

Child Welfare Policy Manual

Questions & Answers

8.5B.2 Guardianship Assistance Program, Eligibility, Guardian requirements

1. Question: Describe the criminal records check requirements for relative guardians.

Answer: Before a relative guardian may receive title IV-E kinship guardianship assistance payments on behalf of a child, the title IV-E agency must conduct fingerprint-based criminal records checks of the national crime information databases (NCID) of the relative guardian(s) and child abuse and neglect registry checks of relative guardian(s) and other adults living in the guardian's home consistent with section 471(a)(20)(C) of the Social Security Act (the Act).

Consistent with existing policy, if the title IV-E agency has established an appropriate timeframe that the NCID and child abuse and neglect registry background checks remain valid and such timeframe has not expired for the foster parent who previously received the background checks and is now seeking to become a relative guardian, the agency can consider the requirement of section 471(a)(20) of the Act met without conducting new background checks (Child Welfare Policy Manual 8.4F Q/A #13).

- **Source/Date:** 08/12/09
- **Legal and Related References:** Social Security Act § section 471(a)(20); Child Welfare Policy Manual section 8.4F Q/A #13

2. Question: Are fingerprint-based criminal background check requirements in 471(a)(20)(C) of the Act required for successor legal guardians named in the guardianship assistance agreement per section 473(d)(3)(C) of the Act? If so, at what point must this be completed?

Answer: Yes. The criminal background check requirements in section 471(a)(20)(C) of the Act apply to the successor legal guardian. Before the successor legal guardian may receive a title IV-E payment, the title IV-E agency must: 1) conduct fingerprint-based criminal records checks of the national crime information databases (NCID) of the guardian(s) and 2) child abuse and neglect registry checks of guardian(s) and other adults living in the guardian's home consistent with section 471(a)(20)(C) of the Social Security Act (the Act). See CWPM 8.5B.2 Q/A #1 for more information.

- **Source/Date:** 2/18/2015

- **Legal and Related References:** Social Security Act ? sections 471(a)(20)(C), 473(d)(3)(C)

3. Question: Must the successor legal guardian named in the guardianship assistance agreement be a "relative" as with the original guardian?

Answer: No. The statute at 473(d)(3)(C) of the Act provides that the child's eligibility "...shall not be affected by reason of replacement of the relative guardian with a successor legal guardian named" in the agreement.

- **Source/Date:** 2/18/2015
- **Legal and Related References:** Social Security Act – section 473(d)(3)(C)