

# The Kinship Guardianship Assistance Payment Program

## *A New Permanency Option for Children in Long-Term Placements with Relatives*

**T**he Kinship Guardianship Assistance Payment Program, also called **Kin-GAP**, is a new permanency option for children in appropriate, long-term foster care placements with relative caregivers. The Kin-GAP program became effective on January 1, 2000.

This payment program provides relative caregivers who are unable or unwilling to adopt a child in foster care with another option for exiting the child welfare system, provided that permanent placement in the relative's home is in the best interests of the child.

### **PURPOSE**

The purpose of the Kin-GAP program is to create an **option** for relative-care permanent placements if all of the following apply:

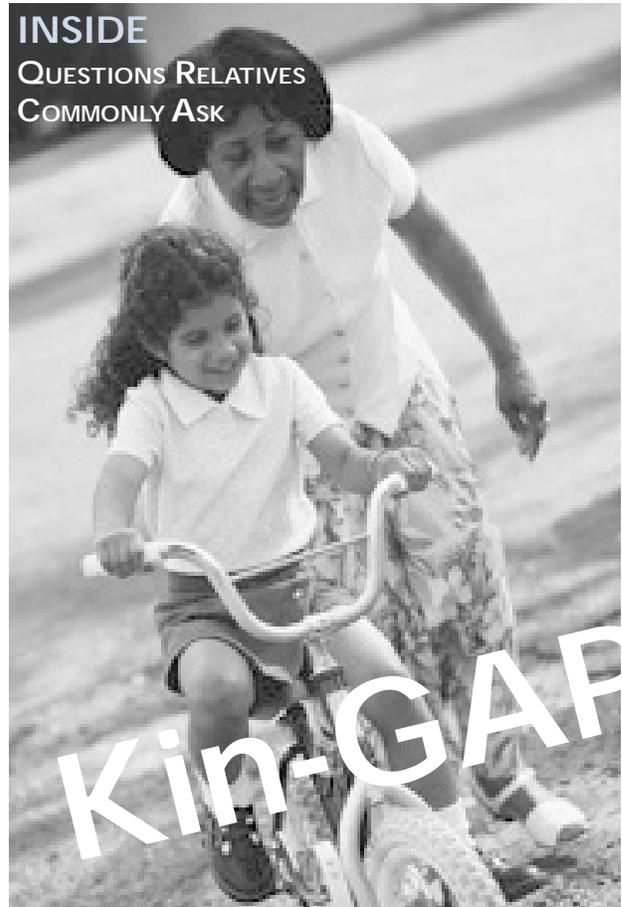
- ❑ It is determined that reunification services have failed and the child will not return to the home of his or her birth parents.
- ❑ The child and the relative have a stable, ongoing relationship in the context of a well-functioning family.
- ❑ The relative is identified as the most appropriate permanent placement for the child following a formal assessment.
- ❑ The relative is unwilling to move forward with adoption proceedings for personal, familial, cultural and/or financial reasons.
- ❑ The relative has made a permanent commitment to the child and the child is functioning optimally in the placement.
- ❑ The family, relative or child has no need for ongoing supervision or supportive services from the local child welfare agency.

It is *not* the intent of this program to establish a mandate that a relative who has guardianship and has cared for a child for 12 months or longer must exit to Kin-GAP. Rather the implementing legislation is meant to provide **an option in a continuum of choices for the relative, the agency and the courts in order to allow the most appropriate permanency plan**. This must take place within the context of the best interests of the child and the relative's circumstances and long-term needs.

If dependency is not terminated, the child will continue to receive either a federal foster care payment or CalWORKs payment instead of Kin-GAP.

### **INSIDE**

**QUESTIONS RELATIVES  
COMMONLY ASK**



### **KIN-GAP REQUIREMENTS**

#### *Assessment*

■ If the relative was initially assessed for foster care placement prior to January 1, 1999, he or she must be reassessed according to statutory relative foster care placement criteria (W&I Code § 361.3). The relative assessment criteria was recently placed into statute to ensure that all relative guardians are evaluated under the same minimum standards.

#### *Guardianship*

■ The relative must take legal guardianship of the child.

