

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



November 13, 2000

ALL COUNTY LETTER NO. 00-70

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS

REASON FOR THIS TRANSMITTAL

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

SUBJECT: EFFECT OF ASSEMBLY BILL (AB) 2876 (CHAPTER 108, STATUTES OF 2000) ON THE KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT (Kin-GAP) PROGRAM

The purpose of this All County Letter (ACL) is to inform counties of changes to Kin-GAP Program resulting from the recent passage of AB 2876 (effective July 10, 2000). Attached is a copy of Kin-GAP emergency regulations which were effective July 1, 2000. This ACL will discuss which sections of these regulations no longer pertain as of July 10, 2000 due to the passage of AB 2876. The ACL also discusses new requirements contained in AB 2876 related to the Independent Living Program (ILP), alternate or co-guardians, and Forms and Notices. The amended regulations which will reflect these changes are anticipated in December 2000.

Monthly Reporting

Under AB 2876, monthly reporting will no longer be required for Kin-GAP Program. Thus, Kin-Gap regulations referencing Eligibility and Assistance Standards Manual (EAS) Sections 40-181.1(e)(3), 44-316.12(b), 90-101.2(k)(4), and 90-110.3 are being repealed. Annual redeterminations and annual completion of the KG 2 (Statement of Facts) by the caretaker relative are still required. In addition, if the caretaker relative received CalWORKs for themselves, the relative will still be required to do monthly reporting for their CalWORKs case.

Parent in Home

Under AB 2876, it is no longer required that a Kin-GAP case be discontinued if the child's parent(s) moves into the home of Kin-GAP caretaker relative. Accordingly, EAS Section 90-105.2 is being repealed.

Immediate Need

After the passage of AB 2876, Kin-GAP children will no longer be eligible for an Immediate Need payment pursuant to EAS Sections 90-110.1(a) and 40-129. Thus, reference to EAS Section 40-129 in Section 90-110.1(a) is being repealed.

Quality Control

After the passage of AB 2876, there is no longer authority to require a quality control function in Kin-GAP Program. Section 90-110.1(b) of EAS which cross references EAS Sections 40-201 through 40-209 is being repealed.

Deprivation

AB 2876 removed the requirement that the child be deprived of parental support or care pursuant to EAS Sections 90-110.1(c) and 41-400. Section 90-110.1(c) of EAS which cross references Section 41-400 is being repealed.

Welfare to Work

AB 2876 removed the requirement that the child participate in the Welfare-to-Work Program. It is important to note that AB 2876 did NOT remove the requirement that the child attend school pursuant to EAS Sections 90-110.1(h) and 40-105.5. Section 90-110.1(h) of EAS which cross references Section 40-105.5 (School Attendance Requirements) is being repealed.

Cal Learn

After the passage of AB 2876, Kin-GAP children will no longer be eligible to receive CalLearn benefits or services. Thus, EAS Section 90-110.1(i) which cross references EAS Sections 42-762 through 42-769 (Cal-Learn Program) is being repealed.

Excluded Persons

AB 2876 removed the requirements that certain individuals be excluded from the Assistance Unit (AU) pursuant to EAS Sections 90-110.1(k) and 44-206. Thus, the reference to EAS Section 44-206 (Persons Who Must Be Excluded From The AU) is being repealed from Section 90-110.1(k).

Special Needs

After the passage of AB 2876, Kin-GAP children will no longer be eligible to receive Special Needs payments. Thus, the reference to EAS Section 44-211 (Special Needs) is being repealed from EAS Section 90-110.1(l).

Reduced Income Supplemental Payments (RISP)

After the passage of AB 2876, Kin-GAP children will no longer be eligible to receive RISP payments. Thus, the reference to EAS Sections 44-400 through 44-403 (Hardship Supplemental Payments) is being repealed from EAS Section 90-110.1(l).

Child Care

After the passage of AB 2876, Kin-GAP children will no longer be eligible to receive Child Care Services. Thus, EAS Section 90-110.1(m) which cross references EAS Section 47-100 (Stage One Child Care Program) is being repealed.

