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June 15, 2016

Regulation Package No. 0713-06

CDSS MANUAL LETTER NO. EAS-16-02

TO: HOLDERS OF THE ELIGIBILITY AND ASSISTANCE STANDARDS MANUAL

Regulation Package # 0713-06

Effective 7/1/16

Sections 45-102, 45-600, 45-601, 45-602, 45-604, 45-605, 45-606, 45-607, 90-101

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG3715.htm>.

Current law, through the Kinship Guardianship Assistance Payment (Kin-GAP) Program, provides aid on behalf of eligible children who are placed in the home of a relative caretaker who becomes the kinship guardian. Existing eligibility requirements for the Kin-GAP Program include a requirement that a child has been living with a relative for at least 12 consecutive months. The new Manual of Policies and Procedures (MPP) Division 45 regulations provide the eligibility requirements for continued receipt of aid under both the state and federal Kin-GAP Programs. In addition, language in Chapter 90 of Division 45 relating to the prior state Kin-GAP Program is repealed.

Effective September 30, 2010, Assembly Bill (AB) 12 (Chapter 559, Statutes 2010) reduced the eligibility placement requirement from 12 to six months. It established the federal Title IV-E Kin-GAP Program and amended the nonfederal Kin-GAP Program.

Effective January 1, 2013, AB 1712 (Chapter 846, Statutes of 2012) expanded the definition of a relative for purposes of the federally funded Kin-GAP program.

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.

These regulations are necessary to be consistent with federal and state statute for the administration of the nonfederal and federal Kin-GAP programs. In addition, the Department finds that these proposed regulations are compatible and consistent with the intent of the Legislature in adopting AB 12, AB 1712 and AB 212, as well as with existing state regulations.

FILING INSTRUCTIONS

Revisions to all manuals are indicated by a vertical line in the left margin. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Eligibility and Assistance Standards changes was Manual Letter No. EAS-16-01.

<u>Page(s)</u>	<u>Replace(s) Page(s)</u>
532	532
533	533
542.2	Insert after 542.1
576.1 through 576.18	Insert after 576
971 through 972	971 through 972

Attachment

OC

**ELIGIBILITY AND ASSISTANCE STANDARDS
AFDC-FC AND AAP PROGRAMS**

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CHAPTER 45-100 AFDC-FC PROGRAM PURPOSE

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- (a) Reserved
- (b) Reserved
- (c) Reserved
- (d) Reserved
- (e) Reserved
- (f)
 - (1) FC 2 The "Statement of Facts Supporting Eligibility for AFDC-Foster Care" (Rev. 11/04), hereby incorporated by reference, is used to collect information necessary to determine foster care eligibility at the time of application and redetermination.
 - (2) FC 3 The "Determination of Federal AFDC-FC Eligibility" (Rev. 11/04), hereby incorporated by reference, is used to collect information necessary to determine eligibility for federal AFDC-FC.
 - (3) FC 3A The "AFDC-FG/U Worksheet" (Rev. 11/04), hereby incorporated by reference, is used to collect information necessary to determine if the child would have received federal AFDC FG/U (as it existed July 16, 1996) in the month of the petition. This form is a supplement to the FC 3.
 - (4) FC 18 The "Notification of AFDC-Foster Care Transfer" (Rev. 11/04), hereby incorporated by reference, collects and transmits the information necessary to transfer a foster care case between counties.

NOTE: Authority cited: Sections 11102 and 11401, Welfare and Institutions Code. Reference: Sections 391, 392, 452, 607.2, 11403, and 11405, Welfare and Institutions Code.

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CHAPTER 45-600 KIN-GAP PROGRAM

The purpose of the Kinship-Guardianship Assistance Payment (Kin-GAP) Program is to enhance family preservation and stability in the permanency planning of a foster child by providing financial assistance to an approved relative caregiver who becomes the kinship guardian of a foster child placed in his or her home.

NOTE: Authority cited: Sections 11361 and 11378, Welfare and Institutions Code. Reference: Sections 360, 361.5, 366.21 and 11403.01, Welfare and Institutions Code.

