It is important that any follow up letter sent by the social services district indicate the consequences of failure to follow up in the manner prescribed by the social services district. [See 18 NYCRR 436.5(f).]

In addition, if a social services district has reasonable cause to suspect that the relative guardian is either no longer legally responsible for the support of the child or is no longer providing any support for the child, discontinuance may also be considered. In such a case, the social services district may require the relative guardian(s) to submit documentation, as specified by the social services district, which addresses and verifies the continuing responsibility of the relative guardian to support the child and the provision of support of the child by the relative guardian(s). The relative guardian is required to provide the required documentation in the time period established by the social services district and to cooperate with the district. In addition, the social services district may also require the relative guardian(s) to meet with district staff in person, by telephone or by other means of communication, as specified by the social services district, to review the status of the case. As referenced above, the social services district must take into consideration where the relative guardian resides, the relative guardian(s)' employment situation, and the care needs of the child, when determining the time, location, and the means of contact for such meeting. If the relative guardian is unable to make the scheduled meeting for reasons beyond the guardian's control, the district must provide the relative guardian with one additional opportunity to meet in accordance with the standards set forth in this section. In addition, failure to provide the requested

documentation within the period requested or to meet with social services district staff as directed, may be a ground for termination of the kinship guardianship agreement and stopping payments of kinship guardianship assistance.

Pursuant to OCFS regulation 18 NYCRR 436.5(f)(2)(ii), when determining whether the relative guardian is providing the child with any support for this purpose, the term *any support from the relative guardian* means actual documented use of at least 50% of such monthly kinship guardianship assistance payments by the relative guardian for the food, clothing, medical, education and/or shelter needs of the child.

As per the signed Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement, the relative guardian who has been receiving kinship guardianship assistance payments on behalf of a child must keep the social services official informed of any circumstances that would make the relative guardian ineligible for such payments or eligible for payments in a different amount. The relative kinship guardian must notify the social services official in writing within 30 days of any circumstance or event that would impact the continued eligibility of the child for kinship guardianship assistance payments. Such circumstances or events include, but are not limited to, the child's marriage, the child's enlistment in the military, the child's death or any other circumstance whereby relative guardian(s) is not providing any support to the child.

Based on a response to the annual notification, if the social services district is advised that the relative guardian(s) are no longer legally responsible for the support of the child, or that the relative guardian(s) do not provide any support for the child, or for any other reason, at any time a decision is made to discontinue kinship guardianship assistance payments, the WMS case must be closed and kinship guardianship assistance payments must cease as of the date of the change of circumstance, in accordance with OCFS regulation 18 NYCRR 436.5. Follow-up inquiry may be necessary to determine the precise date to terminate kinship guardianship assistance payments and/or arrange for any necessary recovery of over payments.

**Note:** Once kinship guardianship assistance payments are terminated because of the failure by the relative guardian(s) to produce appropriate documentation, if such documentation is successfully and adequately produced and the child otherwise remains eligible for kinship guardianship assistance payments, the social services district has the discretion to resume kinship guardianship assistance payments retroactive to the date such payments were terminated. However, the social services district may choose, in the alternative, not to resume kinship guardianship assistance payments upon the late submission of documentation.

If reasonable efforts to secure the necessary documentation fail, federal Title IV-E claiming for kinship guardianship assistance must cease. Federal Title IV-E eligibility for kinship guardianship assistance may be reinstated and retroactive, if a satisfactory and adequate reply is received after the claiming change.

The relative guardian(s) must be given written notice of the termination of kinship guardianship assistance payments and their right to a fair hearing to challenge termination (see Section L.).

**No Transference of Kinship Guardianship Assistance**

The Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement may not be transferred or assigned by the relative guardian(s) to anyone.

**Adoption following Kinship Guardianship Assistance**

The placement of the child with the relative guardian and any kinship guardianship assistance payments made on behalf of the child must be considered never to have been made when determining the eligibility for adoption subsidy payments under Title 9 of Article 6 of the Social Services Law and OCFS regulation 18 NYCRR 421.24, or adoption assistance under Title IV-E of the SSA of a child in such legal guardianship arrangement.

**G. Non-Recurring Guardianship Expenses**

The social services district must make payments for non-recurring guardianship expenses incurred by or on behalf of the relative guardian(s) who have been approved to receive kinship guardianship assistance payments for expenses incurred directly in connection with assuming the guardianship of the related foster child, including reasonable and necessary fees, court costs, attorney fees, and other expenses which are directly related to obtaining legal guardianship of an eligible child and which are not incurred in violation of federal or state law. The OCFS mandated Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement reflect these conditions and limitations. The non-recurring guardianship expense payment must be made by the social services district either to the relative guardian(s) directly or to an attorney on behalf of the relative guardian(s) for the allowable amount of non-recurring guardianship expenses incurred directly in connection with obtaining such guardianship.

The amount of the payment made may not exceed \$2,000 for each foster child for whom the relative guardian seeks kinship guardianship.

The prospective relative guardian is to be provided with the “Non-Recurring Kinship Guardianship Expenses Reimbursement Form” (OCFS 4434) [Attachment J] for submitting expenses. The form must be submitted no later than two years from the date letters of guardianship were awarded by the court.

Payments for non-recurring guardianship expenses must be treated as administrative expenditures under Title IV-E.

**H. Medical Assistance / Medical Coverage**

Chapter 58 provides for a child’s medical coverage, once in a kinship guardianship assistance arrangement, in a number of ways. First, any such child who is federally Title IV-E eligible for kinship guardianship assistance payments, is automatically eligible for Medical Assistance under Title XIX of the SSA. Thus, Medical Assistance is to be authorized as of the first of the month that KinGAP payments are initiated. Medical Assistance may be authorized by the Medical Assistance unit of the social services district or ACS in New York City, or the foster care or other child welfare unit, as local practice dictates. The New York State Department of Health (DOH) will be sending

first a GIS and then an ADM to the Medical Assistance units advising of this program, eligibility criteria, and new category codes, as a companion piece to this ADM.

With the exception of non-qualified immigrant foster children, as confirmed by DOH, Medical Assistance is available for foster children who are not federally Title IV-E eligible.

Non-qualified immigrant foster children may be provided medical coverage in one of several ways. The sequence is prescribed, and each option must be explored prior to moving to the next:

- by any private coverage the relative guardian has available, where the child can be added to the coverage, provided that such coverage is affordable;
- by the relative guardian(s) applying on behalf of the child, and the child being found eligible for Child Health Plus (CHP) or any successor program or plan of state medical coverage that does not consider the immigration status of the applicant in determining eligibility, unless the relative has good cause for not applying, and such reason for not applying includes coverage is not affordable;
- by the relative guardian(s) availing themselves of the state's medical subsidy program.

**Affordable** is defined as follows: if the cost of health insurance benefits for the child(ren) does not exceed 3% of the relative guardian(s) gross income, including the cost of the premium and deductible attributable to adding the child(ren) to existing coverage, or the difference between such costs for self-only and family coverage. The presumption that the cost of the health insurance costs are affordable may be rebutted upon a finding that the cost is unjust or inappropriate based upon case circumstances, the cost and comprehensiveness of the health insurance benefits for which the child(ren) may otherwise be eligible, and the best interests of the child(ren), including any special health needs of the child. In no instance is the cost considered affordable if the cost would reduce the guardian(s)' income below 275% of the federal poverty level.

In the case of the medical subsidy, the relative guardian would have to pay for medical services and be reimbursed by the social services district, or the physician or other medical provider would have to agree to bill the social services district and be reimbursed by the district. In either case, reimbursement is limited to the amount of care, services and supplies that would be available under New York State's Medical Assistance Program, if the child was indeed eligible for Medical Assistance.

**Note:** If the child becomes a Legal Permanent Resident (LPR) through a Special Immigrant Juvenile Status (SIJS) application, the child will be eligible for state Medical Assistance coverage, and after five years as an LPR the child will be eligible for federal Medical Assistance coverage.

Relative guardians are entitled to a fair hearing on the denial of Medical Assistance coverage and such hearings are conducted through the New York State Office of Temporary and Disability Assistance (OTDA).

If the kinship guardianship assistance family moves to another state, and the child is Title IV-E eligible, Medical Assistance is to be provided by the new state of residence. The federal

Department of Health and Human Services Centers for Medicare & Medicaid Services (CMS) has advised all states of such eligibility under KinGAP.

If the kinship guardianship assistance family moves to another state, and the child is ***not*** Title IV-E eligible, Medical Assistance for the child in the kinship guardianship assistance arrangement is to be continued by New York State, unless the relative guardian(s) makes application for Medical Assistance for the child in the new state of residence and the child is found eligible for coverage.

New York State will provide coverage in one of the following ways:

- by the relative guardian(s) submitting the medical bills to the local district for payment; or
- by the medical provider submitting medical bills to the social services district for payment; or
- by the medical provider being or becoming an approved Medical Assistance provider in New York State and billing Medicaid.

**Note:** The reciprocity provided by the Interstate Compact on Medical Assistance (ICAMA) for other programs does not include KinGAP at this time.

Medical Assistance or Medical Subsidy ends when the kinship guardianship assistance payments ends, except that for children who had been covered by Medical Assistance, pursuant to 366(4)(s) of the SSL, up to 12 months of continuous Medical Assistance is provided for children who exit guardianship. For youth who exit at age 18, Medical Assistance continuous coverage cannot extend beyond the end of the month in which the youth turns 19 years of age. If the youth is age 19 or over, or if the continuous coverage period has ended, a separate eligibility determination must be completed.

#### **I. Independent Living Services and Educational and Training Vouchers (ETV)**

For a youth who leaves foster care at age 16 or older for guardianship with a relative guardian who is receiving kinship guardianship assistance payments, the youth remains eligible for the following independent living services: independent living skills; vocational training, independent living skills training, and academic support services. These services are defined in 02-OCFS-LCM-05. (Also see systems instructions – WMS for authorization instructions). In addition, the youth is eligible to apply for Education and Training Vouchers (ETV). The LCM for Federal Fiscal Year 2011-2012 Education and Training Voucher Program will clarify the eligibility for this population for ETV.

#### **J. Bridges to Health (B2H)**

Any foster child who is being served by the Bridges to Health program (B2H) who is discharged to kinship guardianship assistance may continue to be served by B2H and continue participation in the program until it is no longer consistent with the plan of care, or until age 21, whichever occurs earlier, notwithstanding the person's status as having been discharged from the care and custody or custody and guardianship of the local commissioner of the social services district.

**K. Claiming**

Assuming all other eligibility criteria are met, federal Title IV-E claiming for children in a KinGAP arrangement is limited to children who were initially determined as Title IV-E eligible when they entered foster care for the episode of foster care from which they exited to KinGAP. (See also Systems Implications, Section V: BICS and Claiming System Instructions.)

**L. Fair Hearings**

Any person aggrieved by the decision of a social services district to deny an application for KinGAP, or to discontinue kinship guardianship assistance payments, or by a decision to make such payment in an inadequate or inappropriate amount, or by the failure of such district to determine a complete application within 30 days after it is filed, may appeal to OCFS by making a written request for a fair hearing. The request must be made within 60 days after notice of the district's decision, or the failure to make a timely determination.

The prospective relative guardian(s) or the relative guardian(s), as applicable, may request a fair hearing by writing to the New York State Office of Children and Family Services, Bureau of Special Hearings, Room 322 North Building, 52 Washington Street, Rensselaer, NY 12144-2796.

OCFS will provide an opportunity for a fair hearing and render its decision within 30 days of the completion of the fair hearing. All OCFS decisions are binding upon the social services district involved and the social services district must comply with the decision.

Any person aggrieved by the decision of a social services district official not to provide Medical Assistance for their relative child through New York State's Medical Assistance program may appeal to the Office of Temporary and Disability Assistance (OTDA). OTDA conducts these hearings for the New York State Department of Health. For more information on fair hearings regarding Medical Assistance, refer to the forthcoming DOH ADM.

This ADM provides three required notice letters, copies of which are attached to this ADM [attachments G, H, and I]: Notice of Denial, Notice of Denial of Upgrade, and Notice of Discontinuance. The language in these letters explains the reason(s) for the decision, provides information about legal assistance and information pertaining to need for an interpreter, and rights regarding access to documents. The letters must be sent by certified mail. The application for kinship guardianship assistance also contains fair hearing information explaining that decisions on applications for kinship guardianship assistance payments must be made within 30 days of the filing by the prospective relative guardian(s) of a complete application.

Any documents the social services district intends to introduce at the fair hearing must be made available to the person(s) requesting the hearing. These documents should be made available in advance of the date of the scheduled hearing. This will help cut down on adjournments that may be sought to give time to the requestor to review the documents presented by the social services district.

In order to implement the process for scheduling and conducting fair hearings for the KinGAP, social services districts are being asked upon the issuance of this ADM to provide the following information:

- complete address of the location/facility where the hearings will be held on their premises; and
- a contact name, e-mail and phone number to which scheduling information should go.