Independent Living Program

Pursuant to AB 2876, Kin-GAP children will be eligible to request and receive ILP services when they turn 16 regardless of what age they exited the foster care program. They also may retain up to \$10,000 in accumulated ILP property so long as they earn it pursuant to an approved ILP plan.

Alternate or Co-Guardians

Pursuant to AB 2876, an alternate kinship guardian or kinship co-guardian can be appointed pursuant to Welfare and Institutions Code (WIC) Section 366.3 and be eligible to receive a Kin-GAP payment on behalf of a Kin-GAP child. The alternate kinship guardian or kinship co-guardian will not need to meet a new 12 month placement period requirement if they have been assessed pursuant to WIC Section 361.3 and the kinship guardianship is approved by the court.

Forms and Notices of Action (NOAs)

The CDSS will be reviewing Kin-GAP forms and NOAs and making the necessary changes. Any changes to the forms or NOAs will be issued under a separate All County Information Notice.

All other sections of the attached emergency regulations remain in full force and effect. If you have any questions about this ACL, please contact your Foster Care Eligibility Consultant at (916) 324-5809.

Sincerely,

SYLVIA PIZZINI
Deputy Director
Children and Family Services Division

c: CWDA

Attachment

Emergency Regulations -- Effective 7/1/2000

Adopt Chapter 11-300 to read:

Chapter 11-300 KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT PROGRAM
(KIN-GAP) RATES

Adopt Section 11-301 to read:

11-301 KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT PROGRAM (KIN-GAP) 11-301

.1 The Kin-GAP rate shall include but not be limited to the cost of, and the cost of providing, the following items:

.11 Food

.12 Clothing

.13 Shelter

.14 Daily Supervision

.15 School Supplies

.16 Personal Incidentals

.17 Liability insurance which covers the child

.2 Counties shall determine Kin-GAP rates for Kin-GAP children placed in the approved home of a relative in accordance with Welfare and Institutions Code Section 11364.

HANDBOOK BEGINS HERE

.21 The Kin-GAP rates effective 1/1/2000 are as follows:

<u>Age</u>	<u>Kin-GAP Rate</u>
<u>0-4</u>	<u>\$393</u>
<u>5-8</u>	<u>\$428</u>
<u>9-11</u>	<u>\$457</u>
<u>12-14</u>	<u>\$506</u>
<u>15-18</u>	<u>\$553</u>

HANDBOOK ENDS HERE

.3 Supplemental Payments

.31 A child receiving a Kin-GAP payment is entitled to an Infant Supplement, where appropriate, pursuant to Sections 11-415.12 and 90-115.2.

.32 The related guardian of a child receiving Kin-GAP, is entitled to the Allowance for Funeral Expenses, where appropriate, pursuant to Section 11-420.2.

.33 A child receiving a Kin-GAP payment is not entitled to a specialized care increment (Section 11-401.3) nor a clothing allowance (Section 11-420.1).

.4 Out of County Placements

.41 When a child is living with a related legal guardian who lives in a different county than the county with payment responsibility, the county with payment responsibility shall pay the basic rate of the host county.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11212, 11364, 11400(f), 11461, and 11465, Welfare and Institutions Code.

Amend Section 31-201 to read:

31-201 ASSESSMENT AND CASE PLANNING PROCESS

31-201

- .1 When it has been determined that child welfare services are to be provided the social worker shall: (Continued)
- .12 Determine the case plan goal. (Continued)
 - .121 When determining the case plan goal, the social worker shall consider the following order of priority for services: (Continued)
 - (c) Permanent placement services - Only when there are no feasible means of maintaining or reuniting the child with his/her parent(s)/guardian(s). (Continued)
 - (3) When recommending a permanent placement services, the social worker shall adhere to the following order of priority for permanent placement: (Continued)
 - (B) Guardianship - If kinship adoption or adoption is not possible, the case shall be reviewed for guardianship. Preference shall be given to guardianships by relatives.