45-601 DEFINITIONS**45-601**

- .1 The definitions in Sections 11-400, 31-002, and 45-101 apply to the Kin-GAP Program. The following definitions apply to the Kin-GAP Program only and supersede those in Sections 11-400, 31-002, and 45-101 where dual or conflicting definitions exist.
- (a) (1) Approved Home of a Relative for purposes of Kin-GAP means the home of a relative, who has been identified as the expected kinship guardian, which has been determined as one of the following:
 - (A) Approved foster family home as specified in Section 31-002(a)(9).
 - (B) Licensed home as defined in Title 22 California Code of Regulations, Section 89201 or certified family home as defined in Title 22 California Code of Regulations, Section 88001.
 - (C) Resource family home as specified in Welfare and Institutions Code section 16519.5.
 - (2) Applicant means a child or nonminor former dependent on whose behalf a request for Kin-GAP benefits is made.
 - (b) Reserved.
 - (c) (1) Case Plan means a written document which is developed based upon an assessment of the circumstances that required child welfare services intervention and in which the social worker identifies a case plan goal, the objectives to be achieved, the specific services to be provided, and case management activities to be performed.
 - (2) County of Payment Responsibility means the county that had placement and care responsibility of the child prior to the establishment of the kinship guardianship pursuant to Welfare and Institutions Code sections 360, 366.26 or 728 and the dismissal of the juvenile court jurisdiction.

45-601	DEFINITIONS (Continued)	45-601
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- (d) Reserved.
- (e) Reserved.
- (f) Federal Kin-GAP Program means aid made with federal financial participation provided on behalf of children in kinship care who were previously eligible to receive Title IV-E federal foster care benefits and who meet all general requirements specified in Section 45-602 and all federal requirements specified in Section 45-604.
- (g) Reserved.
- (h) Reserved.
- (i) Reserved.
- (j) Reserved.
- (k) (1) Kinship Guardian, as defined by Welfare and Institutions Code sections 11362(b) and 11391(b), means a person who meets both of the following requirements:
 - (A) The person has been appointed the legal guardian of a dependent child of the juvenile court pursuant to Welfare and Institutions Code sections 366.26 or 360, or the legal guardian of a ward of the juvenile court pursuant to Welfare and Institutions Code section 728(d); and
 - (B) The person is a relative of the child.
- (2) Kinship Guardianship Assistance Payments (Kin-GAP), as defined by Welfare and Institutions Code sections 11362(a) and 11391(a), means the financial assistance provided on behalf of a child or nonminor former dependent eligible to receive assistance under the federal or state Kin-GAP Programs.
- (l) Reserved.
- (m) Reserved.
- (n) Nonminor Former Dependent means, on and after January 1, 2012, a person who is at least 18 years of age, up to and including the day prior to his or her 21st birthday, who was a dependent child or ward of the juvenile court when the guardianship was established pursuant to Welfare and Institutions Code sections 360, 366.26 or 728(d) and the juvenile court dependency or wardship was dismissed following the establishment of the guardianship.
- (o) Reserved.
- (p) Reserved.

45-601 **DEFINITIONS** (Continued) **45-601**

- (q) Reserved.

- (r) (1) Recipient means a child or nonminor former dependent who meets all conditions of eligibility and for whom the county has entered into an agreement to approve Kin-GAP payments.

- (2) Relative, for the purposes of federal Kin-GAP only means an adult who meets one of the following:
 - (A) An adult who is related to the child by blood, adoption or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great" or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

 - (B) An adult who meets the definition of an approved, nonrelated extended family member, as defined in Welfare and Institutions Code section 362.7.

 - (C) An adult who is either a member of the Indian child's tribe or an Indian custodian.

 - (D) An adult who is the current foster parent of a child under the juvenile court's jurisdiction, who has established a significant and family-like relationship with the child, and the child and the county child welfare agency, probation department, Indian tribe, consortium of tribes or tribal organization that has entered into an agreement pursuant to Welfare and Institutions Code section 10553.1 identify this adult as the child's permanent connection.

- (3) Relative, for the purposes of state Kin-GAP and as defined by Welfare and Institutions Code section 11362, means an adult who is related to the child by blood, adoption or affinity within the fifth degree of kinship, including stepparents, stepsiblings and all relatives whose status is preceded by the words "great," "great-great" or "grand," or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

- (s) (1) Sibling, as defined by Welfare and Institutions Code section 11391(d), means a child related to the identified eligible child by blood, adoption or affinity through a common legal or biological parent.

- (2) State Kin-GAP Program means aid provided on behalf of children in a kinship guardianship who are not eligible for the federal Kin-GAP program and who meet all general requirements specified in Section 45-602 and all state requirements specified in Section 45-605.

- (t) Reserved.

