



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

March 1, 2012

ALL COUNTY LETTER NO. 11-86

TO: ALL COUNTY WELFARE DIRECTORS  
 ALL CHIEF PROBATION OFFICERS  
 ALL FOSTER CARE MANAGERS  
 ALL INDEPENDENT LIVING PROGRAM COORDINATORS  
 ALL CHILD WELFARE SERVICES PROGRAM MANAGERS  
 ADOPTION SERVICE PROVIDERS  
 TITLE IV-E AGREEMENT TRIBES  
 ALL ADMINISTRATIVE LAW JUDGES  
 ALL CALIFORNIA DEPARTMENT OF SOCIAL SERVICES  
 ADOPTION DISTRICT OFFICES  
 ALL CONSORTIA PROJECT MANAGERS

SUBJECT: EXTENSION OF KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT  
 (KIN-GAP) PROGRAM BENEFITS AND ADOPTION ASSISTANCE  
 PAYMENTS (AAP) TO AGE 21

REFERENCE: PUBLIC LAW (P.L.) 110-351; ASSEMBLY BILL (AB) 12;  
 WELFARE AND INSTITUTIONS CODE (W&IC) SECTIONS 366.26,  
 11155.5, 11363(D), 11364(B)(4), 11367(C), 11386(H), 11403(B),  
 11403.01, 11466.24, 16120(D)(3), 16121.1, AND 16508.1; ELIGIBILITY  
 AND ASSISTANCE STANDARDS MANUAL 45-304 THROUGH  
 45-306; ALL COUNTY LETTERS (ACL), 02-45, 11-15, 11-61, 11-69,  
 11-77, 11-85; ALL COUNTY INFORMATION NOTICES (ACIN) I-07-10  
 AND I-40-11

This ACL provides counties with instructions regarding the extension of Kin-GAP Program benefits and AAP to age 21.

Please note: Counties should rely only upon the California Department of Social Services' (CDSS') ACLs, ACINs, County Fiscal Letters, or other guidance issued by CDSS as the communications of program or fiscal policy. Information shared in trainings, conferences, or other similar forums are for the purposes of providing a general overview and are often helpful for practice.

## BACKGROUND

On September 30, 2010, AB 12 was signed into law. This bill allows California to implement provisions of P.L. 110-351, the federal Fostering Connections to Success and Increasing Adoptions Act of 2008. One of the provisions of AB 12 allows for Kin-GAP Program benefits to be eligible for federal financial participation. The ACL 11-15, dated January 31, 2011, explains the changes to the Kin-GAP Program. Another major provision of AB 12, to be phased in over three years, allows California to extend Kin-GAP and AAP benefits beyond the age of 18 for eligible youth when the youth entered these arrangements at age 16 or older. The population discussed in this ACL consists of the Kin-GAP and AAP populations only. Extended Foster Care and non-related legal guardianship are not discussed in this ACL (please see ACLs 11-61, 11-69, 11-77, 11-85; and ACIN I-40-11 for further information regarding AB 12) <http://www.dss.cahwnet.gov/lettersnotices/PG931.htm> .

## PERMANENCY PRIORITY

State and federal law requires that children/youth in foster care achieve permanent families and that parental rights be terminated if a child/youth has been in foster care for 15 of the last 22 months absent a compelling reason not to terminate rights (W&IC sections 366.26 and 16508.1). The provisions of Kin-GAP and AAP benefits into adulthood for children/youth whose permanency occurred on or after age 16 are a significant commitment by the federal, state, and county governments in supporting permanency for children/youth in foster care. These benefits ensure that caregivers of older youth do not need to forgo a permanent family in order to receive the extended benefits. However, counties are reporting circumstances in which adoption or guardianship is being delayed for 12- or 14-year-olds in order to receive extended benefits when the youth is 18 years old. While the extension of these benefits can be a critical support to the children/youth and families, the federal mandate for permanency is fundamental and primary consideration should continue to be the best interests of the child/youth. A delay in permanency can be detrimental to vulnerable teenagers. The fiscal advantages of extended Kin-GAP and AAP benefits should be weighed against the child/youth's well-being and emotional need for a permanent family. Caseworkers should assist caregivers and children/youth to evaluate their individual circumstances in such considerations.