The above information is to be sent as soon as possible to [Steve.Connolly@ocfs.state.ny.us](mailto:Steve.Connolly@ocfs.state.ny.us)

OCFS will compile a list of foster care managers in order to initially create the contact list.

Social services districts will be notified of the details of each scheduled hearing.

#### **M. Child Support**

Where there is an existing order of child support or medical support for any foster child who will be discharged from foster care to a kinship guardianship assistance arrangement, the child support enforcement unit is to be notified of the discharge [see 18 NYCRR 422.5 (d) (6)]. Orders of child support and/or medical support payable to social services district are terminated. Once the child is in the kinship guardianship assistance arrangement, the social services district can no longer collect such support on behalf of the child and the IV-D case should be closed. However, the relative guardian may make application (petition) for child support services against the child's parent or parents and a new IV-D case can be opened. The relative guardian's income, including the guardianship assistance payments, has no bearing on any order made to award the relative guardian such support.

#### **N. Letters of Guardianship**

In order to be eligible for kinship guardianship assistance payments, the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement must be fully executed by the social services district and the prospective relative guardian(s) before letters of guardianship are issued by the court. Once the Agreement has been executed, the court must be petitioned for letters of guardianship. It is the responsibility of the prospective relative guardian(s) or his or her attorney to file the petition.

If the foster child was placed into foster care as an abused, neglected or voluntarily placed child or is completely freed for adoption, the petition for guardianship must be filed in the Family Court before which the most recent proceeding under Article 10 and 10-A of the FCA is pending. The hearing on the petition for guardianship may be consolidated with a dispositional hearing under Article 10 or a permanency hearing under Article 10-A of the FCA. For a non-freed foster child placed into foster care as a PINS or a juvenile delinquent, a petition for guardianship may be filed by the prospective relative guardian(s) in either Family Court or Surrogate's Court. The option of having the prospective relative guardian(s) appointed permanent guardian(s) is also possible in accordance with section 661 of the FCA. For information on Permanent Guardianship, see 09-OCFS-ADM-05 New Statutes Affecting Kinship Care: Chapters 404 and 519 of the Laws of 2008.

Social services district staff should make every effort to provide the prospective relative guardian(s) with information about available legal services. Social services district staff should remind the prospective relative guardian(s) that the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement includes payment for non-recurring expenses, and that these include payment for attorney fees, any other legal fees, and other costs directly related to obtaining letters of guardianship.

The form, to be used for petitioning the court for letters of guardianship can be viewed at <http://www.courts.state.ny.us/forms/familycourt/guardianship.shtml> 6-1-c (Petition for Appointment of Kinship Guardian [Subsidized Kinship Guardian Program] and/or Permanent Guardian) 4/2011

Once the petition for letters of guardianship is filed, the matter will be scheduled and heard. The court makes the final decision. Note: The execution of the kinship guardianship assistance agreement, in and of itself, does not qualify a prospective relative guardian to receive kinship guardianship assistance payments.

The granting of letters of guardianship by the court is a process that is separate and distinct from the application for kinship guardianship assistance payments and the execution of the kinship guardianship assistance agreement. The determination of whether to grant a petition by a prospective relative guardian for letters of guardianship is solely within the discretion and authority of the court. Should the court grant the petition for guardianship, the child in question is no longer in foster care and is no longer in the custody or guardianship of the social services district.

If the court awards letters of guardianship where there was a Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement in place, the social services district must begin kinship guardianship assistance payments on the effective date of the court order granting the letters of guardianship.

The court order form can be viewed at:

<http://www.courts.state.ny.us/forms/familycourt/guardianship.shtml> 6-5-a (Order Appointing Kinship Guardian [Subsidized Kinship Guardian Program] and/or Permanent Guardian) 4/2011

See Section V. Systems Implications regarding closing the child's foster care case, opening the kinship guardianship assistance case, authorizing payment, and other necessary system procedures.

Under the statute, the social services district and the child's attorney will be advised and made a party to any future matters regarding the child's custody or guardianship, including a petition brought by the child's parent to regain custody, and a petition brought by the relative guardian(s) to have the guardianship revoked, terminated or surrendered.

## V. Systems Implications

### General Processing

Children placed with relative guardians with kinship guardianship assistance will be reported as discharged from foster care in CCRS. Direct service and payment authorization in WMS will be similar to adoption subsidy case processing, i.e., a new WMS case (child is to retain same CIN) will be opened with no associated CONNECTIONS component. The child should be end-dated in the CONNECTIONS case, if other children remain tracked in the case, or the CONNECTIONS case should be closed, if no children remain tracked.

### WMS

Kinship guardianship assistance cases are to be opened directly in WMS. There is no CONNECTIONS services case component for kinship guardianship assistance cases.

If WMS is closing, then it must be closed separately from the CCRS closing (see below), using existing codes.

- **Release to Relative** – code **571**;
- For children who are freed for adoption, and the relative has been appointed as a “Permanent Guardian,” use **Discharge to Permanent Guardian** - code **591**.

**The CCRS discharge must be reported before the WMS closing.**

### Direct Services (DIR)

The following *new* DIR code is to be used for kinship guardianship assistance cases.

- **KG Kinship-Guardianship**
  - KG cannot be authorized simultaneously with 01 – Adoption Service, 08 – Foster Care-Children, 17 – Protective-Children, 25 – Preventive-Children (Mandated), 26 – Preventive-Children (Non-Mandated), or IL – Independent Living.
    - **Error 520** – DIR "KG" CANNOT OCCUR WITH DIR "01" "08" "IL" "17" "25" "26"
  - Allowed suffix codes are F-FNP and N-NR
    - **Error 314** – ENTER CORRECT SVC TYP SUFFIX CODE FOR THIS SERVICE
  - Services Goal must be 01 – Self Support.
    - **Error code 521**– DIR "KG" MUST HAVE GOAL OF "01"

### Purchase of Service (POS)

Four *new* POS codes have been developed for kinship guardianship assistance cases requiring a DIR of KG:

- **KG** – Kinship Guardianship Regular Service and Maintenance

- KG POS lines must be written with a “C” (as contracted) in the “AMT” field
- KG POS lines may be written as recurring or single issue
- KG POS lines may be written with suffix codes of F or N
- The displayed mnemonic for KG is “KGSVCMNT”
- **K1** – Kinship Guardianship Non-Recurring Expense
  - K1 POS lines may be written with either a “C” or a dollar amount in the “AMT” field
  - K1 POS lines must be written as single issue only
  - K1 POS lines may be written with suffix codes of F or N
  - The displayed mnemonic for K1 is “KGNR-EXP”
- **K2** – Kinship Guardianship Additional Per Diem
  - K2 POS lines may be written with either a “C” or a dollar amount in the “AMT” field
  - K2 POS lines may be written as recurring or single issue
  - K2 POS lines may be written with suffix codes of F or N
  - The displayed mnemonic for K2 is “KGAD-PDM”
- **K3** – Kinship Guardianship Fair Hearing
  - K3 POS lines may be written with either a “C” or a dollar amount in the “AMT” field
  - K3 POS lines may be written as recurring or single issue
  - K3 POS lines may be written with suffix codes of F or N
  - The displayed mnemonic for K3 is “KG-HEAR”

The following edits/error messages apply to **all** of the above **new** Kinship-Guardianship POS codes:

- KG required as DIR
  - **Error 522- POS "KG" "K1" "K2" "K3" MUST HAVE DIR "KG"**
- Allowable suffix codes are F-FNP and N-NR. DIR KG must also have the same suffix code.
  - **Error 523- POS KG K1 K2 K3 WITH SUFFIX REQUIRES DIR "KG" WITH SUFFIX**
- New Kinship-Guardianship POS codes cannot be written with a POS “from” date earlier than April 1, 2011.
  - **Error 531- POS "KG" "K1" "K2" "K3" FROM DATE IS BEFORE APRIL 1, 2011**
- Eligibility codes 01-Pending IVE and 04-EAF are not allowed as entries in the “ELIG” field when the POS code is = KG, K1, K2 or K3
  - **Error 524- ELIG "01" AND "04" NOT ALLOWED FOR POS CODES "KG" "K1" "K2" AND "K3"**

The following **already existent** POS codes are allowable for Kinship-Guardianship cases when the DIR is KG:

- 84 - Independent Living
- 85 – Vocational Skills

- 87 – Academic Support Services

## **CCRS**

The following **new** CCRS codes should be used to report events related to the kinship guardianship assistance program.

- **MISCELLANEOUS CODES**

- The following codes should be used for tracking Kinship Guardianship *Application processing*:

- K100 – Kinship Guardianship Application Received
- K200 - Kinship Guardianship Application Denied
  - K100 must be > M910 (current track); child must be In Care/Status 04
  - K200 must be > or = K100 (current track)
- K300 – Kinship Guardianship Application Accepted
  - This code cannot be data entered. It is system generated when Agreement Signed activity is reported (new L600/25 Legal Activity described below)

- No input of L600/25 will be permitted, if no K100 on file (current track)
- The L600/25 must be > or = K100 (current track)
- No input of L600/25 will be permitted, if K200 on file (current track)
- A Contra of L600/25 will system (automatically) contra a K300

- **LEGAL CODES**

- The following codes should be used for reporting Guardianship *Legal events/court proceedings*; all are reportable only for children In Care (Status 04) :

- MODIFIER A: Type of Legal Event **25 – Kinship Guardianship Agreement**
  - Reportable *only* with L600 – Agreement Signed
- MODIFIER A: Type of Legal Event **26 – Kinship Guardianship Hearing**
  - Reportable with L300 – Hearing Held *only if*:
    - L600/25 exists on child's current CCRS track and L300/26 activity date is > or = L600/25 activity date
- MODIFIER B, C: Disposition **87 – Letters of Kinship Guardianship Granted**
  - Reportable with L300 – Hearing Held *only if*:
    - MODIFIER A *is not* = 01,02, 09, 11, 12 or 17

- **MOVEMENT CODES**

- The following codes should be used for reporting Discharges to Kinship Guardianship:
  - MODIFIER B - Reason for Discharge/Track Closed with M990 – Discharge from Foster Care and M999 – Child's Track Closed:

- **600 - Kinship Guardianship Discharge with Subsidy**
  - Reportable *only if*: L600/25 And L300 with MODB or MODC = 87 exists on current CCRS track and M990/999 activity date is > or = activity date of MODB or MODC = 87 activity date

### **NYC SERMA**

CCRS children discharged with a reason code of 600-Kinship Guardianship Discharge w/Subsidy will have their SERMA coverage ended because of their discharge from foster care. If applicable, a separate Medical Assistance case must be opened (see Section H. Medical Assistance / Medical Coverage). There is no automatic opening of MA on Downstate WMS.

### **CONNECTIONS**

In order to make kinship guardianship assistance payments, the responsible social services district must have an open active Foster/Adoptive resource for them in CONNECTIONS. As it is permissible for a single resource to receive kinship guardian assistance, adoption subsidy and/or foster care payments at the same time, there are multiple ways a resource can be coded to send the appropriate commodity code(s) to BICS. For a resource that is only open to make kinship guardian assistance payments, the social services district worker should select a Setting of “Adopt/Guard” (Adoption/Guardianship) and a Facility Type of “Kinship Guardianship.” Once this type of resource is approved by the supervisor, it will remain open until actively closed by the worker. If a social services district decides to make kinship guardian assistance payments through an Adoptive or Foster Home it already has open, the worker should select the newly created “KinGAP” checkbox on the CONNECTIONS Home License window. Selecting this checkbox and having the change approved by the supervisor will also send the appropriate commodity code to BICS to allow payment through WMS. When the “KinGAP” checkbox is selected, the resource remains open for as long as the resource’s Setting and Facility Type dictates. If other parts of the resource do close, the resource will automatically convert to the Setting of “Adopt/Guard” and Facility Type of “Kinship Guardianship,” and remain open until actively closed by the worker.

\* Please note that the new Facility Type of “Kinship Guardianship” and the “KinGAP” checkbox are part of the first version of the transformed CONNECTIONS which is scheduled to finish implementation in summer of 2011. If your social services district has not yet been implemented and a kinship guardianship assistance payment is required, the social services district must still have a CONNECTIONS Foster/Adoptive Resource open and active for the relative guardian. If the only social services district resource that is to be open for the relative guardian is to facilitate kinship guardianship assistance payments, the worker should open a home with the Setting of “Adopt/Guard” and a Facility Type of “Adoptive Home.” Once there is a resource open for the relative guardian, the Kinship Guardianship commodity code of “19” must be entered directly into BICS by appropriate staff (See BICS instructions). Once all social services districts have been implemented, the assigned worker will be contacted and instructed on how to make the necessary changes to record the appropriate information in CONNECTIONS.

**BICS and Claiming System Instructions****Purchase of Service (POS) Types**

There are four new POS Types for KinGAP:

- KG = KinGAP Regular Service and Maintenance
- K1 = KinGAP Non-Recurring Expenses
- K2 = KinGAP Additional Per Diem
- K3 = KinGAP Fair Hearing

A File Maintenance edit will ensure, for purchase of service lines of KG, K1, K2 and K3, that the vendor will have a commodity code of 19.