45-601	DEFINITIONS (Continued)	45-601
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- (u) Reserved.
- (v) Reserved.
- (w) Reserved.
- (x) Reserved.
- (y) Reserved.
- (z) Reserved.

.2 Definitions-Forms

- (a) Reserved.
- (b) Reserved.
- (c) Reserved.
- (d) Reserved.
- (e) Reserved.
- (f) Reserved.
- (g) Reserved.
- (h) Reserved.
- (i) Reserved.
- (j) Reserved.
- (k) (1) KG 1 (12/11) "Kin-GAP Mutual Agreement for 18 Year Olds," hereby incorporated by reference, is used for the purpose of obtaining an 18-year-old person's agreement to remain in the Kin-GAP Program after his or her 18th birthday, in accordance with the age requirements of Section 45-602.313.
- (2) KG 2 (1/11) "Statement of Facts Supporting Eligibility for Kinship-Guardianship Assistance Payment (Kin-GAP) Program," hereby incorporated by reference, is used to collect information necessary to determine Kin-GAP eligibility at the time of application and reassessment.

45-601 **DEFINITIONS** (Continued) **45-601**

- (3) KG 3 (12/11) "Kin-GAP Mutual Agreement for Nonminor Former Dependents," hereby incorporated by reference, is used to obtain the nonminor former dependent's agreement to remain in the Kin-GAP Program after his or her 18th birthday, in accordance with the age requirements of Section 45-602.313.

- (l) Reserved.

- (m) Reserved.

- (n) Reserved.

- (o) Reserved.

- (p) Reserved.

- (q) Reserved.

- (r) Reserved.

- (s) (1) SOC 369 (12/10) "Agency-Relative Guardianship Disclosure," hereby incorporated by reference, is used for the purpose of informing a prospective kinship guardian of the funding and program options available when choosing to take legal guardianship of a related foster child. This form, which is used in conjunction with the SOC 369A, constitutes the written agreement that memorializes the terms, conditions, rights, responsibilities, and agreements reached between the county child welfare agency, the probation department, or the Title IV-E agreement tribe and the relative prior to the establishment of a kinship guardianship. The SOC 369A amends and supplements the SOC 369.

- (2) SOC 369A (7/15) "Kinship-Guardianship Assistance Payment (Kin-GAP) Program Agreement Amendment," hereby incorporated by reference, is used for the purpose of amending and supplementing the SOC 369 to memorialize the terms, conditions, rights, responsibilities, and agreements reached between the county child welfare agency, the probation department, or the Title IV-E agreement tribe and a person who is already a kinship guardian. This form implements the state and federal requirement that there be a written, binding agreement with the kinship guardian stipulating, among other things, the Kin-GAP rate of payment and the manner in which the payment can be renegotiated based upon the needs of the child and the circumstances of the kinship guardian. Thus, the SOC 369A form is used both to establish the Kin-GAP rate of payment at the initiation of the case and, as necessary, to amend the initial agreement after the Kin-GAP case has been established.

45-601	DEFINITIONS (Continued)	45-601
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- (t) Reserved.
- (u) Reserved.
- (v) Reserved.
- (w) Reserved.
- (x) Reserved.
- (y) Reserved.
- (z) Reserved.

NOTE: Sections 10553, 10554, 10604, 11369, 11393 and 11400, Welfare and Institutions Code. Reference: Sections 1502(a)(1), 1505, and 1516, Health and Safety Code; Sections 309, 360, 361.3, 366, 366.21, 366.26, 366.3, 727.1, 728, 11054, 11360, 11363(d), 11364(a), 11385, 11386(h), 11387(a), 11391(c), 11400(b), 11400(m), 11400(r), 11400(u), 11401(b), 11401(e), 11402(b)(1), 11403.01, and 11466.24, Welfare and Institutions Code; 45 CFR 1356.21(d); Public Law 95-608; 25 U.S.C. 1915; and 42 U.S.C. 606.

45-602	GENERAL KIN-GAP ELIGIBILITY REQUIREMENTS	45-602
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- .1 Placement Requirement
 - .11 The child must be placed, via court order or voluntary placement, in the approved home of the relative who is the expected kinship guardian for at least six consecutive months immediately prior to the dismissal of dependency or wardship.
- .2 Eligible Facility
 - .21 The approved home of a relative need not be reassessed after a child transfers to the state or federal Kin-GAP Program.
- .3 Age Requirement
 - .31 A child or nonminor former dependent must meet one of the following age requirements:
 - .311 He or she is under 18 years of age.
 - .312 He or she is under 21 years of age and meets one of the requirements in 45-602.313.

