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Child Guardianship Policy Manuals

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STATE OF MICHIGAN

DEPARTMENT OF HEALTH & HUMAN SERVICES

JUVENILE GUARDIANSHIP UNDER THE JUVENILE CODE

STATE LAW

2008 PA 200 [MCL 712A.19a]

This act amended the juvenile code to permit the court to appoint a guardian at a permanency planning hearing in lieu of terminating parental rights or returning the child home; requires the court to order the Michigan Department of Health and Human Services (MDHHS) to conduct a criminal record check and central registry clearance within 7 days and a home study within 30 days, if a child is placed in a guardian's or proposed guardian's home; requires the court to review a guardianship for a child annually; and requires the court to terminate or revoke a guardianship if it is found that continuation of the guardianship is not in the child's best interest.

2008 PA 202 [MCL 712A.19]

This act amended the Juvenile Code to allow MDHHS to implement concurrent planning. Concurrent planning includes working toward family reunification while at the same time establishing an alternative permanency plan to place a child for adoption or with a legal guardian, including identifying appropriate in-state or out-of-state options in case the child cannot be returned home safely.

2008 PA 203 [MCL 712A.19c]

This act amended the Juvenile Code to permit the court to appoint a guardian for a child who remains in placement following the termination of parental rights, if the court determines that such an appointment is in the best interest of the child. The court may not appoint a guardian for a state ward without the written consent of the Michigan Children's Institute (MCI) superintendent. The procedures for implementing a guardianship for a state ward are the same as those required under MCL 712A.19a, except that consent must be obtained from the MCI superintendent.

2008 PA 260 [MCL 722.871 *et seq.*]

This act created the subsidized guardianship assistance act in Michigan, which allows MDHHS only to pay assistance payments to caretakers who are appointed as juvenile guardians of foster children.

2009 PA 15 [MCL 722.871 *et seq.*]

This act amended the Guardianship Assistance Act, MCL 722.871 et seq. to define the eligibility requirements for Michigan to utilize federal reimbursements for title IV-E eligible children.

2015 PA 227 [MCL 722.871 *et seq.*]

This act amended the Guardianship Assistance Act, MCL 722.871 et seq., to authorize MDHHS to pay guardianship assistance to a successor guardian, if the successor guardian was appointed due to the death or incapacitation of the preceding guardian, a guardianship assistance agreement was in effect for the child before the appointment of the successor guardian, and other eligibility requirements are met.

FEDERAL LAW

PL 105-89

The Adoption and Safe Families Act (ASFA) of 1997 amends Part B and Part E of the Social Security Act [42 USC 620-679]. The basic premise of the law is that safety, permanency and child well-being must be the major concerns of child welfare agencies. The act:

- Redefines when reasonable efforts to reunify a family must be made.
- Requires criminal history record checks for prospective foster and adoptive parents.
- Prohibits placement of children with foster or adoptive parents convicted of certain felonies.
- Requires documentation of efforts to place a child in an adoptive or other permanent home.

PL 109-248 [42 USC 16901 *et seq.*]

The Adam Walsh Child Protection and Safety Act of 2006, [42 USC 16901 *et seq.]* requires states to have procedures in place to conduct criminal background and central registry checks on prospective foster and adoptive parents regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the state plan.

In addition to the criminal background check procedures specified in the title IV-E state plan, the act requires states to submit fingerprint-based checks of prospective foster and adoptive parents to a national crime information database before the prospective foster/adoptive parent may be finally approved for placement of a child.

PL 110-351

The Fostering Connections to Success and Increasing Adoptions Act of 2008 amended parts B and E of title IV of the Social Security Act [42 USC 601 *et seq.*] to connect and support relative caregivers and improve outcomes for children in foster care. This Act allows states to enter into a guardianship assistance agreement to provide assistance payments to relatives who assume legal guardianship of title IV-E eligible children for whom they have cared as licensed foster parents.

PL 113-183

The Social Security Act [42 USC 673(d)(3)(c)] preserves the eligibility of a child of kinship guardianship assistance payment under certain circumstances when a guardian is replaced with a successor guardian due to death or incapacitation of the preceding guardian.