### ELIGIBILITY FOR EXTENDED BENEFITS

There are two distinct ways AAP and Kin-GAP benefits may be extended beyond age 18:

- Children/youth receiving AAP benefits and, effective January 1, 2011, children/youth receiving Kin-GAP benefits who have a documented mental or physical disability that warrants the continuation of assistance are eligible to receive benefits to age 21 regardless of the age of the child/youth when the initial adoption assistance agreement was signed or the kin guardianship was ordered; or
- Children/youth who do not have a documented mental or physical disability that warrants continuation of benefits may be eligible for Kin-GAP or AAP benefits after the age of 18-years old if they meet one of the five participation criteria stated in W&IC section 11403(b). The following lists the criteria, with a few examples. These examples are not an exhaustive recitation; they are for illustration purposes only:
  1. *Attending/completing high school or an equivalency program.* For example: independent study, non-public school, public high school, or home schooling;
  2. *Enrolling in post-secondary or vocational school.* For example: all public post-secondary systems in California, including community college, California State University, and University of California; all public post-secondary systems outside of California (Community Colleges and Universities); schools approved by the Bureau for Private Postsecondary Education; and courses taken through correspondence or online studies that are affiliated with a licensed institution;
  3. *Participating in a program or activity that promotes or removes barriers to employment.* For example: job skill classes, volunteering, counseling/therapy, social skills, anger management, teen parent classes or programs, or career exploration;
  4. *Employed at least 80 hours per month.* For example: Job Corps, Volunteers In Service to America (VISTA), One-Stops or Ticket to Work; or
  5. The child/youth is incapable of participating in one through four above, due to a documented physical or mental condition.

For more detailed information regarding extended foster care benefits and additional examples regarding participation criteria, please refer to ACLs 11-61, 11-69, 11-77, 11-85; and ACIN I-40-11. The case management and every six-month plan update requirements described in these ACLs for the non-minor dependents do not apply to extended Kin-GAP and AAP benefits. Relative guardians who receive Kin-GAP and adoptive parents who receive AAP are responsible for reporting to the responsible

public agency if the non-minor former dependent is not satisfying at least one of the participation criteria.

Along with the five eligibility criteria, children/youth must also meet one of the following for benefits to be extended beyond age 18:

- For AAP, the initial AAP agreement must have been signed when the child/youth was at least 16-years old and the child/youth will turn 18 on or after January 1, 2012;
- For federal Kin-GAP, the child/youth must have attained 16-years of age before the Kin-GAP negotiated agreement payments commenced; or
- For state Kin-GAP, the child/youth must have attained 16-years of age before the Kin-GAP aid payments commenced.

Please note: Conversion of a Kin-GAP case after the child is age 16 does not meet the criteria for eligibility for extended benefits i.e., the signing of a SOC 369A, as part of the conversion process for an existing Kin-GAP case, does **not** establish a new agreement date for purposes of determining eligibility for extended Kin-GAP.

### PHASE-IN OF AGE EXTENSIONS

The extension of Kin-GAP and AAP benefits is effective:

- January 1, 2012, up to age 19 (this means between 18- and 19-years old);
- January 1, 2013, up to age 20 (this means between 18- and 20-years old);
- Extension of Kin-GAP benefits up to age 21, for youth who do not have a documented mental or physical disability, is effective January 1, 2014, contingent upon legislative appropriation; and
- Extension of AAP benefits up to age 21 is effective January 1, 2014.

### EXCLUSIONS

The provisions in AB 12 exclude the following youth from receiving extended Kin-GAP or AAP benefits:

#### **AAP**

- Child/youth whose initial AAP agreement was signed prior to the age of 16.