45-602	GENERAL KIN-GAP ELIGIBILITY REQUIREMENTS (Continued)	45-602
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.313 Eligibility after age 18 must be based on one of the following:

- (a) If the negotiated payments began prior to the child's 16th birthday, a recipient may continue to be eligible for Kin-GAP up to age 19, provided the high school completion conditions pursuant to Welfare and Institutions Code section 11403.01 are met.
- (b) If the negotiated payments began after the child's 16th birthday, a recipient may continue to be eligible for Kin-GAP up to age 21, provided the extended Kin-GAP provisions of Section 45-606 are met.
- (c) Kin-GAP may continue to be provided up to 21 years of age if the recipient has a physical or mental disability that warrants the continuation of assistance.

.4 A child must meet one of the following jurisdictional statuses:

.41 A kinship guardianship was established by the juvenile court while the child was a 300 dependent, and dependency jurisdiction terminated pursuant to Welfare and Institutions Code section 366.3 concurrently or subsequently to the establishment of the kinship guardianship; or

.42 A kinship guardianship was established by the juvenile court while the child was a 600 ward in foster care, and wardship was terminated pursuant to Welfare and Institutions Code section 728 concurrently or subsequently to the establishment of the kinship guardianship.

.5 A child may not exceed the property limits in Section 42-201 et seq.

.51 For the purposes of determining property eligibility, a child in the Kin-GAP Program is treated in all aspects as a recipient, not as an applicant.

.52 For the purposes of determining property eligibility, an amount not to exceed \$10,000 in cash savings, including interest, in addition to any other property accumulated pursuant to Welfare and Institutions Code section 11257 or 11257.5.

HANDBOOK BEGINS HERE

See Sections 31-002(i)(1), 31-002(i)(1)(A) and 31-525 for the definition and description of the Independent Living Program (ILP).

The above-referenced Section 42-201 refers to the 1996 AFDC regulations.

HANDBOOK ENDS HERE

45-602 GENERAL KIN-GAP ELIGIBILITY REQUIREMENTS (Continued) 45-602

- .6 A child must meet the citizenship and alienage requirements in Sections 42-430 through 42-435.
- .7 Case records shall be maintained pursuant to the requirements of Section 48-000 and Section 31-075.
 - .71 These records shall be kept for a minimum of three years after the Kin-GAP case is closed.
- .8 Reassessment of Kin-GAP Eligibility
 - .81 A reassessment of a child's or nonminor former dependent's circumstances, which are subject to change, shall be completed no less frequently than every two years.
 - .82 At the time of the reassessment, the Kinship Guardian shall complete the "Statement of Facts Supporting Eligibility for Kinship-Guardian Assistance Payment (Kin-GAP) Program" (KG 2).
 - .83 Examples of a child's circumstances that are subject to change include, but are not limited to:
 - (a) Termination of the kinship guardianship.
 - (b) Failure of the relative to complete a reassessment request.
 - (c) Failure of the guardian to continue to support the child or the nonminor former dependent.
 - (d) Failure of the youth to continue to meet one of the education and employment participation conditions.
 - .84 The county shall make efforts to ensure that the relative legal guardian with whom the child resides is aware of the necessity to report any change in need or income for the child.

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The above-referenced Sections 42-430 through 42-435 refer to the 1996 AFDC regulations.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553, 10554, 11369 and 11393, Welfare and Institutions Code.
Reference: Sections 360, 366.26, 728, 11363, 11375, 11386, 11390(d), Welfare and Institutions Code.