The amount for KG must be authorized as a “C.” This will access the BICS rate tables. Service Types K1, K2 and K3 may be authorized with an amount or as “C” but will not use the rate tables.

As previously mentioned, expenses incurred for each KinGAP placement using POS type K1 cannot exceed the \$2,000 limit. Any expense that exceeds the \$2,000 limit for each KinGAP placement is considered Non-Reimbursable (NR) and the excess amount must be authorized with suffix code N (NR).

**CONNECTIONS / Commodity Code**

At a future date, CONNECTIONS will send a new commodity code of 19 (KinGAP) for a vendor identified in CONNECTIONS as KinGAP.

As of April 1, 2011, CONNECTIONS will be unable to pass the KinGAP commodity code. Until CONNECTIONS can do so, BICS Vendor Operations (Selection 05 from the Main BICS Menu) will temporarily allow the direct entry of the commodity code of 19 if the commodity code of 02 or 17 exists for that vendor, or allow replacement of the commodity code of 17 with a commodity code of 19.

**Rate Setting**

Screen LAC021 (accessed from selection 15 from the Accounts Menu) will be enhanced to allow entry of the Level of Difficulty (LOD) for KinGAP.

Service Type KG will not be an allowed entry into the BICS rate tables. The rates will be based on the rate for Service Type 52 (Adoption Subsidy).

It is important that districts remember that there must be a Service Type 52 rate for each LOD/modifier and age for which your district will pay for a KinGAP child.

**Roster Generation** [BICS Production Request (BPR30)] and Pre-Roster Generation (BPR 37)

A new roster generation request will be available for KinGAP Rosters on April 1, 2011. The format and sort options for the roster will be the same as adoption subsidy. KinGAP will be included in the Pre-Roster Report, BPR 37.

POS type codes KG, K2 and K3 will be included with the single-issue or recurring rosters. POS type code K1 will be included with single issue rosters only.

### **Voucher Processing**

KinGAP rosters may be processed through BICS Selection 1 – Initial Voucher Entry or Selection 6 - SVC FC/ADOPT/KINGAP.

The roster screens will look the same as adoption subsidy rosters, and KinGAP rosters should be selected in the same manner as adoption subsidies.

BPR 33 – Batch Roster Processing will allow for KinGAP.

During roster processing, there will be no review of on-going CCRS legal activity. There is a review of the initial Child Care Review Service (CCRS) to determine if there is proper legal authority. To receive reimbursement, there must be an M990 or M999 with a modifier of 600 (entering KinGAP) in CCRS; otherwise, the payments will be identified as non-reimbursable.

During roster processing, there will be no review of CONNECTIONS home certification or approval.

Any amount over the Maximum State Aid Rate (MSAR) will be identified as Non-Reimbursable.

Absence or legal edits will not be applied.

### **Check Production**

The BICS Category for KinGAP payments will be 51 – Child Care. For KG, K2, and K3, the appropriation account will be Child Care - A6119.0 and the refund account will be A1819.0. For K1, both the appropriation and refund account will be A6010.0.

KinGAP benefits will be produced as paper checks. In the future, KinGAP payments may be part of the direct deposit / debit card process.

### **Composites Roll Logic**

Beginning **April 1, 2011**, additional lines will be added to the Composite Rolls on the Schedule K for POS types KG, K2, and K3 and the Schedule D-2 for POS type K1:

- RF-2, Schedule K, KinGAP-FP
- RF-2, Schedule K, KinGAP-FNP

- RF-2, Schedule K, KinGAP-NR
- RF-2A, Schedule D-2, KinGAP Non-Recurring-FP
- RF-2A, Schedule D-2, KinGAP Non-Recurring-FNP
- RF-2A, Schedule D-2, KinGAP Non-Recurring-NR

KinGAP FP will be determined when the POS Type is KG, K2 or K3, the eligibility for the child is 02 (IV-E) and the suffix code is not N or not F.

KinGAP NR will be determined when the POS Type is KG, K2 or K3 and the Suffix Code is N.

KinGAP FNP will be determined when the POS Type is KG, K2 or K3, the Eligibility Code is not 02 and the Suffix Code is not N, or KinGAP FNP will be determined when the POS Type is KG, K2, or K3, the claiming category is 02 and the suffix code is F.

KinGAP Non-Recurring FP will be determined when the POS Type is K1, the eligibility for the child is 02 (IV-E) and the Suffix Code is not N or not F.

KinGAP Non-Recurring NR will be determined when the POS Type is K1 and the Suffix Code is N.

KinGAP Non-Recurring FNP will be determined when the POS Type is K1, the eligibility for the child is not 02 (IV-E) and the Suffix Code is not N, or KinGAP Non-Recurring FNP will be determined when the POS Type is K1, the claiming category is 02 and the Suffix Code is F.

POS Types 84, 85, and 87 will be displayed on the RF-4 based on existing Independent Living Program (ILP) logic.

### **Claiming Instructions**

KinGAP changes to the Automated Claiming System (ACS) Schedule K Reimbursement for Foster Care and Adoption Expenditures (LDSS-3479) and Schedule D-2 Allocation for Claiming General Services Administration Expenditures (LDSS-2347-B) will not be available for the April 1, 2011, start date. ACS changes are scheduled for October 1, 2011, claiming. Until the ACS is changed, claiming should be entered on LDSS-3922 Reimbursement Claims for Special Projects.

For KinGAP program costs (POS types KG, K2, and K3) from April 1, 2011 through September 30, 2011, the expenditures that are displayed on the Schedule K, BICS Composite Roll, should be transferred to the LDSS-3922 and reported in line 15 - Other, in the Non Administration Cost column.

For KinGAP non-recurring administration costs (POS type K1) from April 1, 2011 through September 30, 2011, the expenditures that are displayed on the Schedule D-2 BICS Composite Roll should be reported in the F-17 function (Other Reimbursable Programs) on the LDSS-923 Schedule of Administrative Expenditures Other than Salaries, and carried

forward to the F17 function on the Schedule D, DSS Administrative Expenses Allocation and Distribution by Function and Program (LDSS-2347). These costs will carry forward to the Schedule D-17, Distribution of Allocated Costs to Other Reimbursable Programs (LDSS-3274), and be reported in a column labeled KinGAP. These expenditures should then be transferred to the LDSS-3922 and the federal, state, and local shares should be reported in a footnote at the bottom of the form and included with other KinGAP administration costs on line 17 – Total Project Costs.

For other KinGAP administration costs from April 1, 2011, through September 30, 2011, local district staff not working full time on KinGAP must be time studied, and related costs should be charged to F17 KinGAP. The other KinGAP administration costs should be reported in the F-17 function (Other Reimbursable Programs) on the Schedule D, DSS Administrative Expenses Allocation and Distribution by Function and Program (LDSS-2347). The other KinGAP administration costs are carried forward to the Schedule D-17, Distribution of Allocated Costs to Other Reimbursable Programs (LDSS-3274), and reported in a column labeled KinGAP. These expenditures should then be transferred to the LDSS-3922 in the appropriate lines in the Administration Costs column.

The LDSS-3922 project label should be entitled KinGAP.

The federal and state shares of related program and administration costs should be manually identified offline on worksheets before being entered on the LDSS-3922, as follows:

**Example:**

**Non-Administration (Program) Costs**

Schedule K (POS types KG, K2, and K3) Composite Roll lists:

KinGAP - FP = \$6,000

KinGAP - FNP = \$9,000

KinGAP – NR = \$17,000

**Administration Costs**

**Non-Recurring (POS type K1) Costs**

Schedule D-2 (POS types K1) Composite Roll lists:

Non-Recurring KinGAP Expense – FP = \$5,000

Non-Recurring KinGAP Expense – FNP = \$3,000

Non-Recurring KinGAP Expense – NR = \$6,000

**Time Studied Administration Costs**

District has identified that workers with costs of \$40,000 are working ¼ of their time on KinGAP -  $\$40,000 / 4 = \$10,000$ .

\$10,000 is moved from the F2 to the F17 function.

The district has 10 KinGAP cases: 7 are IV-E, 2 are FNP and 1 is NR.

IV-E (FP) is 7/10 for 70% ( $\$10,000 * 70\% = \$7,000$ )

FNPF is 2/10 for 20% ( $\$10,000 * 20\% = \$2,000$ )

NR is 1/10 for 10% ( $\$10,000 * 10\% = \$1,000$ )

The district should report on the LDSS-3922:

#### **Non-Administration Costs**

Line 15 – Other = \$32,000 ( $\$6,000 + \$9,000 + \$17,000$ )

Line 17 – Total Project Costs = \$32,000

Line 18 - IV-E Federal Share = \$3,000 ( $\$6,000 * 50\%$ )

Line 19 – State Share = \$6,000 ( $\$1,500 + \$4,500$ )

Line 20 – Local Share = \$23,000 ( $\$17,000 + \$1,500 + \$4,500$ )

#### **Administration Costs**

Line 3 - Total Salary & Fringe Benefits = \$10,000

Line 17 – Total Project Costs = \$24,000 ( $\$14,000 + \$10,000$ )

Line 18 – IV-E Federal Share Claim = \$6,000 [ $(\$5,000 + \$7,000) * 50\%$ ]

Line 19 – State Share = \$5,500 ( $\$2,750 + \$1,750 + \$1,000$ )

Line 20 – Local Share = \$12,500 ( $\$6,000 + \$2,750 + \$1,750 + \$1,000 + \$1,000$ )

**Footnote – K1 – Federal (\$2,500) State (\$2,750) Local (\$8,750) = \$14,000**

The LDSS-3922 for KinGAP should be manually submitted on a monthly basis to the Bureau of Financial Services. Districts must retain the signed LDSS-3922, which supports the claims. Instructions for completing the above noted administration claiming schedules are found in the Fiscal Reference Manual (FRM) Volume 3 (Volume 4 for New York City). Instructions for completing the LDSS-3922 are found in FRM, Volume 2, Chapter 3.

Fiscal Reference Manuals are available at:

FRM Vol. 2 - [http://otda.state.ny.net/bfdm/finance/FRM\\_Vol2\\_Manual.asp](http://otda.state.ny.net/bfdm/finance/FRM_Vol2_Manual.asp)

FRM Vol. 3 - [http://otda.state.ny.net/bfdm/finance/FRM\\_Vol3\\_Manual.asp](http://otda.state.ny.net/bfdm/finance/FRM_Vol3_Manual.asp)

FRM Vol. 4 - [http://otda.state.ny.net/bfdm/finance/FRM\\_Vol4\\_Manual.asp](http://otda.state.ny.net/bfdm/finance/FRM_Vol4_Manual.asp)

For claiming KinGAP administration costs starting October 1, 2011, costs will be determined in two ways. F2 costs will be allocated based on Random Moment Survey (RMS) percentages. Non-Recurring KinGAP expenses will be direct charged on the Schedule D-2.

Further claiming instructions will be provided when the claim forms are revised.

#### **Questions on claiming should be directed to:**

Ed Conway (Regions 1 – 5)

1-800-343-8859, ext 4-7549

[Edward.Conway@otda.state.ny.us](mailto:Edward.Conway@otda.state.ny.us)

Michael Simon (Region 6)

212-961-8250

[Michael.Simon@otda.state.ny.us](mailto:Michael.Simon@otda.state.ny.us)

## **Additional Information**

### **Treatment of KinGAP Income for Other Programs**

If a relative guardian in receipt of kinship guardianship assistance payments applies for other social services district programs, the kinship guardianship assistance payments are treated in the following manner:

- **Temporary Assistance** – Whether a child on whose behalf kinship guardianship assistance payments are received is included in the Temporary Assistance (TA) case depends on if a family benefits financially by including or excluding such child. When such child is included in the TA case, the full kinship guardianship assistance payment must be budgeted as unearned income.
- **Food Stamps** – Kinship guardianship assistance payments should be treated the same as foster care payments for Food Stamp purposes. This gives families the choice of including the child as a member of the household, and counting the kinship guardianship assistance payment as unearned income, or excluding the child and the kinship guardianship assistance payment. The decision to include or exclude a child from a household's Food Stamp case should depend on if the household would benefit financially by including or excluding the child. (See also 08-OTDA-ADM 04, "Treatment of Income From Adoption Subsidy Payments and Foster Care Payments in Determining Food Stamp Program Eligibility and Benefit Amount." The ADM explains expenses that can be excluded as income.)
- **HEAP** – a child on whose behalf kinship guardianship assistance payments are received is included in the household count, but guardianship payments are excluded income in the HEAP eligibility determination.

The Office of Temporary and Disability Assistance plans to issue an ADM to the social services districts' non-services units to address the treatment of kinship guardianship assistance payments in regard to applications for Temporary Assistance, Food Stamps, and/or HEAP programs. The *Practice Guide for Kinship Guardianship Assistance* and the *Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)* each contains a comparison chart for adoption, kinship guardianship assistance and foster care. The above information has been made part of this chart.

