

LEGAL GUARDIANSHIP

Subsidized Guardianship

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Policy The Department of Children and Families shall operate a subsidized guardianship program to promote permanency for the benefit of children:

- who have been in foster care for at least six consecutive months;
- are living with caregivers who are licensed foster care providers; and
- for whom neither reunification with a parent nor adoption is an appropriate permanency option.

Legal reference: Conn. Gen. Stat. §17a-126; Regulations of Connecticut State Agencies § 17a-126-1 *et seq.*

Subsidy Unit The subsidized guardianship program is administered by the Department's subsidy unit, located at Central Office and under the Office of Children and Youth in Placement (OChYP).

Definitions **Caregiver** means (A) a fictive kin caregiver, who is licensed or approved to provide foster care, and who is caring for a child, (B) a relative caregiver, or (C) a person who is a licensed or an approved foster care provider, and who is caring for a child.

Child or eligible child means a person under the age of 18 on whose behalf subsidized guardianship payments can be or are being made or services can be or are being provided.

Fictive kin caregiver means a person who is 21 years of age or older and who is unrelated to a child by birth, adoption, or marriage, but who has an emotionally significant relationship with such child amounting to a familial relationship.

Foster care means out-of-home care provided for a child placed by the department, with a person licensed by the department, or approved by a licensed child placing agency.

Guardian means the caretaker who has, as a result of a court order, the authority and obligations of "guardianship".

Guardianship means a judicially created relationship between child and caretaker which transfers from the parent to the caretaker some rights with respect to the child. It includes: (A) The obligation of care and control; (B) the authority to make major decisions affecting the minor's education and welfare, including but not limited to, consent determinations regarding marriage, enlistment in the armed forces and major medical, psychiatric or surgical treatment; and (C) upon the death of the minor, the authority to make decisions concerning funeral arrangements and the disposition of the body of the minor.

Guardianship agreement means a signed contract between the department and a caregiver or subsidized guardian setting forth the conditions under which the department shall pay a guardianship subsidy.

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Definitions (Continued)

Permanent guardianship means a "guardianship" that is intended to endure until the minor reaches the age of majority without termination of the parental rights of the minor's parents.

Permanent guardian means a caretaker who has the authority and obligations of a permanent guardianship, as defined above.

Relative caregiver means a person who is 21 years of age or older, related to a child by birth, adoption, or marriage and is licensed or approved to provide foster care.

Sibling means a stepbrother, stepsister, a half-brother or a half-sister.

Subsidized guardian means a person to whom legal guardianship has been awarded by a court and who otherwise qualifies for a subsidy.

Subsidy means a cash payment or services provided to a qualified guardian, the guardian's family and/or the child on whose behalf the subsidy is provided.

Successor guardian means a person nominated by the subsidized legal guardian to assume legal guardianship of the child in the event the subsidized guardian dies or becomes incapacitated.

Eligibility Criteria

A child is eligible for the subsidized guardianship program if all of the following apply:

- The child is under eighteen years of age.
- The child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home was contrary to the welfare of the child.
- The child has been in foster care residing with a caregiver for at least six (6) months.
- Neither reunification nor adoption is an appropriate permanency option.
- The caregiver is the proposed guardian for the child.
- The child has demonstrated a strong attachment to the caregiver.
- The caregiver has demonstrated a strong commitment to caring permanently for the child.
- If the child is fourteen (14) years of age or older, the child has been consulted by the department regarding the guardianship arrangement.
- The caregiver and any adults living in the home have submitted to fingerprint-based criminal records checks of the national crime information database (NCID) conducted by the department, and there are no convictions or pending criminal matters that would result in a denial or non-renewal of the caregiver's foster care license or the removal of a child pursuant to §17a-100.
- The caregiver and any adults living in the home have submitted to a child abuse and neglect registry check conducted by the department, and there is no child abuse or neglect matter that would result in a denial or non-renewal of the caregiver's foster care license or the removal of a child pursuant to section Conn. Gen. Stat. §17a-100.
- Transfer of guardianship to the caregiver is in the child's best interests.