#### *Termination of Dependency*

■ When a dependent child has been in a placement with a relative at least 12 months and the relative has been appointed the child's legal guardian, the court will terminate dependency unless it makes a finding of exceptional circumstances. Such circumstances may include unwillingness of the relative guardian to accept the Kin-GAP aid payment because it lacks a specialized care increment for a child's special needs. *Movement into Kin-GAP is not*

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# QUESTIONS RELATIVES COMMONLY ASK ABOUT KIN-GAP



## What is Kin-GAP?

Kin-GAP is a payment program for relatives who meet all of the following conditions:

- Care for a child in the formal foster care system.
- Have been caring for the child for longer than 12 months.
- Have been assessed by the county child welfare department.
- No longer need the supervision of a social worker or the courts.
- Are ready and able to leave the foster care system.
- Have taken legal guardianship of the child.

## What assistance will I receive?

If you decide to take guardianship of the child in your care and leave the foster care system with assistance from the Kin-GAP program, you will:

1. Receive a payment equal to the foster care rate in your county.
2. Receive Medi-Cal coverage for the child in your care.
3. Be eligible for Independent Living Program services when the child becomes a teen.

If you instead choose to adopt the child through the Adoption Assistance Payment Program, you will:

1. Receive the basic foster care rate *plus* a specialized increment to address the special needs of the child in your care.
2. Receive Medi-cal coverage for the child in your care.

## Do I have to take Kin-GAP?

No. Kin-GAP is *one* choice for relatives who care for children in the foster care system. You, the social

worker and the courts should work together to decide what is the best choice for each child, family and relative caregiver.

## Why do people tell me I have to adopt or take guardianship?

The mission of the child welfare system is to find a safe, permanent home and family where an abused and neglected child can be cared for and protected. Reunifying children with their birth parents is the first goal. When that is not possible, the court and the county child welfare department must find the best permanent home for the child. They are required to do this by federal and state laws. In addition, policy makers and professionals believe that establishing one, safe, permanent home is in the best interest of all children.

## What other choices do I have?

In the foster care system, when it is clear that a child will not be reunified with his or her birth parents, a plan must be developed to identify the best place for a child to remain permanently. This is called the **permanent plan** and one must be made for all children not reunified with their birth parents. The choices for the permanent plan are:

1. Adoption
2. Kinship Adoption
3. Guardianship with Kin-GAP

When none of the choices are possible for the child, they remain in foster care, sometimes until they are eighteen. Having a child remain in long-term foster care — even if they are living with a relative — is the least desirable permanent plan. If no permanent



choice is made for the child, there is a concern that the child's placement may become unstable over time. This could result in another disruption in the child's life.

### ***How is the placement decision made?***

The final decision for the permanent plan is made by the judge in the juvenile court. However, a recommendation is made by the social worker and the child's attorney. The social worker and the child's attorney should be discussing all options with you and other family members in order to come to a decision that is best for the child and the family.

### ***Does the age of the child make a difference?***

In California, the law requires county child welfare departments to make quick decisions about the permanent plan for children under the age of three. This is because policy makers believe that these children are the most vulnerable and that they need to have a permanent home to develop critical connections with committed adults. The focus for these children is adoption. When children are over the age of three, it is believed that they are more adaptive to longer timelines and changes in caregivers.

### ***Why isn't living with a relative considered a permanent home?***

This question is currently under debate. Many people feel living with a relative *is* a permanent placement, and research to date has shown this to be true. However, state and federal laws do not specifically state that just *living* with a relative can be considered permanent. Unfortunately, many children who are placed with relatives are asked to move after some time has passed. So, to make their commitment clear, relatives are asked to adopt or take legal guardianship of the child in their care.

### ***What can I do if I am feel I am being forced to adopt or take guardianship?***

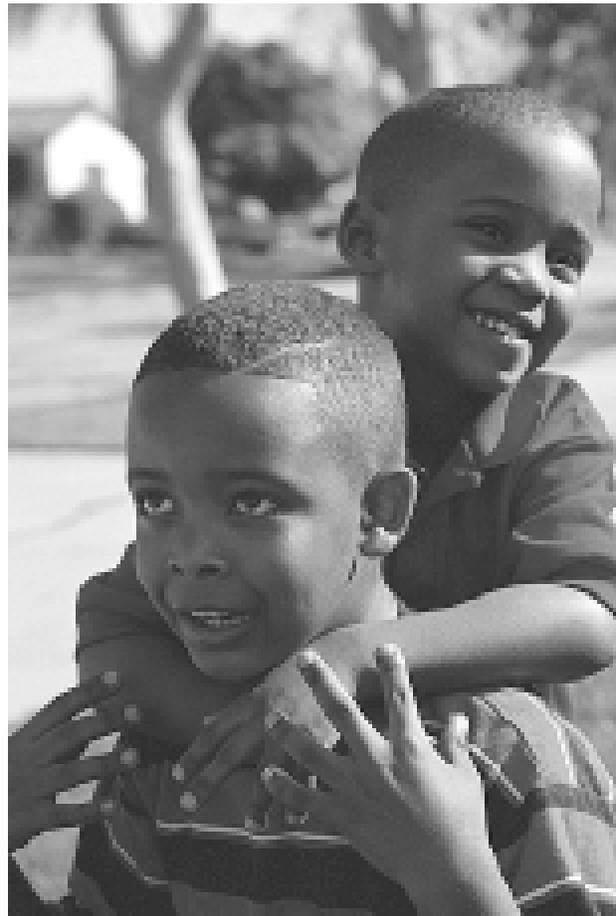
- Request a conference with the supervisor of the social worker on the case.
- Make an appointment with the child's attorney.
- Contact kinship support groups and ask for direction and information.
- Contact the Foster Care Ombudsman at this toll-free number: 1 (877) 846-1602.
- Ask for a court review of the case.