45-604 FEDERAL KIN-GAP PROGRAM 45-604

- .1 To be eligible for federal Kin-GAP, a child or nonminor former dependent shall meet all federal requirements specified in this section and all general requirements specified in Section 45-602.
 - .11 Prior to and at the time the kinship guardianship is established, a child must be eligible to receive federal AFDC-FC pursuant to Sections 45-201 and 45-202.
- .2 Federal Kin-GAP may be provided on behalf of any youth, provided that one of the following conditions was met prior to the establishment of the kinship guardianship:
 - .21 He or she was removed from his or her home pursuant to a voluntary placement; or
 - .22 He or she was removed from his or her home as a result of a judicial determination, including being adjudged a dependent of the juvenile court pursuant to Welfare and Institutions Code section 300, to the effect that continuation in the home would be contrary to the welfare of the child; or
 - .23 He or she was removed from his or her home as a result of a judicial determination, including being adjudged a ward of the juvenile court pursuant to Welfare and Institutions Code sections 601 or 602, to the effect that continuation in the home would be contrary to the welfare of the child.
- .3 The approved relative caregiver must enter into a written binding agreement (SOC 369 & SOC 369A) with the county of placement prior to a court ordering the kinship guardianship pursuant to Welfare and Institutions Code sections 360, 366.26 or 728.
- .4 A federal Kin-GAP payment may be made on behalf of a sibling of a Title IV-E eligible child, regardless of the sibling's Title IV-E eligibility status, when the following conditions are met:
 - .41 An eligible child and his or her sibling are placed in the same kinship guardianship arrangement; and
 - .42 The kinship guardian and the county child welfare department, the probation department or the Indian tribe with a Title IV-E agreement, agree that the placement of the sibling is appropriate as evidenced by a determination that the guardianship arrangement meets the sibling's physical, mental and developmental needs; and
 - .43 Each sibling meets the citizenship and alienage requirements pursuant to Section 45-602.6.
 - .44 Each sibling meets the written agreement requirement pursuant to Section 45-604.3.

45-604	FEDERAL KIN-GAP PROGRAM (Continued)	45-604
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- .5 A child's case file shall contain the following forms or documents, as needed, to demonstrate eligibility for the federal AFDC-FC Program pursuant to Sections 45-202 and 45-203 prior to transferring to a Kin-GAP case:
- (a) CW 2.1 (Rev. 8/04) "Notice and Agreement for Child, Spousal and Medical Support" hereby incorporated by reference.
 - (b) CW 2.1 (Rev. 7/01) "Q-Support Questionnaire" hereby incorporated by reference.
 - (c) FC 2 (Rev. 11/04) "Statement of Facts Supporting Eligibility for Title IV-E Foster Care."
 - (d) FC 3 (Rev. 11/04) "Determination of Title IV-E Foster Care Eligibility."
 - (e) FC 3A (Rev. 11/04) "AFDC-FC Worksheet."
 - (f) If applicable, KG 1 (12/11) "Kin-GAP Mutual Agreement for 18-Year Olds."
 - (g) KG 2 (1/11) "Determination of Kin-GAP Eligibility."
 - (h) If applicable, KG 3 (12/11) "Kin-GAP Mutual Agreement for Nonminor Former Dependents."
 - (i) SOC 369 (12/10) "Agency-Relative Guardianship Disclosure."
 - (j) SOC 369A (7/15) "Kinship-Guardianship Assistance Payment Program Agreement Amendment."
 - (k) Any applicable county forms required to document the child's eligibility for a specialized care increment, a whole foster family home payment, a dual agency rate, a clothing allowance or other benefit that the child receives.
 - (l) Court order terminating dependency or wardship.
 - (m) Court order establishing kinship guardianship or a copy of the letters of guardianship.
 - (n) Relative approval documents, including criminal background and child abuse registry checks, pursuant to Welfare and Institutions Code section 361.4
 - (o) Case plan update submitted to a court prior to establishing kinship guardianship that includes information pursuant to Section 31-206.317.

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Section 31-206.317 provides that a child's case plan shall include the following:

"A description of the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted.

The reason(s), if any, for any separation of siblings during placement.

The reason(s) why a guardianship with a fit and willing relative through kinship guardianship assistance arrangement is in the child's best interest.

The ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment.

The efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reason(s) why not.

The efforts the agency has made to discuss with the child's parent(s) the kinship guardianship assistance arrangement, or the reasons why the efforts were not made."

HANDBOOK ENDS HERE

.6 Successor Guardian

- .61 A successor guardian, who was appointed pursuant to Welfare and Institutions Code section 366.3, can receive a federal Kin-GAP payment if the appointment was due to the death or incapacity of the kinship guardian and the successor guardian is named in the written agreement, or any amendment to the agreement. The six-month placement requirement will be waived for the successor guardian if an assessment has been done pursuant to Welfare and Institutions Code sections 361.3 and 361.4 and dependency jurisdiction has been terminated.