HANDBOOK BEGINS HERE

- 1. Welfare and Institutions Code Section 361.3 specifies that all relative caregivers must be assessed by a specific set of criteria that includes safety of the home, character of the relative, and ability to provide permanency for the child, among other elements. This assessment provides the foundation for determining whether or not guardianship with the relative is appropriate and in the child's best interest.
- 2. To provide assistance in meeting the assessment criteria in Welfare and Institutions Code Section 361.3, CDSS issued guidelines to counties on March 1, 1999 pursuant to Welfare and Institutions Code Section 16501.1(i). Those guidelines

were distributed to the counties via All
County Information Notice I-18-99.

HANDBOOK ENDS HERE

(C) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 358.1(e) and 361 (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), 361.5, 366.23, 16501, 16501.1~~(e)~~(9) (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), 16501.1(f), 16506, 16507, and 16508, Welfare and Institutions Code; Sections 8714.5 and 8714.7 (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), Family Code.

Amend Section 40-121 to read:

40-121 COMPLETING THE APPLICATION (Continued)

40-121

.3 The Application Form

The county shall provide a copy of the completed SAWS 1 to the applicant at the time he/she applies. An application shall not be required for: (Continued)

.32

A transfer between AFDC-FG and U or vice versa, ~~or AFDC-FG/U and FC or vice versa,~~ AFDC-FG and U and Kin-GAP or vice versa, or FC and Kin-GAP or vice versa. (See Section 40-183.) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: SSA-AT-86-01; 45 CFR 206.10(a)(1)(ii); 45 CFR 233.10(a); and Section 11056, Welfare and Institutions Code.

Amend Section 40-181 to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION
OF ELIGIBILITY

40-181

.1 General County Responsibility (Continued)

(c) AFDC-FC and Kin-GAP cases

(1) For AFDC-FC cases, eligibility shall be established by use of the CA 2 at the time of application if the parent or legal guardian is available and cooperating. If the parent or legal guardian is unavailable or not cooperating, eligibility shall be established by use of the CA 2 or FC 2. AFDC-FC eligibility shall be reestablished by use of the CA 2 or FC 2 at six-month intervals.

(2) For children receiving Kin-GAP, eligibility shall be established by use of the KG 2 at the time of application. Kin-GAP eligibility shall be reestablished by use of the KG 2 at one-year intervals. (Continued)

(e) (Continued)

(1) Give applicants and recipients at the time of application and at least once every twelve months thereafter complete explanations in writing regarding factors which may cause ineligibility, underpayments or overpayments, penalties due to an IPV, and their responsibility to report changes within five calendar days (Section 40-105.14, Applicant and Recipient Responsibility). The factors which are to be explained shall include changes in income and resources, changes in need, etc. These requirements are met by the use of the ~~CA SAWS 2A~~ in CalWORKs. These requirements are met by the use of the KG 2A in Kin-GAP. Verbal explanations shall also be given when necessary to assure understanding. The recipient shall signify his/her understanding of his/her responsibilities in writing. (Continued)

(3) The monthly redetermination of eligibility for a Kin-GAP child, when income is reported by the recipient, shall follow the procedures described above. This requirement is met by the use of the KG 7. The KG 7 shall be carefully checked each month it is received so that correct grant computations are made. Special care should be taken to correct grant adjustments for overpayments when income/resources change.

(~~34~~) (Continued)

.5 Determination of Eligibility During Absence From the State, County or Country
(Continued)

- .52 Except for children receiving Kin-GAP, wWhen a periodic determination of eligibility is due during a recipient's temporary absence from the state or county, the Statement of Facts (CA 2) shall be sent to a welfare agency in the locality. Such agency shall be requested to interview the recipient, secure the signed CA 2 and return it with a report on the recipient's plan regarding his/her living arrangements, current needs and income, if he/she is out of state.

Authority Cited: Sections 10553, 10554, 10604, 11265.1, and 18904, Welfare and Institutions Code.

Reference: 42 U.S.C. 616(b) and (f); 45 CFR 233.28, 233.29(c), and 235.112(b); 7 CFR 273.16(b); Sections 10063, 10553, 10554, 10604, 11008, 11253.5, 11254, 11265.8, 11280, 11450.12, 11451.5, 11451.7, 11486, and 11495.1, Welfare and Institutions Code; and Section 301(a)(1)(A) and (B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193): California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996.