### **Special Immigrant Juvenile Status (SIJS)**

Children in a kinship guardianship assistance arrangement may be eligible to apply for Special Immigrant Juvenile Status (SIJS) if they meet the other requirements for SIJS status: they are 21 or under at the time of the application for SIJS and not married; there is a judicial finding that they were abused, neglected or abandoned; reunification with one or more parent is not a viable option; and returning to the country of origin is not in their best interests. See also 11-OCFS-ADM-01 Special Immigrant Juvenile Status (SIJS) issued February 7, 2011 at the following link:

[http://www.ocfs.state.ny.us/main/policies/external/OCFS\\_2011/ADMs/11-OCFS-ADM-01%20Special%20Immigrant%20Juvenile%20Status%20\(SIJS\).pdf](http://www.ocfs.state.ny.us/main/policies/external/OCFS_2011/ADMs/11-OCFS-ADM-01%20Special%20Immigrant%20Juvenile%20Status%20(SIJS).pdf)

### ***Kinship Guardianship Assistance Practice Guide***

This Guide was developed to primarily assist foster care caseworkers with the assessment and clinical considerations necessary to determine eligibility for kinship guardianship assistance payments and to achieve permanency for the child.

The Guide contains an appendix specifically for Child Protective Services (CPS) workers. CPS workers need information about KinGAP so they can assist relatives early on when out-of-home placement is being considered and relatives are found. When a CPS worker first determines out-of-home placement is needed, the first priority is a safe placement and child permanency may not be the focus. However, the decision made by the initial placement with the relative may have lasting consequences for the child's eventual permanency. It is essential that the CPS worker understand KinGAP and provide information about this program to any relative considering providing out-of-home care to a child. The information is especially critical to have *before* a relative determines which legal arrangement he/she would like to pursue. Full disclosure of all placement and custody/guardianship options is essential for a relative to make an informed decision about how they want to proceed with the legal arrangement. The Guide is posted at [www.ocfs.state.ny.us/kinship/](http://www.ocfs.state.ny.us/kinship/)

### ***Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)***

This publication was developed for prospective relative guardians, so they have a resource tailored to their needs for information about KinGAP. Some tools are in the ***Kinship Guardianship Assistance Practice Guide***, as well. Workers should familiarize themselves with the content so that they can respond to questions or clarify information for the prospective relative guardians. The booklet is posted at [www.ocfs.state.ny.us/kinship/](http://www.ocfs.state.ny.us/kinship/)

### **Changes to Curricula**

All relevant training courses for caseworkers will be modified, as necessary, to include information about the kinship guardianship assistance and non-recurring guardianship expenses programs. The level of detail will vary, depending upon the curriculum being modified.

### **KinGAP HELP**

A special mailbox has been set up for questions regarding the Kinship Guardianship Assistance Program. Questions are to be sent to:

**ocfs.sm.sppd.KinGap.Help (through Outlook)**

**OR to: [KinGaphelp@dfa.state.ny.us](mailto:KinGaphelp@dfa.state.ny.us)**

OCFS will determine at a later time how long the mailbox will be kept open, and advise you accordingly.

**\*Attachments:**

- A. KinGAP Relative Notification Letter (Model)
- B. Application for the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs – OCFS 4430 – (Required Form / Local Equivalent must be approved by OCFS)
- C. Kinship Guardianship Assistance and Non-recurring Guardianship Expenses Agreement – OCFS 4431 – (Required Form)
- D. Kinship Guardianship Assistance and Non-recurring Guardianship Expenses Amendment – OCFS 4432 – (Required Form)
- E. Kinship Guardianship Assistance Program Annual Notification Letter (Model)
- F. Kinship Guardianship Assistance Program Certification Form (Model)
- G. KinGAP Fair Hearing Notice: Denial (Required Form)
- H. KinGAP Fair Hearing Notice: Denial of Upgrade (Required Form)
- I. KinGAP Fair Hearing Notice: Discontinuance (Required Form)
- J. Non-Recurring Kinship Guardianship Expenses Reimbursement Form – OCFS 4434 – (Required Form)

\*Spanish translations to be made available at a later date.

**VI. Effective Date**

This ADM is effective April 1, 2011.

*/s/ Nancy W. Martinez*

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**Issued By:**

Name: Nancy W. Martinez

Title: Director

Division/Office: Strategic Planning and Policy Development

[Date]

[Relative Name]

[Street Address]

[City, ST ZIP Code]

Dear [Relative Name] :

My name is [Caseworker's Name] and I am a caseworker for [LDSS/agency name] . I am working with the [Family's Name] family. Their child [Child's Name], who was born on [DOB] , is now in the custody of [LDSS/agency name] . I am contacting you because your name was given to me as a relative of [Child's Name] .

Relatives play an important role in the lives of children, especially those who are being temporarily cared for by someone other than their parents. Children do better when they are placed or able to stay connected in other ways to people who know and care about them.

I am contacting you to see if you are interested in being considered as a placement resource for or otherwise staying in contact with [child's first name] . I would like to discuss with you your options for helping to care for [child's first name] . For example, you may want to offer a temporary home for [child's first name] so he/she does not need to be placed in foster care, or you may be interested in applying to be a foster parent for [child's first name] . Depending on the type of involvement you are interested in, there may be financial, medical, or other support available. Be aware, the decision made at the initial placement with you may have lasting consequences for the child's eventual permanency and may affect eligibility for the programs described below.

If permanent care for [child's first name] other than return to parent(s) becomes necessary, you may be interested in guardianship or adoption. New York State has both a kinship guardianship assistance program and an adoption subsidy program that relatives may be eligible for when at first they serve as the foster parent to a child. Both programs provide financial support, and in most cases medical coverage for the child until the child reaches the age of 18, or in some cases 21, for as long as the guardian or adoptive parent remains legally responsible for the child and provides support. Please review the materials enclosed with this letter for more information about placement options and contact me if you have questions.

If you are not able to provide a home for [child's first name] , there are other ways for you to stay involved in his/her life and offer important family connections. You might visit regularly, arrange weekend or holiday visits at your home, otherwise keep in contact or offer support to the child or family.

Please contact me as soon as possible so I can assist you with reviewing all the options and providing you with any forms or applications you may need. I may be reached at

**[phone number]** . I also ask that you share with me names and contact information of other relatives you think may be interested in connecting with or being a resource for **[child's first name]** .

Thank you, and I look forward to hearing from you.

Sincerely,

**[Your Name]**

**[Title]**

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**APPLICATION FOR THE KINSHIP GUARDIANSHIP ASSISTANCE  
AND NON-RECURRING GUARDIANSHIP  
EXPENSES PROGRAMS (KINGAP)**

KinGAP is a New York State benefit program to help support a child after final discharge from foster care to a relative guardian.

**An application cannot be submitted until:**

- the relative has been the foster child's fully certified or fully approved foster parent(s) for at least six consecutive months; **AND**
- the fact finding of abuse or neglect has been completed, **AND** the child's initial permanency hearing has been completed for a child who was placed into foster care as an abused or neglected child (pursuant to Article 10 of the Family Court Act) ; **OR** the child's initial permanency hearing has been completed for any other child in foster care.

In addition, this program is available where the child's permanency goal is not return to parent(s) or adoption; and the social services district with custody or guardianship of the foster child has determined that the kinship guardianship arrangement is in the best interests of the child.

This is only an application\*. **If your application is approved, you must enter into a signed agreement** with the social services district that currently has custody or guardianship of the child in order to receive kinship guardianship assistance payments.\*\*

\*Please review the booklet: "**Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGap).**" Pay special attention to the Comparison Chart included at the end of the booklet. Consult your caseworker with any question you may have.

\*\* The social services district must make a decision on a completed application within 30 days of your submission of a completed application. If no decision is made in that time frame, you are entitled to a fair hearing. Attached to this application is information on how to request a fair hearing.

**PART 1: [To be completed by the relative(s)]**

1. I am (We are) applying for the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs for \_\_\_\_\_ / /  
(foster child's name) (child's date of birth).
2. I am (We are) related to the child by blood, marriage or adoption, as the child's \_\_\_\_\_  
(relationship).
3. I (We) agree to permanently care \_\_\_\_\_ until he/she is grown to adulthood.  
(foster child's name)
4. I (We) understand that the child will be consulted about this arrangement if the child is age 14 or over and may be consulted if the child is younger than 14. I (We) understand a youth age 18 or over must consent to this arrangement.
5. I am (We are) interested in applying for KinGAP for the following siblings of \_\_\_\_\_ who are also in foster care:  
(foster child's name)

Name: _____	DOB: _____ / _____ / _____
Name: _____	DOB: _____ / _____ / _____
Name: _____	DOB: _____ / _____ / _____
Name: _____	DOB: _____ / _____ / _____

**Make a separate application for each sibling.****Signature(s):****Relative Applicant 1.** \_\_\_\_\_**Relative Applicant 2.** \_\_\_\_\_**Youth** (if age 18 or over) \_\_\_\_\_

(By signing this application, I consent to a kinship guardianship arrangement with the prospective relative guardian(s) who signed above.)

**Date of Application:** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**PART 2: [To be completed by the social services district that has custody or guardianship of the foster child, OR when authorized by the social services district that has custody or guardianship of the foster child, the voluntary agency that certified or approved the foster parent(s) making application].**

### 1. Approval / Certification Status

<input type="checkbox"/>	The most recent approval letter was issued for _____	(name of relative(s))
	on ____ / ____ / ____ by _____	(date) (agency name)

**OR**

<input type="checkbox"/>	The most recent certificate to board was issued for _____	(name of relative(s))
	on ____ / ____ / ____ by _____	(date) (agency name)

**AND**

if the above date is less than six months from the date of this application,

<input type="checkbox"/>	The approval letter prior to the most recent approval was issued for _____	(name of relative(s))
	on ____ / ____ / ____ by _____	(date) (agency name)

**OR**

<input type="checkbox"/>	The certificate to board prior to the most recent certification was issued for _____	(name of relative(s))
	on ____ / ____ / ____ by _____	(date) (agency name)

**[Do not record dates of emergency approval or emergency certification.]**

<input type="checkbox"/>	The approval or certification has <b>not</b> lapsed, been revoked, surrendered, or not renewed during the most recent six months of foster care provided to the foster child by the foster parent(s).
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### 2. Time Period Child Placed With Relative

<input type="checkbox"/>	_____ has been in foster care with _____	
	(name of child)	
	_____ for at least six consecutive months	
	(name of relative(s))	
	prior to the date of this application, during which time the relative was fully approved or certified during that entire period. Date of placement with relative ____ / ____ / ____	
		(date)

### 3. First Permanency Hearing

<input type="checkbox"/>	The foster child's first permanency hearing has been completed. Date of completion ____ / ____ / ____	
		(date)

**4. Fact Finding / Other Status**

☐ Child removed from home due to abuse or neglect (Article 10 of the Family Court Act) and fact finding hearing has been completed. Date of completion \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
(date)

**OR****Child was**

- ☐ voluntarily placed in foster care  
☐ surrendered for adoption and placed in foster care  
☐ placed as a Person in Need of Supervision (PINS)  
☐ placed as a juvenile delinquent (JD)

**For Agency Use Only:**

**Date of Receipt of Application:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**If applicable, Voluntary Agency Recommendation**

☐ Recommend Approval      ☐ Recommend Denial

**Reason for Recommendation:** \_\_\_\_\_

**Social Services District Determination:**

☐ Approved

**Date of Approval:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Authorized signature of social services official:**

X

☐ Denied

**Date of Denial:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**Reason for denial:** \_\_\_\_\_

**Authorized signature of social services official:**

X

## **Information Regarding Fair Hearings**

If the social services district has not made a decision within 30 days of the submission of a complete application, you have a right to request a fair hearing. If you request a fair hearing, the state will send you a notice informing you of the time and place of the hearing. If you choose to pursue a fair hearing, you have the right to be represented by counsel or a relative, a friend or other person, or to represent yourself, to produce witnesses and other evidence on your behalf, to cross-examine all witnesses against you, and to examine all evidence against you.

**LEGAL ASSISTANCE:** If you choose to be represented by counsel at the hearing, it is your responsibility to obtain an attorney. An attorney will not be appointed for you for the purpose of the fair hearing. If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under “Lawyers.”

At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to have access to the documentation the social services district intends to present at the fair hearing. To ask for documents, call or write to the social services district to which you applied.

**Please send your written request for a fair hearing to the following address:**

New York State Office of Children and Family Services  
Bureau of Special Hearings  
52 Washington Street North Building, Room 322 North  
Rensselaer, New York 12144-2796  
Attention: Beth Mancini

**In your written request, you must state the reason for requesting a fair hearing.**

If you will require a language interpreter at the fair hearing, state in your letter requesting a fair hearing that you need a language interpreter, and identify the language needed to be interpreted.

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**KINSHIP GUARDIANSHIP ASSISTANCE AND  
NON-RECURRING GUARDIANSHIP EXPENSES AGREEMENT**

***Initial Agreement***

**NOTE:** Prospective relative guardian(s) – **BEFORE SIGNING**, please read this Agreement carefully, including the copy of the Summary of the New York State Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs (Appendix A). Prospective relative guardian(s) have the right to consult with an attorney before signing this Agreement. Prospective relative guardian(s) must sign and receive a copy of this Agreement. This Agreement must be submitted and receive final approval by the social services district named below before the letters of guardianship are issued by the court to the prospective relative guardian(s) on behalf of the child named in this Agreement.