### ***Will the birth parent of the child be able to see the child? Will they be able to take the child away from me?***

If you outright *adopt* the child in your care, you have complete legal authority over the activities of the child. If you choose a *kinship adoption*, you can develop an agreement with the birth parents with regard to visitation and contact. If you choose *guardianship*, you have authority over many of the activities of the child and are responsible for his or her care and custody. However, with this choice, a biological parent can reenter the child's life and regain custody through a court process.

### ***If I am interested in guardianship, how do I obtain Kin-GAP?***

- Ask the child's social worker to explain the advantages/disadvantages and timeline.
- Talk to the child's attorney.
- Request an assessment.
- Request a court review.





*automatic.* The court, with the recommendation from the county, must determine whether termination of dependency is in the child's best interest.

#### *Eligibility for Assistance*

- Upon termination of dependency, the child is eligible for a Kin-GAP payment and also will remain eligible to receive Medi-Cal benefits and Independent Living Program services.
- If the guardian petitions to terminate the guardianship, the court must, prior to the hearing on the petition, order the county child welfare department to evaluate whether the guardianship can be preserved with the provision of services and identify recommended services, if appropriate.

#### *Rates and Funding*

- The rate for the Kin-GAP program is established at 100% of the basic foster care rate, based upon age (but does not include a clothing allowance or specialized care increments).
- Most of the Kin-GAP rate will be financed through TANF. The difference between TANF funding and the actual Kin-GAP rate will be shared 50/50 between the state and counties.

#### *Program Evaluation*

- The state will track Kin-GAP cases after dependency is dismissed and conduct follow-up research to monitor the impact of Kin-GAP on permanency for children in foster care.

## LEGISLATIVE HISTORY

Due to changes in federal and state laws over the past decade, nearly half of all children in California's foster care system are now placed in the homes of extended family members. In response to this sudden and dramatic shift in placement type, The California Partnership for Children launched the California Kinship Care Initiative in the mid-1990s to address issues related to kinship care placements. The Center for Social Services Research at UC Berkeley collected data, then The Partnership convened focus groups of relative caregivers throughout the state. The County Welfare Directors Association and the California Department of Social Services held a Kinship Summit of major players.

With this extensive information at hand, the State-wide Kinship Advisory Committee was convened to determine appropriate policy options to improve the assessment, services and exit opportunities for relative caregivers in the child welfare system. One policy reform repeatedly recommended in every discussion, whether with a focus group of caregivers or the statewide Kinship Advisory Committee, was the development of an exit option for relatives for whom adoption was not a workable solution. All agreed that this option must include a financial support component. With the consensus and support of the all major stakeholders, the California Children's Lobby sponsored the Kinship Guardianship Assistance Payment legislation, which was introduced as SB 1901 (McPherson) and signed into law in 1998.

Clean-up measures in 1999 rectified numerous technical difficulties and postponed implementation until January 1, 2000. As counties began implementing Kin-GAP unintended interpretations and other confusions became apparent, leading to further clarifications about the voluntary aspect of the program, eligibility for Independent Living Program services, and independence from CalWORKs. These clarifications were signed into law in a budget trailer bill in July 2000.

The information in this brochure reflects the intent of the law, as well as the program, based on the most current version of the law.

#### STATUTORY AUTHORITY

- SB 1901 (McPherson) (Chapter 1055, Statutes of 1998)
- AB 1111 (Thomson) (Chapter 147, Statutes of 1999)
- AB 2876 (Aroner) (Chapter 108, Statutes of 2000)

#### *For more information:*

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