Amend Section 40-183 to read:

40-183 INTRAPROGRAM STATUS CHANGE

40-183

.1 Intraprogram Status Change -- Defined

An intraprogram status change means change in status from one part of the same program to the other, i.e., from cash grant to medically needy and vice versa within the same program and changes between ~~AFDC-FG~~ CalWORKs and AFDC-FC, or ~~AFDC-U~~ CalWORKs and AFDC-FC, or AFDC-FC and Kin-GAP, or CalWORKs and Kin-GAP. (See Sections 40-183.5 and 44-317.6.) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11053 and 11102, Welfare and Institutions Code.

Amend Section 40-188 to read:

40-188 TRANSFER PROCEDURE (Continued)

40-188

.1 First County

The first county shall:

.13 Provide Documentation

Provide the second county with copies of the most recent: (Continued)

.135 Foster Care and Kin-GAP

SAWS 1; FC 2/JA 2/KG 2; SOC 158A; Birth Certificate/Alien Status; Social Security Number, FC 3/FC 3A; Voluntary Placement Agreement, Legal Guardianship Papers; or Court Order which establishes the authority for placement; Independent Living Plan; evidence supporting federal and/or state eligibility; and any other information necessary to determine eligibility. (Continued)

Authority Cited: Sections 10553, 10554, 10605, 11053, and 11102, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 10605, Welfare and Institutions Code.

Amend Section 40-189 to read:

40-189 COUNTY IN WHICH RECIPIENT MAKES HIS/HER HOME 40-189

.1 Home County A recipient is considered to "make his/her home" in the county in which he/she is physically residing.

.2 Exceptions The following are exceptions to .1 above:
(Continued)

.27 Kin-GAP In Kin-GAP, a child shall be considered to make his/her home in the county which had legal custody of the child pursuant to Section 40-125.8 immediately prior to the dismissal of dependency and establishment of the legal guardianship by the court.

Authority Cited: Sections 10553, 10554, 10604, 11053, and 11102, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Amend Section 40-190 to read:

40-190 COUNTY RESPONSIBILITY

40-190

.1 Initiation of Intercounty Transfer

An intercounty transfer shall be initiated immediately when: (Continued)

.14 Kin-GAP Transfer

A Kin-GAP child has been receiving aid in a county other than the county of responsibility as identified in Section 90-105.3, the case should be transferred to the county of responsibility.
(Continued)

Authority Cited: Sections 10553, 10554, 10604, 11053, and 11102, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Amend Section 42-101 to read:

42-101 AGE REQUIREMENT (Continued)

42-101

.2 (Continued)

.23 In addition, for a child in receipt of Kin-GAP, the child and placement agency must sign a mutual agreement (KG 1) prior to or within the month the child reaches age 18.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11363, 11403, and 10063(a), Welfare and Institutions Code.

Amend Section 42-302 to read:

42-302	60-MONTH TIME LIMIT REQUIREMENTS FOR ADULTS	42-302
.1	60-Month Time Limit	(Continued)
.11	Exceptions	(Continued)
.112	Providing Care	The individual is exempt from welfare-to-work participation requirements due to: (Continued)
(b)		Being a nonparent caretaker of either a dependent child of the court, <u>a Kin-GAP child</u> , or, as determined by the county, a child who is at risk of placement in foster care. For this exemption to apply, the county must also determine that the caretaking responsibilities are beyond those considered normal day-to-day parenting responsibilities so that they impair the individual's ability to be regularly employed or to participate in the welfare-to-work activities. (Continued)
.2	Counting the 60-month Limit	(Continued)
.21	Exempt Months	(Continued)
(b)	Providing Care	The individual is exempt from welfare-to-work participation requirements due to: (Continued)
(2)		Being the nonparent caretaker of either a dependent child of the court, <u>a Kin-GAP child</u> , or, as determined by the county, a child who is at risk of placement in foster care. For this exemption to apply, the county must also determine that the caretaking responsibilities are beyond those considered normal day-to-day parenting responsibilities so that they impair the individual's ability to be regularly employed or to participate in the welfare-to-work activities. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11266.5, 11454, 11454.5 and 11495.1, Welfare and Institutions Code, and 42 U.S.C. 608(a)(7)(A) and (B).

