

UPDATED INFORMATIVE DIGEST

Current law, through the Kinship Guardian Assistance Payment (Kin-GAP) Program, provides for ongoing financial aid on behalf of eligible children placed in the home of a relative caregiver who becomes a kinship guardian. California currently administers both a state and federal Kin-GAP Program. In order to be eligible for Kin-GAP, a child must meet several requirements, including being a dependent or ward of the juvenile court. The Kin-GAP rate may not exceed what the child received while in foster care and can be renegotiated based on the needs of the child or the circumstances of the kinship guardian.

These proposed regulations adopt new language regarding Kin-GAP in Division 31, Child Welfare Services Program, and in Division 45, Administrative Standards for Eligibility and Assistance Programs of the California Department of Social Services' (CDSS) Manual of Policies and Procedures (MPP) and establish Chapter 45-600, Kin-GAP Program Eligibility. This regulation package also repeals language in Chapter 90 of Division 45 of the MPP.

The Kin-GAP Program was initially established by Senate Bill (SB) 1901 (Chapter 1055, Statutes of 1998) as a state-funded program. It became available to eligible children exiting the juvenile court dependency system on or after January 1, 2000, to live with a kinship guardian. Effective October 1, 2006, Assembly Bill (AB) 1808 (Chapter 75, Statutes of 2006) extended the provisions of the state Kin-GAP Program to eligible probation youth exiting the delinquency system to live with a kinship guardian.

Subsequently, the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 was enacted by Public Law 110-351. Its provisions included, at state option, participation in the Title IV-E federally subsidized guardianship assistance program. California elected to exercise its state option and enacted the following:

- Effective September 30, 2010, AB 12 (Chapter 559, Statutes of 2010) implemented the federal Kin-GAP Program in California and amended the state Kin-GAP Program. Among other things, AB 12 reduced the amount of time a child has to live with a relative caregiver in order to qualify for Kin-GAP, from 12 months to six months.
- Effective October 4, 2011, AB 212 (Chapter 459, Statutes of 2011) authorized certain Kin-GAP recipients to continue to receive Kin-GAP aid after 18 years of age.
- Effective January 1, 2013, AB 1712 (Chapter 846, Statutes of 2012) expanded the definition of "relative" for purposes of the federal Kin-GAP Program only.

Welfare and Institutions (W&I) Code sections 11369 (governing the state Kin-GAP Program) and 11393 (governing the federal Kin-GAP Program) allowed for the implementation of AB 12 via an all-county letter (ACL 11-15), pending the development of regulations.

The proposed MPP Division 45 regulations provide the eligibility requirements for continued receipt of aid under both the state and federal Kin-GAP Programs and language in Chapter 90 of

Division 45 relating to the prior state Kin-GAP Program is repealed. The proposed MPP Division 31 regulations make ancillary changes to child welfare services requirements in areas such as Kin-GAP documentation and records retention requirements; assessment and case plan requirements for a child for whom the permanency plan is a kinship guardianship; and information to be provided to a potential relative caregiver regarding Kin-GAP.

These amendments will improve the health and welfare of California residents by improving the well-being and outcomes for eligible Kin-GAP youth and by easing their transition to adulthood. Without this added safety net, youth who are forced to leave the Kin-GAP Program at age 18 will face high rates of homelessness, incarceration and reliance on public assistance.

These proposed regulations are necessary to implement state and federal law for the administration of both the state and federal Kin-GAP Programs.

The Department conducted an evaluation as to whether there are any related regulations on this matter and has found that these are the only regulations dealing with the Kin-GAP Program. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations. They are consistent with the intent of the Legislature in adopting AB 12, AB 212 and AB 1712.

In addition to the proposed regulations, the following forms are incorporated by reference. They were made available during the 45-day public comment period but were erroneously omitted from listing on the Public Notice. Therefore, they are listed here for consistency and clarity:

- KG 1 (12/11), Kin-GAP Mutual Agreement for 18 Year Olds
- KG 2 (1/11), Statement of Facts Supporting Eligibility for Kin-GAP Program
- KG 3 (12/11), Kin-GAP Mutual Agreement for Nonminor Former Dependents
- SOC 369 (12/10), Agency-Relative Guardianship Disclosure
- SOC 369A (11/11), Kin-GAP Program Agreement Amendment

Post-hearing changes

The regulations were noticed on October 22, 2014. Testimony was received during the 45-day public comment period and changes were made to the proposed regulations as a result of the testimony. Those changes include:

- Adding "or" at the end of proposed Section 31-002(n)(3)(A) to further clarify that "nonminor former dependent" means a person who meets the criteria of either proposed Section 31-002(n)(3)(A) or proposed Section 31-002(n)(3)(B).
- Section 31-425.42 is being adopted to comply with W&I Code sections 361.5(g)(2)(B), 366.21(i)(2)(B), 366.22(c)(2)(B) and 366.25(b)(2)(B).

- Section 31-503.113(b) is being amended to provide that the parent's ability to meet the needs of other children in the household who may be at risk of removal needs to be considered in reaching a determination regarding child support to the extent that this information is known.
- Section 31-503.222 is being adopted to establish that any time the social worker or other appropriate county worker determines that it is no longer contrary to the child's best interest, the appropriate county worker is to refer the child's case to the local child support agency.
- Section 45-602.11 is being amended to include ", via court order or voluntary placement," and "or wardship."
- Section 45-602.21 is being amended to include "In the case of a licensed home or a relative foster parent or resource family, as defined in Section 45-601(r)(2), the home must have been approved by the appropriate county or agency prior to a child's transfer to the Kin-GAP Program as evidenced by the pertinent licensing documentation."
- Section 45-604.44 is being amended to provide clarity for the sibling written agreement requirements.
- Sections 45-604.6 and .61 are being adopted to establish the placement requirement for a successor guardian.
- Section 45-605.5 and .51 are being amended to address the conditions under which federal eligibility for Kin-GAP may continue when a successor guardian has been identified.
- Section 45-606.125 is being amended and the phrase "(a) through (d)" has been deleted and replaced with ".121 through .124."
- Sections 45-607.214 and .215 are being adopted to provide clarification regarding suspension and resumption of the Kin-GAP payment.
- Section 45-607.43 is being adopted to provide clarification on placement and care responsibility after transfer from the guardian to the county welfare or probation department.
- Section 45-607.72 is being amended and Section 45-607.73 is being adopted to address the offset for Social Security Disability Income.

The regulations underwent a 15-day renote from August 7, 2015 to August 21, 2015. Testimony was received during the 15-day public comment period and one change included:

- Section 45-607.63 is being amended to reflect a minor grammatical change.