NOTE: Authority cited: Sections 10553, 10554, and 11393, Welfare and Institutions Code. Reference: Sections 7660 et. seq., 7800 et. seq., and 7911.1, Family Code; Section 1505, Health and Safety Code; Sections 366.26, 11400(m), 11400(o), 11401(b), 11401(e), 11401(f), 11402, 11402.1, 11385 to 11393 and 16507.4, Welfare and Institutions Code; Public Law 95-608; Public Law 96-272; 42 U.S.C. 606; 25 U.S.C. 1915; 42 U.S.C. 671; 42 U.S.C. 672(a)(2) and 672(a)(4); *Capitola Land et al. v. Anderson*, 55 Cal. App. 4th 69, 63 Cal. Rptr.2d 717, (1997); and *Anderson v. Superior Court*, 68 Cal. App. 4th 1240, 80 Cal. Rptr.2d 891, (1998).

45-605 STATE KIN-GAP PROGRAM 45-605

- .1 A child or nonminor former dependent is eligible to receive state Kin-GAP assistance if he or she is found to be ineligible to receive federal Kin-GAP. The child or nonminor former dependent shall meet all state requirements specified in this section and all general requirements specified in Section 45-602.
- .2 State Kin-GAP may be provided on behalf of any child or nonminor former dependent, provided that one of the following conditions was met prior to the establishment of the kinship guardianship:
 - .21 He or she was adjudicated a dependent of the juvenile court pursuant to Welfare and Institutions Code section 300; or
 - .22 He or she was adjudicated a ward of the juvenile court pursuant to Welfare and Institutions Code section 601 or 602.
- .3 The kinship guardian enters into a written binding agreement (SOC 369 & 369A) with the county of jurisdiction pursuant to Welfare and Institutions Code sections 360, 366.26 or 728.
- .4 The case file shall contain the following forms, as needed, to demonstrate eligibility for the State Kin-GAP Program:
 - (a) CW 2.1 (Rev. 8/04) "Notice and Agreement for Child, Spousal and Medical Support" hereby incorporated by reference.
 - (b) CW 2.1 (Rev. 7/01) "Q-Support Questionnaire" hereby incorporated by reference.
 - (c) If applicable, the KG 1 (12/11) "Kin-GAP Mutual Agreement for 18-Year Olds."
 - (d) KG 2 (1/11) "Determination of Kin-GAP Eligibility."
 - (e) KG 3 (12/11) "Kin-GAP Mutual Agreement for Nonminor Former Dependents."
 - (f) SOC 369 (12/10) "Agency-Relative Guardianship Disclosure."
 - (g) SOC 369A (7/15) "Kinship-Guardianship Assistance Payment Program Agreement Amendment."
 - (h) County forms are required to document the child's eligibility for a specialized care increment, a whole foster family home payment, a dual agency rate, a clothing allowance or other benefits that the child receives.
 - (i) Court order terminating dependency or wardship.
 - (j) Court order establishing kinship guardianship or a copy of the letters of guardianship.

45-605	STATE KIN-GAP PROGRAM (Continued)	45-605
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- (k) Case plan update submitted to court prior to establishing kinship guardianship that includes information pursuant to Sections 31-225.17 and 31-206.317.

HANDBOOK BEGINS HERE

"A description of the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted.

The reason(s), if any, for any separation of siblings during placement.

The reason(s) why a guardianship with a fit and willing relative through kinship guardianship assistance arrangement is in the child's best interest.

The ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment.

The efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reason(s) why not.

The efforts the agency has made to discuss with the child's parent(s) the kinship guardianship assistance arrangement or the reasons why the efforts were not made."

HANDBOOK ENDS HERE

.5 Subsequent Guardian

- .51 A subsequent guardian, or co-guardian who was appointed pursuant to Welfare and Institutions Code section 366.3 after the initial guardianship had been established, does not have to complete a six-month placement period. The six-month period will be waived for the subsequent guardian or co-guardian if an assessment has been done pursuant to Welfare and Institutions Code sections 361.3 and 361.4 and dependency jurisdiction has been terminated. The subsequent guardian need not have been named in the initial Kin-GAP agreement or any amendment thereto.