Amend Section 42-712 to read:

42-712 EXEMPTIONS FROM WELFARE-TO-WORK PARTICIPATION 42-712
(Continued)

.4 (Continued)

.45 Exemption Based on an Aided Nonparent Relative Caring for a Child Who is a Dependent or Ward of the Court, a Child Who is Receiving Kin-GAP Benefits, or a Child at Risk of Placement in Foster Care

.451 (Continued)

(a) Is a dependent or ward of the court, ~~or~~

(b) Is receiving Kin-GAP benefits, or

~~(c)~~ (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10063(b), 11253.5, 11320, 11320.3, 11331.5(a), (b), (c), and (d), 11454, and 11454.5, Welfare and Institutions Code; and 42 U.S.C. 5044(f)(2).

Amend Section 44-133 to read:

44-133 TREATMENT OF INCOME -- CALWORKS (Continued)

44-133

.3 Income of Children in Foster Care and Kin-GAP

All net income received by or on behalf of children in foster care or Kin-GAP shall be considered income to the child.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10063 (Ch. 270, Stats. 1997), 10553, 10554, 10604, 11008.14 (Ch. 270, Stats. 1997), 11254, 11450, 11452, 11453, 11486, 18937 (Ch. 329, Stats. 1998), ~~and~~ 18940 (Ch. 329, Stats. 1998), and 11371, Welfare and Institutions Code; 45 CFR 205.50(a)(1)(i)(A); 45 CFR 233.20(a)(1)(i); 45 CFR 233.20(a)(3)(ii)(C), (a)(3)(vi)(B), (a)(3)(xiv), (a)(3)(xiv)(B), and (xviii); 45 CFR 233.50(A)(c); and 45 CFR 233.90(c)(2)(i); Family Support Administration Action Transmittal 91-15 (FSA-AT-91-15), dated April 23, 1991; and Omnibus Budget Reconciliation Act (OBRA) of 1990; U.S. Department of Health and Human Services Federal Action Transmittal No. FSA-AT-91-4 dated February 25, 1991; Simpson v. Hegstrom, 873 F.2d 1294 (1989); Ortega v. Anderson, Case No. 746632-0 (Alameda Superior Court) July 11, 1995; and Federal Register, Vol. 58, No. 182, pages 49218 - 20, dated September 22, 1993 and 42 USC 602(a)(39).

Amend Section 44-316 to read:

44-316 REPORTING CHANGES AFFECTING ELIGIBILITY AND GRANT DETERMINATIONS 44-316

.1 Required Reporting of All Changes Affecting Eligibility and Grant Determination
(Continued)

.12 Additionally, prior to the end of each budget period, the county shall request updated information from recipient families concerning all changes affecting eligibility and grant in that budget period or expected changes in subsequent budget periods.

(a) For all CalWORKs recipients such information shall be reported on the CA 7. If the recipient fails to provide the report requested by the county by the deadline provided by Section 40-181.22, then the recipient's grant will be terminated in accordance with Confidentiality, Fraud, Civil Rights, and State Hearings Manual Section 22-072. Though the CA 7 is not applicable to AFDC-FC, every effort shall be made by the county to insure that foster parents and children are aware of the necessity to report any change in need or income for the child.

(b) For all Kin-GAP recipients, such information shall be reported on the KG 7.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 10063 (Ch. 270, Stats. 1997), Welfare and Institutions Code.

Amend Section 44-317 to read:

44-317 BEGINNING DATE OF AID FOR NEW APPLICATIONS 44-317
(Continued)

.6 Intraprogram Status Changes (Continued)

.64 Transfers from AFDC-FC to Kin-GAP

.641 When a child is transferring from AFDC-FC to Kin-GAP, but remains in the home of the same caretaker relative, the BDA of Kin-GAP is the first of the month following the dismissal of the dependency (see Section 90-105.132). AFDC-FC shall be paid until the Kin-GAP payment begins.