**SECTION I**

<b>Child Information</b>			
Child's First Name:			
Child's Last Name:			
Date Child Placed into Foster Care:			
Date Child Placed with Prospective Relative Guardian(s):			
Child's Date of Birth:			
<b>Full Name and Address of Prospective Relative Guardian(s)</b>			
Prospective Relative Guardian:			
Prospective Relative Guardian:			
Address:			
City:		County:	
State:	Zip:	Phone:	Extension:
<b>Name and Address of Social Services District with care and custody or custody and guardianship of child named in this Agreement</b>			
Name:			
Address:			
City:		County:	
State:	Zip:		
Case Manager's Name:			
Case Manager's Phone Number:			Extension:
<b>Name and Address of Agency of Case Planner (If Applicable)</b>			
Name:			
Address:			
City:		County:	
State:	Zip:		
Case Planner's Name:			
Case Planner's Phone Number:			Extension:

## **SECTION II - Purpose of this Agreement**

Both federal and State law require that payments for kinship guardianship assistance and non-recurring kinship guardianship expenses must be made in accordance with a written agreement. There are a number of factors that determine the extent and type of benefits that will be provided. These are explained in this Agreement and in the Summary of the New York State Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs that is attached to this Agreement and is incorporated herein (see Appendix A). This Agreement will clearly spell out the benefits to be provided, and identify the provisions affecting those benefits. It will also specify the circumstances under which the benefits may be terminated or the benefits may be changed in the future and whether such changes require a new Agreement or only an amendment to this Agreement. In addition, this Agreement will address the additional services and assistance for which the prospective relative guardian(s) and the child are eligible and how the prospective relative guardian(s) may apply for such services or assistance.

This Agreement will take effect: a) when completed and signed by the prospective relative guardian(s) and by the appropriate social services district **and** b) when, following the execution of this Agreement, the court issues letters of guardianship to the prospective relative guardian(s) named in this Agreement on behalf of the child named in this Agreement. This Agreement constitutes a contract between the prospective relative guardian(s) and the social services district, subject to federal law, the laws of the State of New York and the regulations of the Office of Children and Family Services (OCFS). The prospective relative guardian(s) must be given a final signed copy of this Agreement.

***The relative guardian(s) should retain a copy of this Agreement along with the Summary of the New York State Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs.***

## **SECTION III - Eligibility for Kinship Guardianship Assistance Payments**

The eligibility requirements for Kinship Guardianship Assistance Payments are as follows:

### **A. Prospective Relative Guardian(s)**

**The prospective relative guardian(s) must satisfy each of the following requirements:**

1. ☐ Is related to the child named in this Agreement through blood, marriage or adoption;

**AND**

2. ☐ Has been caring for the child named in this Agreement as a fully certified or fully approved foster parent for at least six consecutive months prior to applying for kinship guardianship assistance payments;

**AND**

3. ☐ Has demonstrated a strong commitment to care for the child named in this Agreement and has committed to care for such child on a permanent basis;

**AND**

4. ☐ Each prospective relative guardian(s) and any other person over the age of 18 who resides in the home of the prospective relative guardian(s) must have satisfactorily completed national and state criminal history record checks in accordance with section 378-a(2) of the Social Services Law, either as part of the certification or approval of the prospective relative guardian(s) as a certified or approved foster parent, or as part of the application for kinship guardianship assistance payments on behalf of the child named in this Agreement;

**AND**

5. ☐ The social services district has completed an inquiry to the New York Statewide Central Register of Child Abuse and Maltreatment as to whether each prospective relative guardian and each person over the age of 18 living in the home of the prospective relative guardian(s) is the subject of an indicated report of child abuse or maltreatment and, if such applicant or other household member resided in another state in the five years preceding the application for kinship guardianship assistance payments, that the social services district requested child abuse and maltreatment information from the child abuse and maltreatment registry from the applicable state, either as part of the certification or approval of the prospective relative guardian(s) as a certified or approved foster parent, or as part of the application for kinship guardianship assistance payments on behalf of the child named in this Agreement.

**B. Child****The child must satisfy each of the following requirements:**

1. ☐ Is under the age of 21;

**AND**

2. ☐ Is in the care and custody or custody and guardianship of a social services official pursuant to section 358-a, 384-a or 384-b of the Social Services Law or Article 3, 7 or 10 of the Family Court Act and entered such care and custody or custody and guardianship prior to his or her 18<sup>th</sup> birthday;

**AND**

3. ☐ The child has been in foster care for at least six consecutive months in the home of the prospective relative guardian(s);

**AND**

4. ☐ Return home or adoption is not appropriate permanency options for the child named in this Agreement;

**AND**

5. ☐ The child has demonstrated a strong attachment to the prospective relative guardian(s);

**AND**

6. ☐ If the child is less than 14 years of age, there has been age appropriate consultation with the child regarding the relative guardianship arrangement;

**AND**

7. ☐ The child, if 14 years of age or older, has been consulted regarding the relative guardianship arrangement;

**AND**

8. ☐ The child, if 18 years of age or older, has consented to the relative guardianship arrangement;

**AND**

9. ☐ If the child was placed into foster care pursuant to Article 10 of the Family Court Act, both the fact finding hearing held pursuant to section 1051 of the Family Court Act and the child's first permanency hearing pursuant to section 1089(a)(2) of the Family Court Act have been completed; or if the child was not placed into foster care pursuant to Article 10 of the Family Court Act, the child's first permanency hearing has been completed.

**C. Social Services District****The social services district must satisfy the following requirements:**

1. ☐ The social services district has determined that the child named in this Agreement is eligible for kinship guardianship assistance payments;

**AND**

2. ☐ The social services district has determined that approval of the prospective relative guardian(s) as legal guardian(s) of the child named in this Agreement is in such child's best interests;

**AND**

3. ☐ The social services district has determined and documented that compelling reasons exist for determining that the return home of the child and the adoption of the child are not in the best interests of the child and are not appropriate permanency planning goals for the child;

**AND**

4. ☐ This Agreement is being executed and approved before the issuance of the letters of guardianship by the court on behalf of the child named in this Agreement.

**SECTION IV - Eligibility for Federal Kinship Guardianship Assistance Payments****A. Criteria:**

- ☐ The child and the prospective relative guardian(s) satisfy the standards set forth in Section III of this Agreement;

**AND**

- ☐ The child was removed from the child's home pursuant to a voluntary placement agreement (SSL §384-a) or by a court determination that continuation of the child in his/her home would be contrary to the welfare of the child (or that removal of the child from his/her home was in the best interests of the child);

**AND**

- ☐ The child was eligible for Title IV-E foster care maintenance payments while residing for at least six consecutive months in the home of the prospective relative guardian(s) (who was fully certified or fully approved as a foster parent) prior to application for kinship guardianship assistance payments.

**B. Determination:**

The child's eligibility for federally funded kinship guardianship assistance payments was determined at the time of the application for kinship guardianship assistance payments.

- ☐ The child is eligible for federal kinship guardianship assistance payments under Title IV-E of the Social Security Act;

**OR**

- ☐ The child is not eligible for federal kinship guardianship assistance payments under Title IV-E of the Social Security Act.

**SECTION V - Medical Assistance/Medical Subsidy**

**Medical Assistance** is available for a child who is Title IV-E eligible for kinship guardianship assistance payments. Medical Assistance provides coverage for eligible medical care, services or supplies obtained from a provider enrolled in the Medical Assistance program. **Medical Assistance** is also available in New York State for any child who is not Title IV-E eligible for kinship guardianship assistance payments, except that Medical Assistance is not available for a child who is a non-qualified immigrant.

**Note:** For a child who is Title IV-E eligible for kinship guardianship assistance payments, moving to another state after guardianship is granted to the relative guardian(s) will result in the transfer of responsibility for the child's Medical Assistance to the new state of residence. For a child who is not Title IV-E eligible for kinship guardianship assistance payments, who had been categorically eligible for Medical Assistance in New York State, moving to another state will not transfer responsibility for the child's Medical Assistance to the new state of residence. Arrangements with the originating social services district must be made to maintain the child's Medical Assistance coverage, unless the relative guardian(s) agrees to an alternate arrangement.

**Medical Subsidy** is a non-federally State funded program available for a child for whom kinship guardianship assistance payments are being made pursuant to this Agreement and who is not eligible for Medical Assistance and for whom the prospective relative guardian is unable to obtain appropriate and affordable medical coverage through any other available means, including Child Health Plus. Medical Subsidy is limited to the costs of medical care, services and supplies covered under the Medical Assistance program. Providers do not have to be enrolled in the Medical Assistance program. However, payment is limited to amounts not to exceed those established for the Medical Assistance program.

**Note:** Until issuance of letters of guardianship by the court, the medical expenses of the foster child will continue to be paid through foster care.

**Check the Appropriate Box Below**

☐ Child is **Title IV-E eligible**, and will be covered by Medical Assistance up to the age of 18; or up to age 21, if the child was 16 years of age before this Agreement became effective, and the child is either: (1) completing secondary education or a program leading to an equivalent credential; (2) enrolled in an institution which provides post-secondary or vocational education; (3) participating in a program or activity designed to promote, or remove barriers to employment; (4) employed for at least eighty (80) hours per month; or (5) incapable of doing any of the activities described in (1)-(4) due to a medical condition, which incapacity is supported by regularly updated information provided by the kinship guardian(s) and recorded in the child's eligibility file. All children are eligible for continuous Medical Assistance coverage for a period of up to 12 months after discontinuance of Kinship Guardianship Assistance payments, except that continuous coverage does not extend beyond the end of the month in which the child turns 19 years of age. If the child is age 19 or over, or if the continuous coverage period has ended, a separate eligibility determination must be completed.

**OR**

☐ Child is **not Title IV-E eligible**, and will be covered by Medical Assistance up to the age of 18; or up to age 21, if the child was 16 years of age before this Agreement became effective, and the child is either: (1) completing secondary education or a program leading to an equivalent credential; (2) enrolled in an institution which provides post-secondary or vocational education; (3) participating in a program or activity designed to promote, or remove barriers to employment; (4) employed for at least 80 hours per month; or (5) incapable of doing any of the activities described in (1)-(4) due to a medical condition, which incapacity is supported by regularly updated information provided by the relative guardian(s) and recorded in the child's eligibility file. All children are eligible for continuous Medical Assistance coverage for a period of up to 12 months after discontinuance of Kinship Guardianship Assistance payments, except that continuous coverage does not extend beyond the end of the month in which the child turns 19 years of age. If the child is age 19 or over, or if the continuous coverage period has ended, a separate eligibility determination must be completed.

**OR**

☐ Prospective relative guardian has available and affordable medical coverage for the child, and agrees to provide such coverage for the child.

**OR**

☐ Child is **not Title IV-E eligible** and not otherwise eligible for Medical Assistance, or coverage is not available and affordable to the relative guardian. He/she will be covered by either Child Health Plus or New York State Medical Subsidy for as long as kinship guardianship assistance payments continue to be made pursuant to this Agreement. At age 19, if kinship guardianship assistance payments are still being made, medical subsidy will be provided until the child reaches age 21 or until kinship guardianship assistance payments are discontinued whichever occurs earlier.

***Section VI - Guardianship Assistance Calculations*****Current Board Rate/Guardianship Assistance Request**

Current Foster Care Board Rate:

☐ Basic ☐ Special ☐ Exceptional

Current Foster Care Monthly Amount Rate: \$ \_\_\_\_\_

Foster Care Per Diem Rate: \$ \_\_\_\_\_

**The level of rate approved by the social services official for the purpose of this Agreement is:**

☐ Basic ☐ Special ☐ Exceptional

**PART A – Prospective Relative Guardian(s) Income Not Used in Calculating Amount of Assistance**

Monthly payments for the care of the child named in this Agreement will be paid if the child is eligible regardless of the prospective relative guardian(s)' income.

**Total Per Diem Rate:** \_\_\_\_\_

**OR**

**PART B – Prospective Relative Guardianship(s) Income and Size of the Family Used In Calculating Guardianship Assistance Payments**

The monthly payment will be calculated based, in part, on a per diem rate and will therefore slightly vary from month to month depending on the number of days in a month.

- A. Prospective Relative Guardian(s) annual income \$ \_\_\_\_\_
- B. Family size including ward: \_\_\_\_\_
- C. Income at which 100% is required \$ \_\_\_\_\_
- D. Ratio of Family Income to Income requiring 100%: \_\_\_\_\_
- E. Percent of Board Rate to be paid: \_\_\_\_\_
- F. **Total Per Diem Rate:** \$ \_\_\_\_\_

**Note:** Total Per Diem Rate Includes: Per Diem Board Rate, Per Diem Clothing Rate, Diaper Allowance (if applicable), and Per Diem Rate for a child of a minor parent (if applicable).