The Social Worker shall document in the case plan how the child and caregiver meet each element of the eligibility criteria. The Social Worker shall document why neither reunification nor adoption are appropriate permanency options, and the reason that a plan of subsidized transfer of guardianship is in the best interest of the child.

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Eligibility of Siblings Placed with Child

Any sibling of a child who is also under the Department's care and custody may be eligible for a subsidized guardianship if placed with the same caretaker. There are no other eligibility requirements for siblings.

The proposed legal guardian may apply for an additional subsidy on behalf of the sibling at any time the Department and the caretaker determine that the placement is appropriate.

The sibling shall be entitled to the same types of subsidy payments as the first child.

A separate subsidy agreement shall be negotiated and executed for each sibling. All rights and obligations as specified in the Regulations of Connecticut State Agencies and within these policies applies to each agreement.

Monthly Subsidy

The Social Worker shall negotiate the type(s) and amount(s) of the guardianship subsidy with the caregiver based on the child's needs and the circumstances of the proposed guardian. The type and amount of the subsidy shall be mutually agreed to by the department and the caregiver prior to the approval of the subsidized guardianship.

The amount of the monthly subsidy cannot exceed the amount that would have been paid had the child remained in foster care.

If the child's needs are medically complex, form DCF-2101, "Certification of a Child's Complex Medical Needs" must be completed by the child's primary health care provider within the last six months. The certification must be reviewed and approved by the Department's Regional Resource Group Nurse, Social Worker, Social Work Supervisor and Program Supervisor, and submitted along with the subsidy agreement.

Any additional payments which were made on a monthly or as needed basis while the child was in foster care (for example, day care, clothing, and mileage reimbursement), will not be paid under the subsidized guardianship program.

Medical Subsidy

The Department shall provide a medical subsidy comparable to the medical subsidy to children in the subsidized adoption program.

For cases which are federally subsidized the children are eligible for continuation of medical benefits administered by the Department of Social Services in the State where the child resides.

Cross Reference: DCF Policy 27-1-3, "Interstate Compact on Adoption and Medical Assistance (ICAMA)".

Exceptional Expense Subsidy

An exceptional expense subsidy shall be paid in the form of a lump sum payment, not to exceed \$2,000, for one-time expenses resulting from the assumption of care of the child.

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Exceptional Expense Subsidy (continued)

Examples of expenses which may qualify for an exceptional expense subsidy include, but are not limited to:

- travel expenses for a caregiver to attend court hearings, provider meetings, or therapy sessions;
- legal fees resulting from obtaining legal guardianship of the child; and
- psychological and medical examinations.

The caregiver shall provide the Department with sufficient proof that the expenditure(s) has been made or will be paid, and that the expenditure is related to the assumption of care of the child.

Application

To apply for a guardianship subsidy, a caregiver shall submit an application using the DCF-2159, "Application for a Guardianship Subsidy". The Social Worker shall assist the caregiver in the completion of the application within 30 days of the request. The social worker shall provide the caregiver with the regulations and department policy regarding guardianship subsidies.

The application shall include a notice that the caregiver has a right to appeal the denial of a subsidy or the failure of the department to take action on the application within a reasonable period of time, which has been established as 120 days from the date of the application. The caretaker may request a fair hearing pursuant to procedures set forth in DCF Policy 6-5, "Administrative Hearings".

Agreement

Once an agreement as to the type and amount of the subsidy has been reached, the Department and the caregiver shall enter into a written, binding, subsidized guardianship agreement. (DCF-418-IG, "Initial Agreement for a Guardianship Subsidy")

Important Note: The written subsidy agreement must be in place prior to the court entering an order establishing the legal transfer of guardianship. **No guardianship subsidy shall be granted after a court has transferred legal guardianship to a third party.**

The caregiver shall receive a fully executed copy of the agreement. Fully executed copies of the agreement shall be filed in the child's uniform case record, and in a file maintained by the Department's subsidy unit.