.65 Transfers Between CalWORKs and Kin-GAP

.651 When a child is transferring from CalWORKs to Kin-GAP, or vice versa, but remains in the home of the same related caretaker, the effective date of the program transfer is the first of the month following the request for change of program or the dismissal of the dependency (see Section 90-105.132).

Authority Cited: Sections 10553, 10554, 10604, and 11209, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10604, and 11056, Welfare and Institutions Code; 45 CFR 205.42(d)(2)(A), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 206.10; 45 CFR 233.10(a)(1); 45 CFR 233.20(a)(1)(ii); 45 CFR 233.60; 45 CFR 233.90(c)(2)(i); and Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. CIV-S-93-859 WBS, JFM, dated January 3, 1995.

Adopt Division 90 to read:

Division 90 Kinship Guardianship Assistance Payment Program

Adopt Chapter 90-100 to read:

Chapter 90-100, Kinship Guardianship Assistance Payment (Kin-GAP) Program

Adopt Section 90-101 to read:

90-101 DEFINITIONS AND FORMS

90-101

.1 The definitions in Sections 80-301 and 45-101 apply to the Kin-GAP Program. The following definitions also apply, and for the Kin-GAP Program only, supersede those in Sections 80-301 and 45-101, where dual or conflicting definitions exist:

(a) (1) Approved home of a relative means the home of a relative which has been determined to be suited to the needs of the child by a social worker as specified in Section 45-101(a)(2)(A).

(b) Reserved

(c) Reserved

(d) Reserved

(e) Reserved

(f) Reserved

(g) Reserved

(h) Reserved

(i) Reserved

(j) Reserved

(k) Reserved

(l) (1) Legal guardian means the individual appointed guardian of the child by a California court pursuant to Welfare and Institutions Code Section 366.26.

(m) Reserved

(n) Reserved

(o) Reserved

(p) (1) A Parent means the natural or adoptive father or mother, whether married or unmarried.

(q) Reserved

(r) (1) A relative means a person related to the child by blood, marriage, or adoption who is within the fifth degree of kinship to the child by virtue of being one of the following:

(A) The father, mother, brother, sister, half-brother, half-sister, uncle, aunt, first cousin, first cousin once removed, nephew, niece, or any such person of a preceding generation denoted by the prefixes grand-, great-, or great-great, or great-great-great.

(B) The stepfather, stepmother, stepbrother, or stepsister.

(C) The spouse of any person named in Section 90-101(r)(1)(A) or (B) above, even after the marriage has been terminated by death or dissolution.

(s) Reserved

(t) Reserved

(u) Reserved

(v) Reserved

(x) Reserved

(y) Reserved

(z) Reserved

.2 The forms in Section 80-310 apply to the Kin-GAP Program. The following forms also apply, and for the Kin-GAP Program only, supersede those in Section 80-310 where they serve the same function:

(a) Reserved

(b) Reserved

(c) Reserved

(d) Reserved

(e) Reserved

(f) Reserved

(g) Reserved

(h) Reserved

(i) Reserved

(j) Reserved

(k) (l) KG 1 The Mutual Agreement for 18-Year Olds is used to obtain an 18-year old child's agreement to remain in the Kin-GAP

Program after his/her 18th birthday, in accordance with the Age requirements of Section 42-101.

- (2) KG 2 The “Statement of Facts Supporting Eligibility for Kinship Guardianship Assistance Payment (Kin-GAP) Program” (Rev. 11/99) is used to collect information necessary to determine Kin-GAP eligibility at the time of application and redetermination.
- (3) KG 2-A “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)
- (4) KG 7 The “Kin-GAP Periodic Eligibility/Status Report” (Rev. 12/99) is used to gather information on a monthly or quarterly basis to determine eligibility to receive Kin-GAP benefits.

(l) Reserved
(m) Reserved
(n) Reserved
(o) Reserved
(p) Reserved
(q) Reserved
(r) Reserved

- (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

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 366.26, 11054, and 11362, Welfare and Institutions Code.