OVERVIEW

Juvenile guardianship is available for temporary and permanent court wards and state wards when reunification or adoption have been ruled out as permanency goals. The court, at a permanency planning hearing, may appoint a juvenile legal guardian for a child in lieu of terminating parental rights or returning the child home. MCL 712A.19 states that "reasonable efforts to place a child for adoption or with a legal guardian, including in-state or out-of-state options, may be made concurrently with reasonable efforts to reunify the child and family". The court, with the consent of the Michigan Children's Institute (MCI) superintendent (for a state ward), may appoint a juvenile legal guardian for a child after termination of parental rights.

The guardianship shall be a legally created relationship between the child and the guardian that is intended to be permanent and self-sustaining as evidenced by the transfer to the guardian of the following parental rights with respect to the child:

- Protection.
- Education.
- Care and control of the person.
- Custody of the person.
- Decision making.

A guardian's powers include receiving money paid for the child's support (including guardianship assistance payments, child support and governmental benefits), authorizing medical treatment, and consenting to the child's marriage or adoption. If parental rights have not been terminated, a guardian may facilitate contact between the child and a parent, unless the court has limited the guardian's authority to do so.

JUVENILE GUARDIANSHIP ASSISTANCE

When a prospective guardian is requesting guardianship assistance, the DHS juvenile guardianship assistance certification and agreement process must be completed **prior** to the appointment of the guardian by the court. The assigned worker is responsible for completing the process; see GDM 700 - 745.

Note: When the child is a temporary or permanent court ward and the prospective guardian is **not** requesting juvenile guardianship

assistance per the DHS-2051, Caregiver's Permanency Planning Checklist, the worker is not required to receive DHS subsidy office approval prior to the court appointing a juvenile guardian. When the child is an MCI ward, the worker must request consent from the Michigan Children's Institute (MCI) superintendent on **all MCI cases,** including those in which juvenile guardianship assistance is not being requested by the prospective guardian or the prospective guardian is not eligible for juvenile guardianship assistance.

DETERMINING GUARDIANSHIP AS A PERMANENCY GOAL

A caseworker should first determine whether juvenile guardianship is an appropriate permanency goal for a child or youth by completing the DHS-2052 or DHS-2053, Caseworker's Permanency Planning Checklist. The caseworker must also explain the differences between adoption and guardianship to the prospective guardian and child, using DHS Publication 140, "Making the Decision to Become a Child's Permanent Family", and assist the prospective guardian and child to complete the DHS-2051, Caregiver's Permanency Planning Checklist. If parental rights have not been terminated, the caseworker should discuss the proposed juvenile guardianship arrangement with the child's parent(s), if possible. Although not legally required, the parent's consent to the juvenile guardianship will help ensure the future stability of the guardianship.

Before pursuing a juvenile guardianship for a child, a caseworker must document in the case service plan why reunification (if parental rights have not been terminated) or adoption are not appropriate permanency plans for the child. Examples of reasons why adoption may not be appropriate include:

- Strong cultural beliefs that are in opposition to termination of parental rights.
- It is in the child's best interest to maintain the parental rights of the birth parent(s) because the child and parent(s) have a meaningful relationship as evidenced by attachment and regular visitation. However, the parent, due to physical, medical or mental health disabilities is unable to provide day-to-day supervision and care for the child. The guardianship would allow the child to be cared for by a guardian on a

permanent basis and maintain a relationship with the birth parent.

- In the case of a youth age 14 or older who has been provided information and counseling concerning permanency options and outcomes, the youth may choose not to be adopted but is willing to enter into a juvenile guardianship relationship.
- A relative is willing to provide a permanent home for the child but does not want to change the legal relationship (for example, grandparent or aunt) to the child.
- There are obstacles to adoption by a relative who has been determined to be the best placement for the child.
- Based on a long term placement with a foster family that has decided not to adopt, the placement is the best choice to provide a permanent family for the child through a juvenile guardianship.

For temporary court ward cases, where the prospective guardian is requesting juvenile guardianship assistance, the worker must complete the DHS-591, Juvenile Guardianship Best Interest Determination for Temporary Court Wards, form. The DHS-591 must be submitted to the DHS subsidy office along with the DHS-2051, Caregiver's Permanency Planning Checklist, and to the court holding jurisdiction over the child's abuse/neglect case.