**Note:** The prospective relative guardian(s) must present to the social services district evidence of income comprising of wage stubs, or a recent W-2, or an employer's statement of wages or, in the case of income other than wages or salary, a copy of the latest federal income tax return. The social security numbers of the prospective relative guardian(s) should be included in this information provided, however, the submission of the social security number is voluntary and an application for approval of kinship guardianship assistance payments may not be denied if a social security number is not provided.

***SECTION VII - Adjustment of Kinship Guardianship Assistance Payment***

Kinship guardianship assistance payments will be increased whenever \_\_\_\_\_  
County increases the room and board rate and/or the clothing replacement allowance for children in foster care. In situations, a decrease may occur when a child is no longer eligible to receive a diaper allowance.

**Note:** Neither this Agreement nor the amount of the kinship guardianship assistance payment will be subject to an annual review. Pursuant to OCFS regulations, relative guardian(s) may request a change in the amount paid under this Agreement. A request for an increase in the amount paid must be accompanied by documentation justifying the increase. If the request is approved, the relative guardian(s) will be required to enter into an amendment to this Agreement.

### **SECTION VIII - Non-Recurring Guardianship Expenses**

**Documentation of all Non-Recurring Guardianship Expenses being claimed must be submitted by the relative guardian(s) to the social services district named in this Agreement prior to payment and within two years of the issuance of the letters of guardianship.**

1. ☐ The child is eligible for federal kinship guardianship assistance payment under Title IV-E (see Section IV of this Agreement);

**OR**

2. ☐ The child is not eligible for federal kinship guardianship assistance payments under Title IV-E but is eligible for payment for non-recurring guardianship expenses in accordance with section 458-c of the Social Services Law and OCFS regulations.

**OR**

3. ☐ The prospective relative guardian(s) does not wish to apply for reimbursement of Non-Recurring Guardianship Expenses.

**Non-Recurring Guardianship Expenses include reasonable and necessary expenses that are directly related to obtaining legal guardianship of the child named in this Agreement which are not reimbursed from other sources. Non-Recurring Guardianship Expenses include reasonable and necessary fees, court costs, attorney fees and other expenses which are directly related to obtaining guardianship of such child and which do not violate federal or State law. Payment for Non-Recurring Guardianship Expenses may not be applied for following the issuance of letters of guardianship to the kinship guardian(s) on behalf of the child named in this Agreement.**

### **SECTION IX - Prospective Relative Guardian(s) Signature**

It is the responsibility of the relative guardian(s) to inform the social services district when they are no longer legally responsible for the support of the child, no longer providing any support to the child named in this Agreement, or the letters of guardianship for the child named in this Agreement have been revoked, terminated, suspended or surrendered.

I/We, the prospective relative guardian(s), have received and read the "The Summary of the New York State Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs."

I/We, the prospective relative guardian(s), have been given an opportunity to examine this Agreement as completed and to discuss it with my/our attorney and have read this Agreement fully and understand the content thereof.

\_\_\_\_\_  
PROSPECTIVE RELATIVE GUARDIAN'S SIGNATURE

/ /  
\_\_\_\_\_  
DATE (MONTH/DAY/YEAR)

\_\_\_\_\_  
PROSPECTIVE RELATIVE GUARDIAN'S SIGNATURE

/ /  
\_\_\_\_\_  
DATE (MONTH/DAY/YEAR)

### **SECTION X - Social Services District Signature**

\_\_\_\_\_  
SOCIAL SERVICES OFFICIAL'S SIGNATURE

/ /  
\_\_\_\_\_  
DATE (MONTH/DAY/YEAR)

**(DATE MUST BE SAME DATE OR LATER THAN PROSPECTIVE RELATIVE GUARDIAN(S) SIGNATURE)**

## **Appendix A**

### **SUMMARY OF THE NEW YORK STATE KINSHIP GUARDIANSHIP ASSISTANCE AND NON-RECURRING GUARDIANSHIP EXPENSES PROGRAMS**

The following is a summary of the New York State Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs. If you have any additional questions concerning the Kinship Guardianship Assistance Program, the Non- Recurring Guardianship Expenses Program, Medical Assistance or any other service or assistance referenced in this Agreement, please contact the social services district named in this Agreement.

#### **I. Legal Authority**

New York State's legal authority for the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs for eligible children is found in sections 458-a-458-f of the Social Services Law and OCFS regulations, 18 NYCRR Part 436. The applicable federal legal authority is Title IV-E of the Social Security Act (sections 470-479).

#### **II. General Provisions**

1. Pursuant to this Agreement, kinship guardianship assistance payments will remain in effect until the child's 18th birthday or, if the child was 16 years of age before this Agreement became effective, until the child's 21st birthday provided that the child is: (i) completing secondary education or a program leading to an equivalent credential; (ii) enrolled in an institution which provides post-secondary or vocational education; (iii) employed for at least 80 hours per month; (iv) participating in a program or activity designed to promote, or remove barriers to, employment; or (v) incapable of any of such activities due to a medical condition, which incapability is supported by regularly updated information provided by the relative guardian(s) and which is recorded in the child's eligibility file.
2. The social services district executing this Agreement will remain the responsible social services district regardless of where the relative guardian(s) and child subsequently move.
3. This Agreement will remain in effect regardless of the state in which the relative guardian(s) reside at any time. Relative guardian(s) residing outside New York State who experience a problem regarding the payment of kinship guardianship assistance and/or non-recurring guardianship expenses under this Agreement may request assistance from the social services district referenced on page 1 of this Agreement.
4. This Agreement cannot be transferred by the relative guardian(s) to any other party.
5. Kinship guardianship assistance payments will not begin until this Agreement has been approved by a social services official and thereafter, the court has issued letters of guardianship to the relative guardian(s) on behalf of the child named in this Agreement.
6. This Agreement may not be amended except upon the written mutual agreement of the relative guardian(s) and the social services district.

#### **III. Monetary Support and Services**

1. The relative guardian(s) will receive a monthly kinship guardianship assistance payment regardless of family income. The amount of the kinship guardianship assistance payment is calculated in Section VI of this Agreement and it is based on the child's foster care board rate. It may also be affected by the family income and size of the family. Where family income and size of the family are factors, Section VI will show the calculation. The amount of kinship guardianship assistance payments may not be less than 75 percent of the applicable board rate and not more than 100 percent of the applicable board rate. The applicable board rate will be an amount equal to the monthly foster care board payment that has been made by the social services district for the care and maintenance of the child when such child was boarded out as a foster child in the home of the prospective relative guardian(s).
2. Relative guardian(s) may request a change in the amount paid under this Agreement by submitting a written, dated request to the social services district named in this Agreement, explaining why an upgrade is needed, along with documentation that is pertinent to the child's condition or behavior, from a physician or other professional who has evaluated, assessed or treated the child for the condition or behavior which may warrant an upgrade. The requests will be reviewed and approved by the social services district named in this Agreement on a case by case basis. If the request is approved, the relative guardian(s)

will be required to enter into an amendment to this Agreement. If the request is denied, the relative may request a fair hearing (*see page 12*).

3. Kinship guardianship assistance payments will reflect any annual increases in the foster care board rate and clothing replacement allowance.
4. Payment for non-recurring guardianship expenses will be made as a one-time payment which may not exceed the maximum of \$2,000. Payment for non-recurring guardianship expenses must be made pursuant to a written Agreement signed (approved) prior to the issuance of the letters of guardianship by the court. Payments will not be made if such letters are not issued. This Agreement addresses the issue of payment of non-recurring guardianship expenses.
5. Documentation of all non-recurring guardianship expenses being claimed by the relative guardian(s) must be submitted by the relative guardian(s) to the social services district prior to payment and within two years of the issuance of the letters of guardianship. Payment may be made either to the relative guardian(s) or to an attorney on behalf of the relative guardian(s).
6. Any child who leaves foster care for guardianship with a relative after reaching the age of 16, and for whom kinship guardianship assistance payments are being made pursuant to this Agreement, is eligible:
  - a) to receive those independent living services that are made available by the social services district named in this Agreement pursuant to section 477 of the Social Security Act;

**AND**

- b) to apply for educational and training vouchers made available pursuant to section 477 of the Social Security Act, which are awarded based on the priorities established by OCFS and the amount of funds made available there for.
7. Relative guardian(s) with questions on the availability of such services or assistance noted in this Agreement and/or the process for applying for such services or assistance should contact the social services district named in this Agreement.

#### **IV. Medical Benefits**

1. When this Agreement provides for medical benefits: Medical Assistance coverage will be provided only for the costs of such care, services and supplies as may be authorized under the State's Medical Assistance program.
2. Medical Assistance coverage will not be subject to review or change, for as long as this Agreement remains in effect.
3. All children in receipt of Medical Assistance coverage are eligible for continuous Medical Assistance coverage for a period of up to 12 months after discontinuance of Kinship Guardianship Assistance payments, except that continuous coverage does not extend beyond the end of the month in which the child turns 19 years of age. If the child is age 19 or over, or if the continuous coverage period has ended, a separate eligibility determination must be completed.
4. Medical Subsidy payments are available only for the cost of care, services and supplies for which the child or the relative guardian(s) will not receive payment or reimbursement from insurance, Medical Assistance or other sources.
5. Where applicable, Medical subsidy payments are made for all care, services and supplies payable under the State's Medical Assistance program. The amount of such payments may not exceed the schedules of payments for such care, services and supplies available under the New York State's Medical Assistance program.
6. Payment for Medical Subsidy pursuant to this Agreement will not be subject to review or change, except that the social services official may request, at the social services official's discretion, either, annually and/or at the submission of any claim, information about medical insurance or other coverage from the relative guardian(s).

7. Relative guardian(s) who experience a problem regarding medical services as provided under this Agreement may request assistance from the New York State Department of Health or the Social Services district referenced on page 1 of this Agreement.
8. If the relative guardian(s) and child move to another state, and the child is Title IV-E eligible for kinship guardianship assistance payments, Medical Assistance is to be provided by the new state of residence.
9. If the relative guardian(s) and child move to another state, and the child is **not** Title IV-E eligible for kinship guardianship assistance payments, Medical Assistance for eligible families is to be continued by New York State, unless the family makes application for Medical Assistance for the child in the new state of residence and the child is found eligible for coverage. New York State will provide coverage in one of the following ways:
  - by the relative guardian(s) submitting the medical bills to the social services district for payment;

**OR**

  - by the medical provider submitting medical bills to the social services district for payment;

**OR**

  - by the medical provider being or becoming an approved Medical Assistance provider in New York State and billing Medicaid.

## **V. Obligations of the Guardian**

1. The relative guardian(s) will receive an annual notice of the continued obligation to support the child named in this Agreement. In addition, the annual notice will include the requirement for the relative guardian(s) to provide certification and documentation of the education status of a school age child. For a child who is 18 years of age or older and was 16 years or older when this Agreement became effective, the relative guardian(s) will also be required to provide certification and documentation of the education/employment status of the child as noted above in Section II of this Summary. The relative guardian(s) must complete, sign and return the form according to the instructions on the notice. It is possible that the social services district may request that the relative guardian(s) provide documentation that addresses and verifies the continuing responsibility to support the child or the provision of support of the child. The social services district may request that the relative guardian(s) meet with the social services district regarding the continued receipt of kinship guardianship assistance. **FAILURE BY THE RELATIVE GUARDIAN(S) TO PROVIDE THE DOCUMENTATION THE SOCIAL SERVICES DISTRICT REQUESTS OR TO MEET WITH THE SOCIAL SERVICES DISTRICT AS DIRECTED MAY RESULT IN THE TERMINATION OF THE KINSHIP GUARDIANSHIP AGREEMENT (THIS AGREEMENT) AND THE TERMINATION OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENTS.**
2. The relative guardian(s) must notify the social services district named in this Agreement in writing within 30 days of any changes in the residential or dependency status of the child; including circumstances or events, which would make them ineligible for kinship guardianship assistance payments. Situations where the relative guardian(s) must notify the social services official include, but are not limited to:
  - a. When the relative guardian(s) no longer provides at least 50% of the kinship guardianship assistance payments towards the financial support of the child;
  - b. When a youth is over the age of 18, and the youth is **not** completing secondary education or a program leading to an equivalent credential; or is **not** enrolled in an institution that provides post-secondary or vocational education; or is **not** participating in a program or activity designed to promote, or remove barriers to, employment; or is **not** employed for at least 80 hours per month; or does **not** have a medical condition that makes him or her incapable of engaging in any of these activities;

- c. When legal guardianship of the child is revoked , terminated suspended, or surrendered;
- d. When the child dies.

The relative guardian(s) must also notify the social services official of any other change of circumstance that may impact continued eligibility for kinship guardianship assistance payments, including, but not limited to, when the child who is the subject of this Agreement no longer resides in the home of the relative guardian(s).