## **Kin-GAP**

- Child/youth receiving Kin-GAP benefits that have turned age 19 in calendar year 2011;
- Child/youth in the federal Kin-GAP Program that had not yet attained 16-years of age before the Kin-GAP *negotiated agreement* payments commenced (see W&IC section 11386(h)). These children/youth may continue to be eligible for Kin-GAP up to age 19 under the existing high school completion rule (see W&IC section 11403.01); or
- Child/youth in the state Kin-GAP Program that had not yet attained 16-years of age before the Kin-GAP *aid* payments commenced (see W&IC section 11363(d)). These children/youth may continue to be eligible for Kin-GAP up to age 19 under the existing high school completion rule (see W&IC section 11403.01).

## **AAP SPECIFIC INFORMATION**

### **COUNTY RESPONSIBILITY TO NOTIFY AAP RECIPIENTS**

The responsible public agency must notify all affected AAP recipients of a child/youth's potential eligibility for extended benefits prior to the child/youth's 18<sup>th</sup> birthday. The agency must document in the AAP case file that the child/youth meets one of the five participation criteria for extended benefits and include supporting documentation. The responsible public agency is encouraged to broadly define the five participation criteria, so that the child/youth and the adoptive family may benefit from the extension of AAP. For more detailed information and examples regarding participation criteria, please refer to ACLs 11-61 and 11-69.

### **FORMS**

The AAP agreement (AD 4320) will be amended to add a provision regarding the eligibility for extended benefits for the child/youth whose initial agreement was signed on or after their 16<sup>th</sup> birthday, if they meet one of the five participation criteria.

### RECIPIENT RESPONSIBILITIES FOR AAP BENEFITS

For eligible children/youth receiving extended AAP benefits, the AAP agreement creates a contractual obligation for the adoptive parent(s) to continue to financially support the child as a condition of continuing receipt of the benefit. The adoptive parent(s) are responsible for requesting the benefit extension prior to the child/youth's 18<sup>th</sup> birthday, and providing documentation to the responsible public agency supporting that the child/youth meets one of the five participation criteria. The responsible public agency will determine the child/youth's eligibility for the extension of AAP benefits beyond the age of 18. All AAP rate negotiations and AAP agreements are to be conducted and signed by the responsible public agency and the adoptive parent(s). It is important to note that the regulations and statutes specific to AAP, including the Fair Hearing procedures, continue to apply to this AAP population.

### **KIN-GAP SPECIFIC INFORMATION**

#### COUNTY RESPONSIBILITY TO NOTIFY KIN-GAP RECIPIENTS

The responsible public agency must notify all affected Kin-GAP recipients of a child/youth's potential eligibility for extended benefits prior to the child/youth's 18<sup>th</sup> birthday. The agency must document in the Kin-GAP eligibility file that the child/youth meets one of the five participation criteria for extended benefits, and include supporting documentation, via both the SOC 369A and KG 3, discussed below.

The responsible public agency will determine the child/youth's eligibility for the extension of Kin-GAP benefits beyond the age of 18. All Kin-GAP rate negotiations and Kin-GAP agreements are to be conducted and signed by the responsible public agency and the relative guardian. The non-minor former dependent must sign the Kin-GAP Mutual Agreement for Non-Minor Former Dependents (KG 3).

All forms will be used at the time of entering the extension program and, also, be used at the two-year reassessment or when the needs of the child/youth or circumstances of the relative guardian change, to verify that the child/youth meets one of the five participation criteria. However, if there is a change of criteria by the non-minor former dependent, yet the non-minor former dependent still meets one of the five participation criteria, a notation may be made on the KG 3 form to record the criteria change; a new KG 3 form does not need to be executed. Other than at the initial determination for the extended Kin-GAP and the two-year reassessment, the responsible public agency is not required, in the interim, to obtain additional verification or request certification that the child/youth continues to meet one of the participation criteria. Of course, if the

responsible public agency has information suggesting that the child/youth no longer meets the participation criteria, the agency has an obligation to determine whether the child/youth continues to be eligible for extended benefits.

The relative caregiver/prospective guardian, or current relative guardian who disagrees with a county's determination regarding Kin-GAP eligibility or benefits has the right to dispute or appeal the decision by requesting a state hearing.