The agreement shall include the following:

- the amount of the subsidy or subsidies;
- the manner in which payments shall be made to the subsidized guardian;
- the manner in which the payment may be periodically adjusted, in consultation with the subsidized guardian, based on the circumstances of the subsidized guardian and the needs of the child;
- the additional services and assistance for which the child and the subsidized guardian will be eligible under the agreement;

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Agreement (Continued)

- the procedure by which the subsidized guardian may apply for additional services;
- that the agreement shall remain in effect without regard to the state of residency of the subsidized guardian;
- that the agency shall pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child to the extent the total cost does not exceed \$2,000; and
- that the caregiver identify a successor guardian who, in the case of the death, severe disability or serious illness of the subsidized guardian, may be appointed as legal guardian by a court of competent jurisdiction. In this event, the commissioner may transfer the guardianship subsidy to the named successor guardian if they meet the Department's foster care safety requirements.

Length of Subsidy

The subsidy shall continue until:

- the child reaches the age of 18; or 21 if the child is:
 - enrolled in a full-time approved secondary education program or an approved program leading to an equivalent credential;
 - enrolled full-time in an institution that provides postsecondary or vocational education; or
 - is participating full-time in a program or activity approved by the commissioner that is designed to promote or remove barriers to employment.
- the subsidy is adjusted based on changes in the circumstances of the guardian or needs of the child; or
- the subsidy is otherwise terminated.

The commissioner, in his or her discretion, may waive the requirement of full-time enrollment or participation in an educational program based on compelling circumstances.

Annual Review of Subsidy

DCF shall conduct an annual review of each guardianship subsidy to determine if the subsidy shall continue, be adjusted, or terminated.

The Department shall provide the guardian with the Department's form for annual review 45 days prior to the annual date from the previous review. Within 45 days, the guardian shall complete the form and return to the Department's Central Office subsidy unit noting pertinent information concerning changes in the circumstances of the guardian or the needs of the child that may result in DCF initiating action to modify or terminate the subsidy.

The renewal shall include a sworn statement by the guardian that the child is still living in the home, receiving support from the guardian and that the guardian remains legally responsible for the support of the child, if the child has not reached the age of 18. Children age 14 and older are also required to sign the form, indicating that they have been living with the legal guardian(s) for the past 12 months, and the guardian(s) have provided for their support in the form of shelter, food, clothing and other related needs.

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Annual Review of Subsidy (continued)

For all young adults, age 18-21 years old the guardian shall submit in addition to the sworn statement, documentation to confirm compliance with full time approved secondary education, vocational program or an approved program leading to an equivalent credential. Examples of acceptable documentation include, but are not limited to: copy of school registration or transcripts.

Notification to DCF of Financial Changes

The guardian is responsible for notifying the Department's subsidy unit within 30 days of circumstances that may make him or her ineligible for a subsidy or eligible for a subsidy in a different amount.

Failure to notify the Department's subsidy unit about any changes in the child's placement or residence may result in an investigation for possible fraud.

Modification of a Subsidy

If at any time, the Department determines that the circumstances of the guardian or the needs of the child have changed, the Department may initiate action to reduce the subsidy.

Reminder: The monthly subsidy shall not exceed the foster care maintenance rate that would have been paid on behalf of the child if the child had remained in licensed foster care.

Termination of a Subsidy

DCF shall terminate a guardianship subsidy under the following conditions:

- when the child's length of eligibility has expired;
- if the guardian is no longer legally responsible for the support of the child and the child has not reached age 18;
- if the child is no longer receiving financial support from the guardian;
- if the child is no longer residing in the guardian's home;
- upon the death of the subsidized guardian, unless otherwise transferred to a successor guardian pursuant to Conn. Gen. Stat. §17a-126;
- if the child is over age 18 and is not (a) enrolled in a full-time approved secondary education program or an approved program leading to an equivalent credential, (b) enrolled full-time in an institution that provides postsecondary or vocational education, or (c) is participating full-time in a program or activity approved by the commissioner that is designed to promote or remove barriers to employment, and has not been granted a waiver of the full-time requirement by the Commissioner; or
- upon the death of the child.