## **VI. Termination**

Kinship guardianship assistance payments made under this Agreement must terminate when the social services official determines any of the following:

1. The child is no longer receiving any support from the relative guardian(s). For the purpose of this Agreement, any support means actual documented use of at least 50% of such monthly kinship guardianship assistance payments by the relative guardian for the food, clothing, medical, education and/or shelter needs of the child;

**OR**

2. The relative guardian(s) is no longer legally responsible for the support of the child named in this Agreement, including because legal guardianship has been revoked, terminated, suspended or surrendered, or when the child is removed from the home of the relative guardian(s), is placed in foster care and the Family Court approves a permanency planning goal for the child other than return of the child to the home of the relative guardian(s);

**OR**

3. A child who was under the age of 16 when this Agreement became effective turns 18;

**OR**

4. A child 18 years of age or older, who was age 16 years or older when this Agreement became effective, reaches 21 or is no longer completing secondary education or a program leading to an equivalent credential; or is not enrolled in an institution that provides post-secondary or vocational education; or is not participating in a program or activity designed to promote, or remove barriers to, employment; or is not employed for at least 80 hours per month; or does not have a medical condition that makes him or her incapable of engaging in any of these activities;

**OR**

5. Death of the child;

**OR**

6. Death of the relative guardian(s) named in this Agreement.

## **VII. Fair Hearing**

1. Any relative guardian(s) aggrieved by the decision of a social services official to discontinue kinship guardianship assistance payments or by a decision to make such payments in an inadequate or inappropriate amount may appeal to the New York Office of Children and Family Services and request a fair hearing thereon. A request for a fair hearing must be made within 60 days after notice of the social service district's decision.
2. The relative guardian(s) may request a fair hearing by writing the New York State Office of Children and Family Services, Special Hearings Unit, 52 Washington Street, Rensselaer, NY 12144-2796. Additional rights regarding the fair hearing process to which the relative guardian(s) is entitled are set forth in Section 458-f of SSL and 18 NYCRR Part 358 and 436.10.

**THIS IS THE FINAL PAGE OF THE KINSHIP GUARDIANSHIP ASSISTANCE AND NON-RECURRING GUARDIANSHIP EXPENSES AGREEMENT.**

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES

## KINSHIP GUARDIANSHIP ASSISTANCE AND NON-RECURRING GUARDIANSHIP EXPENSES AMENDMENT

### SECTION I

**This is an amendment to the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement (a copy of which is attached).**

**NOTE:** **Relative guardian(s) – BEFORE SIGNING**, please read this Amendment to your Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement carefully. Relative guardian(s) have the right to consult with an attorney before signing this Amendment. Relative guardian(s) must sign and receive a copy of this Amendment. This Amendment must be submitted and receive final approval by the social services district named below.

#### Type and Purpose of this Amendment:

☐ Upgrade      ☐ Upgrade Resulting from a Fair Hearing Decision      ☐ Change in Medical Coverage

Date of Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement:    /    /

Date of Issuance of Letters of Guardianship:    /    /

#### Child Information

Child's First Name: \_\_\_\_\_ Child's Date of Birth:    /    /

Child's Last Name: \_\_\_\_\_

#### Full Name and Address of Relative Guardian(s)

Relative Guardian: \_\_\_\_\_

Relative Guardian: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_ Extension: \_\_\_\_\_

**Name and Address of Social Services District that approved the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement for the child named in that Agreement and this Amendment.**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_

Case Manager's Name: \_\_\_\_\_

Case Manager's Phone Number: \_\_\_\_\_ Extension: \_\_\_\_\_

### **SECTION II - Guardianship Assistance Calculations** **Current Board Rate/Guardianship Assistance Upgrade Request**

#### Current Board Rate/Guardianship Assistance Request

Current Kinship Guardianship Assistance Rate:

☐ Basic      ☐ Special      ☐ Exceptional

Current Monthly Amount Rate: \$ \_\_\_\_\_

Current Per Diem Rate: \$ \_\_\_\_\_

**The level of rate approved by the social services official for the purpose of this Amendment is:**

☐ Basic      ☐ Special      ☐ Exceptional

**PART A –Relative Guardian(s) Income Not Used in Calculating Amount of Assistance**

Monthly payments for the care of the child named in this Amendment will be paid if the child is eligible regardless of the relative guardian(s)' income.

**Total Per Diem Rate:** \_\_\_\_\_

**OR**

**PART B –Relative Guardian(s) Income and Size of the Family Used In Calculating Guardianship Assistance Payments**

The monthly payment will be calculated based, in part, on a per diem rate and will therefore slightly vary from month to month depending on the number of days in a month.

- A. Relative Guardian(s) annual income \$ \_\_\_\_\_
- B. Family size including ward: \_\_\_\_\_
- C. Income at which 100% is required \$ \_\_\_\_\_
- D. Ratio of Family Income to Income requiring 100%: \_\_\_\_\_
- E. Percent of Board Rate to be paid: \_\_\_\_\_
- F. **Total Per Diem Rate:** \$ \_\_\_\_\_

**Note:** Total Per Diem Rate Includes: Per Diem Board Rate, Per Diem Clothing Rate, Diaper Allowance (if applicable), and Per Diem Rate for a child of a minor parent (if applicable).

**Note:** The relative guardian(s) must present to the social services district evidence of income comprising of wage stubs, or a recent W-2, or an employer's statement of wages or, in the case of income other than wages or salary, a copy of the latest federal income tax return. The social security numbers of the relative guardian(s) should be included in this information provided, however, the submission of the social security number is voluntary and an application for approval of kinship guardianship assistance payments may not be denied if a social security number is not provided.

***SECTION III - Adjustment of Kinship Guardianship Assistance Payment***

Kinship guardianship assistance payments will be increased whenever \_\_\_\_\_

County increases the room and board rate and/or the clothing replacement allowance for children in foster care. In some situations, a decrease may occur when a child is no longer eligible to receive a diaper allowance.

**Note:** Neither this Amendment nor the amount of the kinship guardianship assistance payment will be subject to an annual review.

***SECTION IV - Medical Assistance/Medical Subsidy*****Check the Appropriate Box Below**

☐ Child is **Title IV-E eligible**, and will be covered by Medical Assistance up to the age of 18; or up to age 21, if the child was 16 years of age before the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement became effective, and the child is either: (1) completing secondary education or a program leading to an equivalent credential; (2) enrolled in an institution which provides post-secondary or vocational education; (3) participating in a program or activity designed to promote, or remove barriers to employment; (4) employed for at least eighty (80) hours per month; or (5) incapable of doing any of the activities described in (1)-(4) due to a medical condition, which incapacity is supported by regularly updated information provided by the kinship guardian(s) and recorded in the child's eligibility file. All children are eligible for continuous Medical Assistance coverage for a period of up to 12 months after discontinuance of Kinship Guardianship Assistance payments, except that continuous coverage does not extend beyond the end of the month in which the child turns 19 years of age. If the child is age 19 or over, or if the continuous coverage period has ended, a separate eligibility determination must be completed.

**OR**

☐ Child is **not Title IV-E eligible**, and will be covered by Medical Assistance up to the age of 18; or up to age 21, if the child was 16 years of age before the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement became effective, and the child is either: (1) completing secondary education or a program leading to an equivalent credential; (2) enrolled in an institution which provides post-secondary or vocational education; (3) participating in a program or activity designed to promote, or remove barriers to employment; (4) employed for at least 80 hours per month; or (5) incapable of doing any of the activities described in (1)-(4) due to a medical condition, which incapacity is supported by regularly updated information provided by the relative guardian(s) and recorded in the child's eligibility file. All children are eligible for continuous Medical Assistance coverage for a period of up to 12 months after discontinuance of Kinship Guardianship Assistance payments, except that continuous coverage does not extend beyond the end of the month in which the child turns 19 years of age. If the child is age 19 or over, or if the continuous coverage period has ended, a separate eligibility determination must be completed.

**OR**

☐ Prospective relative guardian has available and affordable medical coverage for the child, and agrees to provide such coverage for the child.

**OR**

☐ Child is **not Title IV-E eligible** and not otherwise eligible for Medical Assistance, or coverage is not available and affordable to the relative guardian. He/she will be covered by either Child Health Plus or New York State Medical Subsidy for as long as kinship guardianship assistance payments continue to be made pursuant to this Amendment. At age 19, if kinship guardianship assistance payments are still being made, medical subsidy will be provided until the child reaches age 21 or until kinship guardianship assistance payments are discontinued whichever occurs earlier.

### ***SECTION V - Other Terms and Conditions***

All other terms and conditions of the attached Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement not otherwise amended herein shall otherwise remain in effect.

### ***SECTION VI - Relative Guardian(s) Signature***

It is the responsibility of the relative guardian(s) to inform the social services district when they are no longer legally responsible for the support of the child, no longer providing any support to the child named in this Amendment, or the letters of guardianship for the child named in this Amendment have been revoked, terminated, suspended or surrendered.

I/We, the relative guardian(s), have been given an opportunity to examine this Amendment as completed and to discuss it with my/our attorney and have read this Amendment fully and understand the content thereof.

\_\_\_\_\_  
RELATIVE GUARDIAN'S SIGNATURE

\_\_\_\_\_  
DATE (MONTH/DAY/YEAR)

\_\_\_\_\_  
RELATIVE GUARDIAN'S SIGNATURE

\_\_\_\_\_  
DATE (MONTH/DAY/YEAR)

### ***SECTION VII - Social Services District Signature***

\_\_\_\_\_  
SOCIAL SERVICES OFFICIAL'S SIGNATURE

\_\_\_\_\_  
DATE (MONTH/DAY/YEAR)

***(DATE MUST BE SAME DATE OR LATER THAN RELATIVE GUARDIAN(S) SIGNATURE)***

**Kinship Guardianship Assistance Program  
Annual Notification**

**Re: \_\_\_\_\_**  
**(Child's Name)**

Dear \_\_\_\_\_:

According to our records, the child listed above is under 21 years of age and you are receiving kinship guardianship assistance payments for him/her.

The \_\_\_\_\_ County Department of Social Services (County DSS) is required to remind you on an annual basis of your continued obligation to support your relative child for whom you receive kinship guardianship assistance payments and to notify this office if you are no longer providing any support, or if you are no longer legally responsible for the support of the child. As provided in your kinship guardianship assistance agreement, it is your responsibility to inform us of any changes in the residential or dependency status of your relative child that would make the child ineligible for kinship guardianship assistance payments.

For the purposes of the kinship guardianship assistance program, “any support” means actual documented use of at least 50% of kinship guardianship assistance payments by the relative guardian for the child’s food, clothing, medical, educational and/or shelter needs of the child. Documentation of support is not being requested at this time, but may be requested under certain circumstances. For the purposes of the kinship guardianship assistance program, loss of legal responsibility includes, but is not limited to, if your letters of guardianship for this child have been revoked, terminated, suspended, or surrendered, or when the child is removed from your home, is placed in foster care and the Family Court approves a permanency planning goal for the child other than return of the child to the home of the relative guardian.

We are also required to verify the educational status of your relative child if he/she is a school age child. The County DSS must obtain from you a certification of the child’s educational status that the child is one of the following:

- **a full-time elementary or secondary student** which is documented by annual information submitted by the relative guardian(s) as part of this certification;
- **has completed secondary education** which is documented by information submitted by the relative guardian(s) as part of this certification; or
- **is incapable of attending school on a full-time basis due to the child’s medical condition**, which incapacity is supported by annual information submitted by the relative guardian(s) as part of this certification.

Lastly, we are required to determine the educational and/or employment status of each child over the age of 18 who is in receipt of kinship guardianship assistance payments, who was at least 16 years of age before the kinship guardianship assistance agreement became effective. The County DSS must obtain from you a certification of the child’s status that your child is:

- Currently completing secondary education or a program leading to an equivalent credential; or
- Currently enrolled in an institution which provides post-secondary or vocational education; or
- Currently participating in a program or activity designed to promote, or remove barriers to, employment; or
- Currently employed for at least 80 hours per month; or
- Incapable of doing any of the activities described above due to a medical condition.

The selected status above must be documented by annual information submitted by the relative guardian(s) as part of this certification.

**Failure to respond to this notification and to provide the required documentation may lead to discontinuance of kinship guardianship assistance payments. Unauthorized overpayments that result from failure to notify County DSS are subject to recovery.**

After providing the requested information on the attached form and attaching the required documentation, please sign and indicate your current address and telephone number in the spaces provided. This certification serves to confirm your current mailing address and telephone number so that your kinship guardianship assistance payments will not be delayed due to an inaccurate mailing address.

Thank you for your prompt cooperation.

If you have any questions or require assistance in completing the attached form, please contact:

\_\_\_\_\_ at (     ) \_\_\_\_\_.

We are requesting that you complete the form enclosed with this letter and return it to us no later than (insert date).