### Kin-GAP FORMS

For extended Kin-GAP the forms indicated below must be completed, as applicable, and maintained in the eligibility file:

- KG 3 - Kin-GAP Mutual Agreement for Nonminor Former Dependents (version 12/11); and
- SOC 369A – Kinship Guardianship Assistance Payment Program Agreement Amendment (version 11/11).

The new KG 3 and the revised SOC 369A are attached. All program required forms are available at: [www.cdss.ca.gov/cdssweb/PG19.htm](http://www.cdss.ca.gov/cdssweb/PG19.htm). The new forms will be available in Spanish. All ACLs and ACINs referenced in this letter are available at: [www.cdss.ca.gov/lettersnotices/default.htm](http://www.cdss.ca.gov/lettersnotices/default.htm).

### RECIPIENT RESPONSIBILITIES FOR KIN-GAP BENEFITS

For the purposes of extended Kin-GAP, the relative guardian(s) must agree to continue to provide support for the non-minor former dependent. Further, the child/youth cannot directly receive the financial benefit; it must continue to go directly to the relative guardian who is supporting the child/youth.

The relative guardian is responsible for requesting the benefit extension beyond the age of 18, and providing documentation to the responsible public agency supporting that the child/youth meets one of the five participation criteria. Further, the relative guardian is also responsible for reporting any changes to the responsible public agency when the non-minor former dependent is no longer meeting one of the five participation criteria.

### KIN-GAP OVERPAYMENT

Consistent with the Federal Improper Payments Act of 2002, AB 12 made the new state

and federally funded Kin-GAP Programs subject to the same overpayment recoupment and remittance rules as for Federal Aid for Dependent Children-Foster Care cases pursuant to W&IC section 11466.24 and Eligibility and Assistance Standards Manual sections 45-304 through 45-306.

### INDEPENDENT LIVING PROGRAM (ILP) SERVICES

A child/youth in receipt of extended Kin-GAP benefits will remain eligible for ILP Services. The extended Kin-GAP youth who receives ILP delivered services is subject to the National Youth in Transition Database reporting rules; please refer to ACIN I-07-10 for pertinent reporting rules. For information regarding retention of income and assets for eligible children/youth, please see ACLs 02-45 and 11-15.

### CONTINUATION OF BENEFITS OUT-OF-STATE

Under both the state and federally funded programs, extended Kin-GAP payment/benefits continue regardless of the state of residency in which the relative guardian and child/youth resides (W&IC sections 11364(b)(4), 11387(c), and 16121.1).

County workers are to encourage relative guardians and children/youth to apply for Medicaid on behalf of the child/youth in the new state of residence. Families moving out of California or the United States are also to be encouraged to research the applicable laws of the new state or country of residency to determine the impact the move will have on all other issues, including the ability to enroll the child/youth in school, arrange for health coverage, and accessibility to other appropriate services.

### Inquiries

Please direct all questions pertaining to the Kin-GAP Program to the Permanency Policy Bureau at (916) 657-1858; AAP questions should be directed to the Adoptions Services Bureau at (916) 651-8089, or myself at (916) 657-2614.

Sincerely,

### ***Original Document Signed By:***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division

Attachments



# Kin-GAP MUTUAL AGREEMENT FOR NONMINOR FORMER DEPENDENTS

CASE NAME
BIRTH DATE
CASE NUMBER

I request that the \_\_\_\_\_ Child Welfare Services/Probation Department or  
(circle appropriate public agency)

\_\_\_\_\_ Tribe maintain my extended Kin-GAP payment.

Recognizing my responsibility, I agree to:

1. Assist the responsible public agency in determining my financial need and eligibility while receiving a Kin-GAP payment.
2. Update/notify the responsible public agency and relative guardian if there are any changes in my circumstances or living arrangements.