Adopt Section 90-105 to read:

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.

.132 The child's dependency must be dismissed after January 1, 2000.

.2 Parent in Home

.21 If at any time either parent resides with the Kin-GAP child, the Kin-GAP case shall be denied or discontinued and an intraprogram status change to CalWORKs should be initiated.

.22 This section shall not apply if the parent is a minor child who is also receiving Kin-GAP, CalWORKs, or AFDC-FC.

.3 County of Responsibility

.31 The county of responsibility for a child receiving a Kin-GAP payment is the county which had legal custody of the child as required in Section 40-125.8 immediately prior to the dismissal of the custody court order and establishment of the legal guardianship by the court.

.4 Assistance Unit Composition

.41 Each Kin-GAP child shall constitute his/her own assistance unit (AU) of one. No other person, including siblings, shall be in the same AU with the Kin-GAP child.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 366.26, 366.3, 11361, 11362, 11363, and 11465, Welfare and Institutions Code.

Adopt Section 90-110 to read:

90-110 CALWORKS REQUIREMENTS

90-110

.1 The following CalWORKs regulations shall apply to children receiving Kin-GAP benefits:

- (a) The reception and application requirements of Sections 40-101 through 40-117 and 40-119 through 40-121, Sections 40-125.9 and 40-126 through 40-129, Sections 40-157 through 40-181.216, Sections 40-181.25 through 40-181.26, Sections 40-181.4 through 40-183, Sections 40-187 through 40-190, and Section 40-197.
- (b) The quality control requirements of Sections 40-201 through 40-209.
- (c) The deprivation requirements of Section 41-400.
- (d) The age requirements of Section 42-100.
- (e) The property requirements of Section 42-200.
 - (1) For purposes of determining property eligibility, children in the Kin-GAP Program shall be treated in all aspects as a recipient, not as an applicant.
- (f) The residence requirements of Sections 42-400 through 42-424.
- (g) The citizenship, alienage and language fluency requirements of Sections 42-430 through 42-435.
- (h) The welfare to work requirements of Sections 42-700 through 42-751.
- (i) The Cal-Learn requirements of Sections 42-762 through 42-769.
- (j) The responsible relative requirements of Sections 43-100 through 43-205.
- (k) The income requirements of Sections 44-100 through 44-133, and Sections 44-206 and 44-207.
 - (1) For purposes of determining income eligibility, children in the Kin-GAP Program shall be treated in all aspects as a recipient, not as an applicant.
- (l) The aid payment requirements of Sections 44-211, and 44-300 through 44-305, Sections 44-313; Sections 44-316 and 44-317, Sections 44-319 through 44-353, and Sections 44-400 through 44-403.

- (m) The Child Care requirements of Section 47-100.
- (n) The Records requirements of Section 48-000.
- (o) The Child Support Enforcement Program requirements of Sections 82-502 through 82-520.
- (p) The Temporary Absence requirements of Section 82-812.
- (q) The excluded persons requirements of Section 82-832.
- (r) The Restricted Accounts requirements of Section 89-130.

.2 Methods of Periodic Determination of Eligibility

- .21 Regulations governing the method of initial determination also govern all continuing and periodic determinations. (See Section 40-157.)
- .22 The recipient's statements or the statements of his/her guardian or any other person acting for him/her and completing the Statement of Facts, together with information obtained from all other sources, shall be assessed in the light of facts previously known and in relation to potentials for change in eligibility status or amount of grant.

.3 KG 7 – Reporting Requirements

- .31 Kin-GAP recipients shall, in addition to the annual completion of the KG 2, complete and return the KG 7 to the CWD by the 5th calendar day of each report month only when there is income to the child or changes affecting the child's eligibility occur.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11367, Welfare and Institutions Code.

Adopt Section 90-115 to read:

90-115 PAYMENT

90-115

.1 Need Standard

The Kin-GAP rate, as determined in Chapter 11-300, shall constitute the need standard for a child receiving Kin-GAP. The child's net-nonexempt income as determined in Chapter 44-100 shall not exceed the need standard. Income received by the child's parents, legal guardians or relatives shall not be used to determine the Kin-GAP aid payment.

