

Child Welfare Policy Manual

Questions & Answers

8.5C Guardianship Assistance Program, Payments

1. Question: May a title IV-E agency operating a Guardianship Assistance Program (GAP) set a different payment ceiling for payments under the GAP than it sets for the Adoption Assistance Program?

Answer: Yes. However, neither the GAP payment nor the adoption assistance payment can exceed the amount of the foster care maintenance payment which the child would have received had the child remained in a foster family home.

- **Source/Date:** 05/29/09
- **Legal and Related References:** Social Security Act § section 473(d)(2)

2. Question: For the Guardianship Assistance Program (GAP), does a title IV-E agency have the flexibility to establish a cap on specific components (e.g., attorney fees) of the nonrecurring expenses that it must pay in connection with obtaining legal guardianship of the child?

Answer: No. Section 473(d)(1)(B)(iv) of the Social Security Act provides that a GAP agreement must specify, among other things, that the title IV-E agency will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000. Such language does not permit a title IV-E agency the discretion to establish such a cap on specific items that qualify as nonrecurring expenses.

- **Source/Date:** 2/24/2011
- **Legal and Related References:** Social Security Act § Section 473(d)(1)(B)(iv)

3. Question: If a relative guardian moves to another country on a temporary or permanent basis with the child for whom he/she is the guardian, would the relative guardian still be eligible to receive title IV-E Guardianship Assistance Program payments directly on behalf of the child?

Answer: Yes. The title IV-E agency may provide title IV-E payments to a relative guardian on behalf of the child when living outside of the U.S. The already established guardian must have entered into a guardianship agreement with the title IV-E agency on behalf of an eligible child.

- **Source/Date:** 2/24/2011
- **Legal and Related References:** Social Security Act § Section 473(d)(1)

4. Question: May a title IV-E agency make a title IV-E guardianship assistance payment directly to a youth age 18 or older?

Answer: No. A title IV-E agency must make the payments to the relative guardian(s) per section 473(d)(1)(A) of the Act which specifies that the guardianship assistance agreement is between the agency and the relative guardian(s).

- **Source/Date:** 05/06/2013
- **Legal and Related References:** Social Security Act § section 473(d)

5. Question: Must a title IV-E agency discontinue title IV-E guardianship assistance payments provided per section 475(8)(B) of the Act for a youth age 18 or older if the title IV-E agency determines that the youth is no longer meeting the education or employment criteria or is no longer incapable of meeting any of these criteria due to a medical condition, as elected by the title IV-E agency?

Answer: Yes. A title IV-E agency must ensure that a youth receiving a title IV-E guardianship assistance payment under section 475(8)(B) of the Act meets the education and employment criteria or is no longer incapable of meeting any of these criteria due to a medical condition, as elected by the title IV-E agency. Once a title IV-E agency determines that a youth no longer meets the criteria, the agency must discontinue title IV-E guardianship assistance payments for the youth. However, if the youth meets the criteria at a later time, the title IV-E agency may resume payments to the youth.

- **Source/Date:** 05/06/2013
- **Legal and Related References:** Social Security Act § section 475(8)(B); ACYF-CB-PI-10-11

6. Question: Are title IV-E agencies required to pay non-recurring expenses associated with obtaining legal guardianship of the child on behalf of the successor guardian?

Answer: Yes. An agreement is required between the successor guardian and the title IV-E agency. This guardianship assistance agreement must specify that the agency will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child to the extent the total cost does not exceed \$2,000, per section 473(d)(1)(B) of the Act. The nonrecurring expenses limit is applied per guardianship.

- **Source/Date:** 8/26/15
- **Legal and Related References:** Social Security Act – sections 473(d)(1), 473(d)(3)(C), Child Welfare Policy Manual Section 8.5 Question/Answer 7