Note: When the caseworker determines that it is not in the child's best interest to be placed in a juvenile guardianship, the caseworker must attempt to state his/her determination on the record during a court hearing. This includes times when it's not in the child's best interest because the more preferred permanency goals (reunification or adoption) have not been adequately ruled out.

If the court approves juvenile guardianship as a child's permanency plan at a permanency planning hearing or post-termination review hearing, the department must conduct background checks and a home study.

Safe and Timely Interstate Placement of Children

The Safe and Timely Interstate Placement of Foster Children Act of 2006, (P.L. 109-239), requires the timely completion of interstate home studies. Juvenile guardianship (including relative) home studies requested by another state must be completed within 60 calendar days. Placements cannot be made until training requirements are met and approval is given by the Interstate Compact on the Placement of Children (ICPC) Office. The law also adds an incentive program to encourage states to complete timely interstate home studies. To earn an incentive, the state must complete an interstate home study within 30 calendar days of the request; see ICM 100.

Interstate Notification

The DHS ICPC Office must be informed within 7 business days of the permanency plan goal change to juvenile guardianship for a Michigan foster child placed in foster care in another state. The assigned worker must complete the DHS-3309, Interstate Guardianship Plan Notice and send it to the DHS Interstate Compact Office, 235 S. Grand Ave., Suite 401, P.O. Box 30037, Lansing, MI 48909. The Interstate Compact Office will inform the state where the child is living of the plan for juvenile guardianship.

Background Checks and Home Study (Assistance Not Requested)

Before the court may appoint a guardian, the department must complete criminal background checks and Central Registry clearances for the prospective guardian and all other adults living in the household per foster care policy.

LEIN documents **must not** be filed in the foster care case record. LEIN
documents must be cross-cut shredded or incinerated after review, verification of data, and incorporation of this verified information in narratives; see FOM 722-06A. DHS must also conduct a home study of the prospective guardian's home, unless a home study has been performed within the last 12 months. Results of verified

background checks and clearances must be submitted to the court within seven days of the child's placement in a prospective guardian's home or, if the child or youth already resides in the home, within seven days of the court's determination at a permanency planning hearing or post-termination review hearing that juvenile guardianship with a current caregiver is appropriate. See FOM 722-06A for direction on Documentation of Verified Information and Disclosure of LEIN Information. If a new home study is required, it must be submitted to the court within 28 calendar days of the child's placement in a prospective guardian's home or within 28 calendar days of the court's determination that juvenile guardianship with a current caregiver is appropriate. If guardianship assistance is not requested, the DHS-616, Juvenile Guardianship Home Study, must be used if the BCAL-3130, Initial Foster Home/Adoption Evaluation, was not completed.

Note: LEIN documents can only be released to the court pursuant to a court order, or subpoena issued by the Circuit Court, including the Family Division.

Licensing of Prospective Guardians (Requesting Guardianship Assistance)

If the prospective guardian requests guardianship assistance, he or she must become a licensed foster parent and meet all licensing requirements, including fingerprinting and criminal history checks as listed for foster parents in FOM 922-1. A copy of the current foster home licensing assessment completed within the last 12 months must be submitted to the court. If the assessment was not completed within the last 12 months, a copy of an addendum to the assessment updating information in the original assessment must be submitted to the court. The BCAL-3130 must be used for new foster home licensing assessments.

JUVENILE GUARDIANSHIP PROCESS FOR TEMPORARY AND PERMANENT COURT WARDS

The assigned worker must submit the following documentation to the **court** when requesting juvenile guardianship:

- A copy of the DHS-2053, Caseworker's Permanency Planning Checklist.
- A copy of the DHS-2051, Caregiver's Permanency Planning Checklist.
- A copy of the BCAL-3130, Initial Foster Home/Adoption Evaluation or DHS-616, Juvenile Guardianship Home Study (Not Requesting Guardianship Assistance). Criminal background checks and Central Registry clearances must be completed for all adult members of the prospective guardian's household. Due to confidentiality issues, LEIN information and documents must not be shared via phone, fax or electronic mail (e-mail); see FOM 722-06A.
- Any addenda to the above assessments if the original assessment is more than one year old.
- Any special evaluations/licensing complaints for the prospective guardian(s).
- Fingerprint clearance for the prospective guardian(s).
- The DHS-591, Juvenile Guardianship Best Interest Determination for Temporary Court Wards, if the youth is a temporary court ward.
- Written letter signed by the prospective guardian acknowledging that he/she understands that guardianship is permanent, that he/she plans to care permanently for the child and does not wish to adopt the child.