.2 Infant Supplement

.21 An infant supplement shall be paid in addition to a minor parent's Kin-GAP payment for the care and supervision of a child living with his/her minor parent in the same eligible facility when the minor parent is eligible for Kin-GAP.

.22 A child living with his/her Kin-GAP eligible minor parent in the same eligible facility does not need a separate eligibility determination. The eligibility for the infant supplement is based on the minor parent's Kin-GAP eligibility determination.

.23 The infant supplement amount shall be determined pursuant to Section 11-415.12.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11465, Welfare and Institutions Code.

Amend Section 82-510 to read:

82-510 COOPERATION REQUIREMENTS (Continued)

82-510

.5 Foster Parents and Nonneedy
Caretaker Relatives

The failure of a foster parent or nonneedy caretaker relative to comply with cooperation requirements shall not result in any change in the amount of aid paid to the AU. In foster care and Kin-GAP situations, the child's natural parent and the placing agency will be asked to cooperate to the extent possible.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11477 and 11477.02, Welfare and Institutions Code; 45 CFR 303.5(d)(1); and Sections 301(a)(1)(A) and (B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193): California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996.

Amend Section 82-820 to read:

82-820 INCLUDED PERSONS (Continued) 82-820

.2 Minimum Requirements An AU shall have at least one of the following:
(Continued)

.22 Caretaker Relative A caretaker relative of an SSI/SSP child, Kin-GAP child, or of a child receiving federal, state or local foster care maintenance payments. For purposes of this section, local foster care maintenance payments are payments made with county-only funds for the board and care costs of children in 24-hour out-of-home care who have an open child welfare services case file.
(Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: 42 USCA 606; 45 CFR 206.10(a)(1); 45 CFR 233.10(a)(1), (a)(1)(iv) and (vii); 45 CFR 233.90(c)(1)(v)(A); 45 CFR 237.50(b)(5); 45 CFR 250.34; SSA-AT-86-01; Section 242, California Civil Code; Edwards v. Healy, Civ. S. 91-1473 DFL (1992); Sections 10553, 10554, 10604, 11000, 11254, 11400, ~~and~~ 11450, and 11450.16, Welfare and Institutions Code; and ACF-AT-94-5.

Amend Section 82-832 to read:

82-832 EXCLUDED PERSONS (Continued)

82-832

- | | | |
|----|---|--|
| .1 | Person Who Is Excluded By Law | A person excluded from the AU by law is a person who: |
| | (a) Child of AFDC-FC <u>or</u> <u>Kin-GAP</u> Child | Is a child living with his/her minor parent who is receiving AFDC-FC <u>or</u> <u>Kin-GAP</u> .
(Continued) |
| | (e) Other Aid | Receives SSI/SSP, Refugee Repatriate Payment (RRP), <u>Kin-GAP</u> or AFDC-FC. (Continued) |

Authority Cited: Sections 10553, 10554, and 11270, Welfare and Institutions Code.

Reference: 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808, 45 CFR 205.52, 45 CFR 206.10(a)(5)(i), 45 CFR 232.12(d), 45 CFR 233.10(a)(1)(i), (a)(1)(i)(B), and (a)(3), 45 CFR 233.20(a)(1)(i), (a)(3)(ii)(C) and (F), and (a)(3)(ix), 45 CFR 233.50, 45 CFR 233.51, 45 CFR 233.90(c), (c)(1), and (c)(2)(iv), 45 CFR 233.100(a)(5)(ii), 45 CFR 233.106, 45 CFR 240.22, and 45 CFR 250.34(a) and (c), and (c)(2); and Sections 11008.13, 11104, 11157, 11201(b), 11203, 11251.3, 11263.5, 11268, 11270, 11315, 11320.6(e), 11327.5(c), 11406.5, 11450, 11454, 11454.5, 11477, 11477.02, 11486, and 11486.5, Welfare and Institutions Code; and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Section 115.