Select criteria below:

3.  I am over 18 years old and have a documented physical or mental disability that warrants continuation of Kin-GAP assistance until I am 21 years old pursuant to Welfare and Institutions Code (W&IC) sections 11363(c)(2) and 11386(g)(2).
4.  I meet at least one of the five participating criteria as set forth in W&IC section 11403(b). I am (check all that apply):
  - Completing high school or an equivalency program.
  - Enrolled or enrolling in a post-secondary or vocational school.
  - Participating in a program or activity that promotes or removes barriers to employment.
  - Employed at least 80 hours per month.
  - Incapable of participating in 1-4 above, due to a documented physical or mental condition.
5. Keep the responsible public agency informed of my progress with my education/training program

SIGNATURE OF Kin-GAP YOUTH/AUTHORIZED REPRESENTATIVE		Kin-GAP YOUTH'S ELIGIBILITY WORKER
ADDRESS		ADDRESS
HOME TELEPHONE	ALTERNATE TELEPHONE	OFFICE TELEPHONE
DATE		DATE

### KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT (KIN-GAP) PROGRAM AGREEMENT AMENDMENT

***This form amends and supplements the SOC 369 to memorialize the terms, conditions, rights, responsibilities, and agreements reached between the county child welfare agency, probation department or Title IV-E agreement tribe and the relative guardian.***

NOTICE: This agreement describes the guardianship assistance benefit that you will receive. If you agree, please sign the agreement and return it to the responsible public agency. If you disagree, please contact the responsible public agency. If you and the agency cannot reach an agreement, you will receive a Notice of Action which explains how to request a state hearing to resolve the matter.

I/We, \_\_\_\_\_ and \_\_\_\_\_, have  
(NAME OF LEGAL GUARDIAN) (NAME OF LEGAL GUARDIAN)  
entered into an agreement with the \_\_\_\_\_ for a  
(NAME OF RESPONSIBLE PUBLIC AGENCY)

(check one)  federally eligible;  
 state eligible Kinship Guardianship Assistance Payment (Kin-GAP) for \_\_\_\_\_.  
(NAME OF CHILD)

This Kin-GAP Agreement will continue until it is modified or terminated in accordance with its terms.

This is (check one)  an initial agreement  
 an amendment to the agreement dated \_\_\_\_\_  
(DATE OF INITIAL AGREEMENT)

1. A Kin-GAP benefit of \$ \_\_\_\_\_ per month is authorized to begin \_\_\_\_\_.  
(BEGINNING DATE OF PAYMENT)

The child's needs must be reassessed at least every two years. The next scheduled reassessment is \_\_\_\_\_.  
(REASSESSMENT DATE)

2. Unless the benefit is ending because of age, \_\_\_\_\_ will send a Statement of Facts  
(RESPONSIBLE PUBLIC AGENCY)  
Supporting Eligibility for Kinship Guardianship Assistance Payment (Kin-GAP) Program (KG 2 form), at least 60 days before the next reassessment date. I/We shall complete the KG 2 and return it within 14 days to \_\_\_\_\_.  
(RESPONSIBLE PUBLIC AGENCY) I/We understand that failure to complete and return this form in a timely manner may result in an interruption, delay or termination in the receipt of the benefit.

- 3. If applicable, any specialized care increment (SCI) that the child receives may change as the needs of the child change.
- 4. A child receiving Kin-GAP shall be eligible for an age-related increase after his or her 5th, 9th, 12th and 15th birthdays. (In Marin County, the age-related increase occurs after his or her 5th, 7th, 12th, 13th and 15th birthdays.)
- 5. The Kin-GAP benefit may not exceed the age-related, state-approved foster family home care rate, and any applicable state-approved SCI, that would have been paid if the child had remained in foster care.
- 6. The Kin-GAP payment that the child receives may change if other income is received by or on behalf of the child.
- 7. A child receiving Kin-GAP benefits may retain cash and other assets subject to limitations established by law.
- 8. A child receiving Kin-GAP shall be eligible for a clothing allowance in accordance with state law and as established by the county of legal responsibility.