NOTE: Authority cited: Sections 10553, 10554, and 11369, Welfare and Institutions Code. Reference: Sections 7660 et. seq., 7800 et. seq., and 7911.1, Family Code; Sections 366.26, 11360 to 11376, 11400(m), 11400(o), 11401(b), 11401(e), 11401(f), 11402, 11402.1, and 16507.4, Welfare and Institutions Code; Section 366.3 and 1505, Health and Safety Code; 45 C.F.R. 1356.30; Public Law 95-608; Public Law 96-272; 25 U.S.C. 1915; 42 U.S.C. 606; 42 U.S.C. 671; 42 U.S.C. 672(a)(2) and 672(a)(4); *Capitola Land et al. v. Anderson*, 55 Cal. App. 4th 69, 63 Cal.Rptr.2d 717, (1997); and *Anderson v. Superior Court*, 68 California App. 4th 1240, 80 Cal.Rptr.2d 891, (1998).

45-606 **EXTENDED KIN-GAP PROGRAM** **45-606**

- .1 A nonminor former dependent meeting the age requirement pursuant to 45-602.313(b) shall be eligible for extended Kin-GAP when the following conditions are met:
- .11 The nonminor former dependent and the county representative have completed and signed the Kin-GAP Mutual Agreement for Nonminor Former Dependents (KG 3) within 30 working days after the nonminor former dependent's 18th birthday; and
 - .12 The nonminor former dependent meets at least one of the following conditions:
 - .121 Is completing secondary education or a program leading to an equivalent credential.
 - .122 Is enrolled in an institution that provides postsecondary or vocational education.
 - .123 Is participating in a program or activity designed to promote, or remove barriers to employment.
 - .124 Is employed for at least 80 hours per month.
 - .125 Is incapable of doing any of the activities described in Sections 45-606.121 through 45-606.124, inclusive, due to a medical condition; and that incapability is supported by regularly updated information in the individual's case plan.

NOTE: Authority cited: Sections 10553, 10554, 11369 and 11393, Welfare and Institutions Code.
Reference: Sections 10103.5, 11364, and 11386, Welfare and Institutions Code.

45-607 PAYMENT**45-607****.1 Beginning Date of Aid**

- .11 When an AFDC-FC foster child becomes eligible for Kin-GAP during the month, the child shall continue to receive benefits under the AFDC-FC foster care program pursuant to Sections 45-202 or 45-203, as applicable, to the end of that calendar month and Kin-GAP shall begin on the first day of the following month.
- .12 When a foster child receiving CalWORKs becomes eligible for Kin-GAP during the month, the child shall continue to receive benefits under the CalWORKs Program as appropriate to the end of that calendar month and Kin-GAP shall begin on the first day of the following month.

.2 Suspension of Payment

- .21 A Kin-GAP payment shall be suspended due to any of the following:
 - .211 The guardian fails to complete and return the Determination of Kin-GAP Eligibility (KG 2) within two weeks of the date it was mailed.
 - .212 The guardian is no longer providing support and care to the child or nonminor former dependent.
 - .213 The nonminor former dependent is no longer completing one of the extended Kin-GAP requirements pursuant to Section 45-606.12.
 - .214 The child or nonminor former dependent is subsequently incarcerated and wardship is established. Consistent with ACL 11-28, the child remains eligible for Kin-GAP payment if the child returns to the care of the relative guardian and all other eligibility conditions are met.
 - .215 A Kin-GAP payment can be resumed if the conditions listed in .211 through .214 are no longer applicable.

.3 Kin-GAP Budgeting Methods

- .31 The budget period for the computation of a Kin-GAP payment shall be the current month. The Kin-GAP payment shall be computed on the basis of known or estimated income in the current calendar month.

.4 Last Date of Payment

- .41 Date of termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP.
- .42 Date the child or nonminor former dependent does not meet age requirements pursuant to Section 45-602.31 shall terminate eligibility for Kin-GAP.

45-607 **PAYMENT (Continued)** **45-607**

- .43 The date the voluntary placement agreement or court order transfers placement and care responsibility from the guardian to the county welfare or probation department shall terminate eligibility for Kin-GAP, unless the condition described in Section 45-607.214 applies.

- .5 Parent in Home With Youth
 - .51 If the parent moves into the home with the Kin-GAP youth and kinship guardian, the Kin-GAP payments shall continue, assuming all other eligibility requirements continue to be met.