In general, financial support is considered contributions to the child's needs by expenditure of funds in the basic categories as identified by the USDA. (See DCF Policy 2-2, "Fiscal Services Division").

Note: The Department may consider modification or termination of a subsidy if a biological parent has assumed residence within the home of the guardian.

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Notice of modification or termination of subsidy and guardian's right to appeal

Whenever it is determined that a denial, modification, or termination of a guardianship subsidy is appropriate, the Department shall send a DCF-800, "Notice of Proposed Denial, Suspension, Reduction, or Discontinuance of DCF Benefits" to the caregiver guardian, by certified mail, including the reasons for the decision, at least 15 days prior to taking the proposed action.

The notice shall include information on how the caregiver or guardian can contact the Department's subsidy unit to arrange a consultation to discuss the planned action.

The notice shall also include information on how the caregiver or guardian can appeal the Department's decision. The notice shall include a copy of the Department's regulations and policy regarding subsidized guardianships.

A caregiver or subsidized guardian may request a subsidy hearing by communicating in writing with the Department's Administrative Hearings Unit at the Department's Central Office. The request should state the specific issues to be resolved. The written communication must be received by the Administrative Hearings Unit:

- within 15 days of the receipt of notification from DCF of the decision to deny, adjust or terminate a guardianship subsidy;
- in the case of DCF's failure to act on an application, within 120 days of submission of the application; or,
- in the case of failing to reach a written subsidy agreement, within 30 days of the breakdown of the negotiations if there is no reasonable likelihood that a voluntary resolution can be reached.

A subsidy shall not be adjusted or terminated pending the outcome of the subsidy hearing.

A caregiver or subsidized guardian may be represented, at his or her own expense, by the representative of his or her choice.

The hearing shall be conducted in accordance with DCF Policy 6-5, "Administrative Hearings".

Transfer of Subsidy to Successor Guardian

In the case of death, severe disability or serious illness of a subsidized guardian, the Commissioner may transfer the guardianship subsidy to a successor guardian if the subsidy agreement or an addendum thereto specifically nominates the successor guardian and the successor guardian meets the Department's foster care licensing safety requirements and is appointed as legal guardian by a court of competent jurisdiction.

DCF shall send the subsidized legal guardian a proposed addendum to the subsidy agreement at the time of each annual review. The guardian may nominate or change the successor guardian at any time.

The proposed successor guardian's home does not require assessment at the time of the nomination. The home assessment shall be conducted in conjunction with the court transfer of the guardianship process, if applicable. In order to receive the subsidy, the successor guardian will be required to enter into a new guardianship agreement with the Department at the time that they become guardian.

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**Eligibility for
Other
Department
Programs**

If the child on whose behalf a guardianship subsidy is being paid subsequently enters out-of-home placement as a neglected, abused, uncared for child or through the Voluntary Services Program, DCF shall reassess the amount of the monthly subsidy based on the current needs of the child and circumstances of the family.

The Social Worker, with the assistance of the Central Office subsidy unit, shall assess whether a change in the subsidy amount is appropriate and, if so, negotiate a new agreement with the legal guardian(s).

As part of the renegotiated subsidy, the guardian may receive reimbursement for special expenses, such as travel, therapeutically recommended supplies or materials and clothing while the child is in placement, by submitting bills and documentation to the subsidy unit, provided the case plan is to reunify the child with the guardian.

The combined total of the reimbursements and any continuing monthly subsidy shall not exceed the monthly subsidy previously being paid.

The annual clothing reimbursement shall not exceed the amount budgeted for clothing replacement applicable to the child's age, as specified in DCF Policy 2-2, "Fiscal Services Division", see section on "USDA Categories of Expenditures".

**Notice to
Subsidy Unit
by DCF staff**

If at any time, staff become aware of a change in circumstances or of pending court involvement (i.e., petition to reinstate or modify guardianship) regarding a child for whom the Department is providing a subsidized guardianship payment, they shall immediately notify the subsidy unit of the new information.