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9. For a youth eligible for a Kin-GAP benefit who is a teen parent and has a child living in the same home, the rate may include a two hundred dollar (\$200) monthly payment made to the relative caregiver in a whole family foster home.
  10. If a child is living with a teen parent who is eligible for Kin-GAP benefits, the rate paid to the relative guardian on behalf of the teen parent shall include the "infant supplement" which is an additional benefit for the care and supervision of the child.
  11. Payments on behalf of a child who is a recipient of Kin-GAP benefits and who is also a consumer of a California regional center services shall be based on the dual agency rates established by the State Department of Social Services.
  12. Continuation of the Kin-GAP benefit depends upon my/our responsibility for the support of the child and on the child's continued receipt of my/our support.
  13. I/We agree to inform the agency immediately if any of the following occurs:
    - Our address changes.
    - The youth is no longer residing in the family home.
    - I/We are no longer providing any type of support to the youth.
    - I/We are no longer responsible for the support of the youth.
    - Guardianship is terminated and/or dependency is reinstated.
    - The child begins to receive earned or unearned income (i.e., Social Security, SSI/SSP, other).

Failure to report these changes may result in an overpayment which may be recovered by a one-time charge or a reduction in current and future Kin-GAP benefits.

14. I/We understand that \_\_\_\_\_ will remain eligible to receive a Kin-GAP benefit from the State of California regardless of where I/we reside.  
(NAME OF CHILD)
15. I/We understand that under the terms of this agreement the child is eligible for medical services under Medi-Cal, California's Medicaid program. It is understood that if we move to another state we will need to apply for Medicaid in that state. I/We are aware that medical coverage and social services may vary in other states.
16. I/We understand that the child will not be eligible to receive a Kin-GAP payment after reaching the age of 18 years **unless** he or she is in school and is expected to graduate by the age of 19 years.
17. Effective January 1, 2012, a former dependent child or ward of the juvenile court who is eligible for the Kin-GAP program and who attained 16 years of age before originally entering the Kin-GAP program shall continue to receive aid up to 19 years of age; effective January 1, 2013, up to 20 years of age; and, effective January 1, 2014, up to 21 years of age [the extension of benefits for those between 20 and 21 years of age shall be contingent upon appropriation by the California Legislature], as long as one or more of the following conditions exist:
  - (1) The individual is completing secondary education or a program leading to an equivalent credential.
  - (2) The individual is enrolled in an institution which provides postsecondary or vocational education.
  - (3) The individual is participating in a program or activity designed to promote or remove barriers to employment.
  - (4) The individual is employed for at least 80 hours per month.
  - (5) The individual is incapable of doing any of the activities described in (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the individual.
18. Kin-GAP benefits shall continue to age 21 if the youth has a physical or mental disability that warrants the continuation of assistance.

Pursuant to Welfare and Institutions Code Section 1403(c), relative guardians who receive Kin-GAP payments are responsible for reporting to the responsible public agency when the nonminor former dependent no longer satisfies at least one of the five conditions described above.

- 19. I/We understand that under the terms of this agreement the child is eligible for services which include assistance in the filing of a petition to appoint a co-guardian or a successor guardian for the child to have dependency jurisdiction resumed, or to terminate guardianship.
- 20. I/We will not be charged or have to pay any fees or costs to establish guardianship.
- 21. Once the youth attains the age of 16, he or she may request and receive independent living program services.
- 22. The youth, who was in foster care between the ages of 16 - 18 while under the care and custody of the juvenile court, is eligible to apply for a Chaffee Education and Training Voucher.
- 23. I/We acknowledge that a copy of this written agreement has been received.
- 24. I/We understand that reimbursement can be made for reasonable and verified nonrecurring expenses incurred from obtaining legal guardianship to the extent the expenses don't exceed \$2,000. Reimbursement shall not be made for costs otherwise reimbursed from other sources.

I/We are in agreement with the provisions of this document.

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I/We are not in agreement with the provisions of this document and request a state hearing.

LEGAL GUARDIAN	DATE	RESPONSIBLE PUBLIC AGENCY REPRESENTATIVE	DATE
LEGAL GUARDIAN	DATE	RESPONSIBLE PUBLIC AGENCY NAME, ADDRESS TELEPHONE NUMBER	

**TO REQUEST A REASSESSMENT, GET HELP CONCERNING GUARDIANSHIP OR TO REQUEST SERVICES, PLEASE CALL OR WRITE THE PUBLIC AGENCY LISTED ABOVE.**