- .6 The income requirements of Sections 44-100 through 44-133 and Section 44-207 shall apply unless the child or nonminor former dependent meet one of the following:
 - .61 Is participating in the Job Training Partnership Act of 1982 (Public Law 97-300); or
 - .62 Is a former dependent or ward of the juvenile court who is a full-time student pursuant to the Deficit Reduction Act of 1984 (Public Law 97-369); or
 - .63 Is a nonminor former dependent or ward of the juvenile court, or 16 years of age or older, and is participating in the Independent Living Program pursuant to the Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

- .7 Kin-GAP Payment Offset
 - .71 Earned income that does not meet one of the specified conditions under 45-607.61 through 45-607.63 is to be offset against the amount of the Kin-Gap payment.
 - .72 For a child or nonminor former dependent receiving state-funded Kin-GAP, Supplemental Security Income (SSI/SSP) or Social Security Survivor's benefits are to be treated as income. The state Kin-GAP payment is to be offset dollar for dollar against the SSI/SSP or Social Security Survivor's payment. For a child or nonminor former dependent receiving federally funded Kin-GAP, SSI/SSP or Social Security Survivor's benefits are not to be counted as income. The Social Security Administration will offset the SSI/SSP or Social Security Survivor's payment against the federal Kin-GAP payment.
 - .73 For a child or nonminor former dependent receiving state-funded Kin-GAP, Social Security Disability benefits are to be treated as income. The state Kin-GAP payment is to be offset against the Social Security Disability payment pursuant to the \$225 disregard regulations, Sections 44-111.23 and 44-113.214. For a child or nonminor former dependent receiving federally funded Kin-GAP, Social Security Disability benefits are not to be counted as income. The Social Security Administration will offset the Social Security Disability payment against the federal Kin-GAP payment.

45-607 PAYMENT (Continued) 45-607

- .8 Filing of a Welfare and Institutions Code section 388 Petition
 - .81 After the filing of a petition pursuant to Welfare and Institutions Code Section 388, the Kin-GAP payment shall continue unless any of the following occur:
 - .82 The guardianship is terminated; or
 - .83 The court orders that the child be removed from the guardian's home; or
 - .84 After the conclusion of the hearing on the 388 petition, dependency jurisdiction is maintained by the juvenile court; or
 - .85 The placement and care responsibility is transferred from the guardian to the county welfare or probation department.

HANDBOOK BEGINS HERE

The above-referenced Sections 44-100 through 44-133 and 44-207 refer to the 1996 AFDC regulations.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553, 10554, 11369, and 11393, Welfare and Institutions Code. Reference: Section 7911.1, Family Code; Sections 361.21, 366, 727.1, 11017, 11056, 11360 to 11376, 11385 to 11393; 11400(f), 11401, 11402, 11403, 11450, and 11466.24, Welfare and Institutions Code; Section 472(a)(1), Social Security Act.

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KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT PROGRAM

Regulations KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT (KIN-GAP) PROGRAM 90-101 (Cont.)

90-101 DEFINITIONS AND FORMS (Continued)

90-101

(g) Reserved

(h) Reserved

(i) Reserved

(j) Reserved

(k) (1) KG 2A "Rights, Responsibilities and Other Important Information" is used to inform relative caretakers of their rights and responsibilities under the Kinship Guardianship Assistance Payment (Kin-GAP) Program (Rev. 12/99).

(l) Reserved

(m) Reserved

(n) Reserved

(o) Reserved

(p) Reserved

(q) Reserved

(r) Reserved

90-101 DEFINITIONS AND FORMS (Continued) 90-101

- (s) (l) SOC 369 The “Agency-Relative Guardianship Disclosure” (Rev. 12/99) is used to inform relative foster parents of the funding options available should they choose to take legal guardianship of their related foster child.

- (t) Reserved

- (u) Reserved

- (v) Reserved

- (x) Reserved

- (y) Reserved

- (z) Reserved

NOTE: Authority cited: Sections 10553, 10554, 10604, and 11369, Welfare and Institutions Code.
Reference: Sections 366.26, 11054, and 11362, Welfare and Institutions Code.

90-105 NON-CALWORKS REQUIREMENTS 90-105

- .1 Placement Requirements
 - .11 Eligible Facility
 - .111 In order to be eligible for Kin-GAP, the child must be living in the approved home of a relative.

 - .112 For purposes of Kin-GAP, the home must have been approved by the county, but the approval may occur prior to the child’s transfer to the Kin-GAP Program, and need not be reassessed after the child transfers from CalWORKs or AFDC-FC to Kin-GAP.

 - .12 Durational Requirements
 - .121 The child must have lived in the same relative’s home for at least 12 consecutive months before the child is eligible for Kin-GAP payments.

 - .13 Guardianship/Dependency
 - .131 The child must be in a court ordered guardianship pursuant to Welfare and Institutions Code 366.26.