Sincerely,

\_\_\_\_\_ Department of Social Services

Attachment

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**KINSHIP GUARDIANSHIP ASSISTANCE PROGRAM**  
**CERTIFICATION FORM**

<b>For District Use:</b>	Date Sent: / /
Child's Name:	Child's Date of Birth: / /
Date Letters of Guardianship Issued: / /	

**Relative Guardian's Certification of Child's Status**

I/We hereby certify that the information provided by me/us in this certification form is true and accurate to the best of my/our knowledge involving the child listed above for whom I/we are receiving monthly kinship guardianship assistance payments for him/her from the

County Department of Social Services

**Child At Home:** ☐ Yes ☐ No **or** **Date Child Left Home:** / /

**Answer Part A. For school age children answer Part B. For youth 18 years of age or older, answer Part C.**

**A. SUPPORT**

1. I/We are still legally responsible for the above named child. (check one) ☐ Yes ☐ No

2. I/We continue to provide any support for him/her. (check one) ☐ Yes ☐ No

If your answer to 1. or 2. above is "No," explain: \_\_\_\_\_

**B. SCHOOL AGE CHILD**

To be completed **only** where the child is school-aged in accordance with the laws where the child resides.

***In addition to completing and returning this form, you must provide satisfactory documentation to the social services district that the child is a full-time elementary or secondary student or has completed secondary education. Documentation of the child's education status means a document executed by an appropriate school official that confirms that the child satisfies one of the standards below.***

The above named child is (check only one box):

a. ☐ a full-time elementary or secondary student;

b. ☐ has completed secondary education; or

c. ☐ not attending school full time.

If the above named child has not completed secondary education, please check the box which best describes his or her educational status: The child is:

a. ☐ Enrolled, or in the process of enrolling, in a school which provides elementary or secondary education, in accordance with the laws where you reside; or

School name and address: \_\_\_\_\_

School district name: \_\_\_\_\_

- b. ☐ **Instructed in elementary or secondary education at home, in accordance with the laws where you reside; or**

Name and address of supervising school: \_\_\_\_\_

- c. ☐ **In an independent study elementary or secondary education program, administered by the local school or school district, in accordance with the laws where you reside; or**

Name and address of administering school or district: \_\_\_\_\_

- d. ☐ **Incapable of attending school on a full-time basis due to the child's medical condition.**

*(if box d. is checked, please submit as part of this certification, information which describes the incapacity that prevents full time school attendance. The child's condition must be documented by a physician, or a physician's assistant, or nurse practitioner under the supervision of a physician, or a licensed psychologist).*

### **C. YOUTH 18 YEARS OF AGE, OR OLDER**

To be completed **only** for children who had attained 16 years of age before the kinship guardianship agreement became effective **and** who are currently 18 years of age, or older.

***In addition to completing and returning this form, you must provide satisfactory documentation to the social services district that the child meets one of the educational, training or employment statuses listed below or has a medical condition which makes the child incapable of doing any of these activities. Documentation of the child's status means a document executed by an appropriate person that confirms that the child satisfies one of the standards below. Please see last page for a listing of acceptable documentation.***

The above named child is (check only one box):

- a. ☐ **Completing secondary education or a program leading to an equivalent credential; or**

Complete the following:

Name, location and type of school or program: \_\_\_\_\_

- b. ☐ **Enrolled in an institution which provides post-secondary or vocational education; or**

Complete the following:

Name, location and type of institution: \_\_\_\_\_

- c. ☐ **Participating in a program or activity designed to promote, or remove barriers to, employment; or**

Complete the following:

Name, location and program or activity description: \_\_\_\_\_

- d. ☐ **Employed for at least 80 hours per month; or**

Complete the following:

Name of employer, company, agency or organization, location, nature of employment: \_\_\_\_\_

**e. ☐ Incapable of doing any of the activities described above due to a medical condition.**

*(If box e. is checked, please submit as part of this certification, information which describes the incapacity that prevents participation in the other activities. The child's condition must be documented by a physician, or a physician's assistant, or nurse practitioner under the supervision of a physician, or a licensed psychologist).*

Please sign below and complete information with current address and telephone number. Your reply is appreciated no later than \_\_\_\_ / \_\_\_\_ / \_\_\_\_ .

**Signatures:**

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(Relative Guardian 1)

(Relative Guardian 2)

Signature Date:	Address: (Street Address)			
City	State	Zip Code	Telephone #: (Area Code)	

A prepaid envelope is enclosed for the return of this document. If there are questions, please contact:

\_\_\_\_\_ at (\_\_\_\_) \_\_\_\_\_ .

<b>For Children Over the Age of 18 Who Attained Guardianship Assistance At Age 16 or Later</b> <b>Child Status</b>	<b>Documentation Required</b>
Completing secondary education or a program leading to an equivalent credential, e.g., a youth age 18 and older is finishing high school or taking classes in preparation for a general equivalency diploma exam. *	Name, location and type of school or program; grades, progress report, evaluation or other document from school or program that establishes youth attendance or enrollment.
Enrolled in an institution which provides post-secondary or vocational education, e.g., a youth is enrolled full-time or part-time in a university or college, or enrolled in a vocational or trade school. *	Name, location and type of institution; grades, progress report, evaluation or other document from institution that establishes youth attendance or enrollment.
Participating in a program or activity designed to promote, or remove barriers to employment, e.g., a youth is in Job Corps or attending classes on resume writing and interview skills. *	Name, location and program or activity description; statement from program or activity that establishes youth participation.
Employed for at least 80 hours per month, e.g., a youth is employed part time or full time, at one or more places of employment.	Name of employer, company, agency or organization, location, nature of employment; statement from employer that establishes hours worked per month.
Incapable of doing any of the activities described above due to a medical condition, which incapability is supported by regularly updated written or recorded information in the case plan of the child.	The child's medical condition must be documented by a physician, or a physician's assistant or nurse practitioner under the supervision of a physician, or a licensed psychologist.

***\*An otherwise enrolled youth on a semester, summer or other break is considered enrolled.***

CERTIFIED MAIL

Date:

Dear:

This letter is official notice that your application for kinship guardianship assistance and non-recurring guardianship assistance expenses payments for \_\_\_\_\_  
(child's name and date of birth) has been denied. Your application is being denied because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (reason for denial)

You have the right to appeal this decision by requesting a fair hearing within 60 days of the receipt of this letter. That is a deadline. Failure to make a timely request will result in your loss of the right to a fair hearing. If you request a fair hearing, the state will send you a notice informing you of the time and place of the hearing. If you choose to pursue a fair hearing, you have the right to be represented by counsel or a relative, a friend or other person, or to represent yourself, to produce witnesses and other evidence on your behalf, to cross-examine all witnesses against you, and to examine all evidence against you.

**LEGAL ASSISTANCE:** If you choose to be represented by counsel at the hearing, it is your responsibility to obtain an attorney. An attorney will not be appointed for you for the purpose of the fair hearing. If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers."

At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring

witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to access to the documents that the social services district will present at the fair hearing. To ask for these documents, call or write to the social services district at the telephone number and address below. If you want copies of documents, you should ask for them within a reasonable time before the date of the fair hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, or how to get copies of documents, call or write the social services district at the telephone number and address listed below.

I want a fair hearing. The decision is wrong because

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Please send your written request for a fair hearing to the following address:

New York State Office of Children and Family Services  
Bureau of Special Hearings  
North Building, Room 322  
52 Washington Street  
Rensselaer, New York 12144-2796  
Attention: Beth Mancini

Please attach a copy of this denial letter to your request for a fair hearing.

If you will require a language interpreter at the administrative hearing, state in your letter requesting a hearing that you need a language interpreter and identify the language needed to be interpreted.

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Signature: X \_\_\_\_\_

Date: \_\_\_\_\_

If you have any questions concerning this letter, please call this office at (    ) -    .

Sincerely,

\_\_\_\_\_ County Department of Social Services/New York City Administration for  
Children's Services

Address: \_\_\_\_\_

\_\_\_\_\_

CERTIFIED MAIL

Date:

Dear:

This letter is official notice that your request of an upgrade in your kinship guardianship assistance payments for \_\_\_\_\_ (child's name and date of birth) has been denied. The reason for this denial is because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (reason for denial)

You have the right to appeal this decision by requesting a fair hearing within 60 days of the receipt of this letter. That is a deadline. Failure to make a timely request will result in your loss of the right to a fair hearing. If you request a fair hearing, the state will send you a notice informing you of the time and place of the hearing. If you choose to pursue a fair hearing, you have the right to be represented by counsel or a relative, a friend or other person, or to represent yourself, to produce witnesses and other evidence on your behalf, to cross-examine all witnesses against you, and to examine all evidence against you.

**LEGAL ASSISTANCE:** If you choose to be represented by counsel at the hearing, it is your responsibility to obtain an attorney. An attorney will not be appointed for you for the purpose of the fair hearing. If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers."

At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring

witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to access to the documents that the social services district will present at the fair hearing. To ask for these documents, call or write to the social services district at the telephone number and address below. If you want copies of documents, you should ask for them within a reasonable time before the date of the fair hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, or how to get copies of documents, call or write the social services district at the telephone number and address listed below.

I want a fair hearing. The decision is wrong because

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Please send your written request for a fair hearing to the following address:

New York State Office of Children and Family Services  
Bureau of Special Hearings  
North Building, Room 322 North  
52 Washington Street  
Rensselaer, New York 12144-2796  
Attention: Beth Mancini

Please attach a copy of this denial letter to your request for a fair hearing.

If you will require a language interpreter at the administrative hearing, state in your letter requesting a hearing that you need a language interpreter and identify the language needed to be interpreted.

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Signature: X \_\_\_\_\_

Date: \_\_\_\_\_

If you have any questions concerning this letter, please call this office at (    ) -    .

Sincerely,

\_\_\_\_\_ County Department of Social Services/New York City Administration for  
Children's Services

Address: \_\_\_\_\_

\_\_\_\_\_

CERTIFIED MAIL

Date:

Dear:

This letter is official notice that your kinship guardianship assistance payments for \_\_\_\_\_ (child's name and date of birth) has been discontinued and your kinship guardianship assistance agreement terminated. Your payments are being discontinued because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (reason for discontinuance)

You have the right to appeal this decision by requesting a fair hearing within 60 days of the receipt of this letter. That is a deadline. Failure to make a timely request will result in your loss of the right to a fair hearing. If you request a fair hearing, the state will send you a notice informing you of the time and place of the hearing. If you choose to pursue a fair hearing, you have the right to be represented by counsel or a relative, a friend or other person, or to represent yourself, to produce witnesses and other evidence on your behalf, to cross-examine all witnesses against you, and to examine all evidence against you.

**LEGAL ASSISTANCE:** If you choose to be represented by counsel at the hearing, it is your responsibility to obtain an attorney. An attorney will not be appointed for you for the purpose of the fair hearing. If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers."

At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an

opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to access to the documents that the social services district will present at the fair hearing. To ask for these documents, call or write to the social services district at the telephone number and address below. If you want copies of documents, you should ask for them within a reasonable time before the date of the fair hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, or how to get copies of documents, call or write the social services district at the telephone number and address listed below.

I want a fair hearing. The decision is wrong because

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Please send your written request for a fair hearing to the following address:

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North Building, Room 322  
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Rensselaer, New York 12144-2796  
Attention: Beth Mancini

Please attach a copy of this denial letter to your request for a fair hearing.

If you will require a language interpreter at the administrative hearing, state in your letter requesting a hearing that you need a language interpreter and identify the language needed to be interpreted.

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Signature: X \_\_\_\_\_

Date: \_\_\_\_\_

If you have any questions concerning this letter, please call this office at (    ) -    .

Sincerely,

\_\_\_\_\_ County Department of Social Services/New York City Administration for  
Children's Services

Address: \_\_\_\_\_

\_\_\_\_\_

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES

## NON-RECURRING KINSHIP GUARDIANSHIP EXPENSES REIMBURSEMENT FORM

This form is to be completed after the court awards the letters of guardianship to the relative guardian(s) for the child named in the Kinship Guardianship and Non-Recurring Guardianship Expense Agreement. Documentation of all non-recurring guardianship expenses being claimed must be submitted by the relative guardian(s) prior to payment and within two years of the issuance of the letters of guardianship. Payment will be made as a one-time payment after all receipts are received, and the amount for the payment may not exceed the maximum level set by the NYS Office of Children and Family Services (\$2,000 per child).

Child's Full Name: \_\_\_\_\_  
LAST
FIRST

Child's CIN #: \_\_\_\_\_

Relative Guardian(s) Name(s): \_\_\_\_\_

Date of issuance of letters of guardianship: \_\_\_\_/\_\_\_\_/\_\_\_\_  
(MONTH/DAY/YEAR)

Non-recurring Expenses must be reasonable and directly related to the guardianship. Receipts must accompany all reimbursement requests. Attach additional pages if necessary.

<b>A. Services provided and paid for by the Guardian(s):</b>	
<b>SERVICE</b>	<b>AMOUNT</b>
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
	\$
<b>Payment to Guardian(s):</b>	<b>\$</b>

<b>B. Legal and other services by attorney:</b>	
<b>SERVICE</b>	<b>AMOUNT</b>
	\$
	\$
	\$
	\$
	\$
<b>Payment to Attorney:</b>	<b>\$</b>
<b>Total Amount (A + B):</b>	<b>\$</b>

SOCIAL SERVICES DISTRICT OFFICIAL'S SIGNATURE

\_\_\_\_/\_\_\_\_/\_\_\_\_  
DATE (MONTH/DAY/YEAR)

☐ APPROVED

☐ DISAPPROVED