Note: The court may request additional documents.

When the court grants approval to change the goal to juvenile guardianship and the prospective guardian(s) are requesting juvenile guardianship assistance, the documentation listed above must

be submitted to the DHS subsidy office, along with the application for juvenile guardianship assistance. See GDM 715 for juvenile guardianship assistance application requirements.

A guardianship assistance agreement must be signed by both the prospective guardian(s) and the DHS designee **prior** to the court's appointment of the guardian and is effective on the date of the guardian's appointment by the court.

If the guardianship assistance agreement is not signed by all parties before the date of the court's appointment of the guardian, the child will not be eligible for juvenile guardianship assistance.

Note: When the child is a temporary or permanent court ward and the prospective guardian has indicated on the DHS-2051, Caregiver's Permanency Planning Checklist, that he/she is not requesting juvenile guardianship assistance, the worker is not required to receive the DHS subsidy office approval prior to the court appointing a juvenile guardian.

If the court approves the juvenile guardianship, an order appointing guardian will be entered. If the court denies the guardianship, a Family Team Meeting (FTM) with all involved parties must be scheduled to determine an appropriate permanency goal for the child.

JUVENILE GUARDIANSHIP PROCESS FOR MCI WARDS

The Michigan Children's Institute (MCI) superintendent represents the state as guardian of state wards beginning with the date of the child's commitment and continuing until the age of 19. The MCI Superintendent is authorized to consent to juvenile guardianship for a state ward. State wards include children who have been committed to the state through involuntary termination of parental rights in the Family Division of Circuit Court (Juvenile Code, MCL 712A.19b) or through release of parental rights by the legal parent(s) or licensed child placing agency to whom the child has been previously released (Adoption Code, MCL 710.28 and MCL 710.29(7)). The MCI Superintendent must approve the juvenile guardianship of any state ward. When considering whether to grant consent for a juvenile guardianship, the MCI superintendent shall consult with the child's lawyer-guardian ad litem (L-GAL).

The request for consent from the supervising agency is a recommendation that the prospective guardian be granted consent by the MCI superintendent. In requesting consent for the juvenile guardianship of a child, the completed DHS-2049 or DHS-2050, Juvenile Guardianship Consent Request for MCI Ward form, and required documentation must be submitted to the MCI superintendent, Adoption Services Division, DHS Central Office.

Consent Packet

The following documents must be included when MCI consent is requested:

1. DHS-2050, Juvenile Guardianship Consent Request for MCI Wards, or DHS-2049, Juvenile Guardianship Consent Request for MCI Wards - Not Requesting Guardianship Assistance, form.
2. Copy of the child's birth certificate.
3. JC-63, Order Terminating Parental Rights (Child Protective Proceedings).
4. Following voluntary release:
   - Release of Child by Parent (PCA 305).
   - Release of Child by Agency (PCA 306).
   - Order Terminating Parental Rights after Release or Consent (PCA 318).
   - Order Committing to Department of Human Services (PCA 322).
5. The following additional documents must be submitted with the consent packet for **all** American Indian/Alaska Native children:
   - Documentation of tribal consultation.
   - Documentation of the tribe's recommendation.
6. Copy of current BCAL-3130, Initial Foster Home/Adoption Evaluation, or DHS-616, Juvenile Guardianship Home Study and any addenda.
7. DHS-1927, Child Adoption Assessment, and any addenda, if available.

8. DHS-2052, Caseworker's Permanency Planning Checklist.
9. DHS-2051, Caregiver's Permanency Planning Checklist.
10. Copy of the case plan/Updated Service Plan (USP) addressing the required elements cited in GDM 715.

More Than One Family Wanting to Obtain Guardianship

If there is more than one family who wishes to obtain guardianship of the same child, the Permanency Planning Checklists must be completed and, if the family is appropriate for guardianship, a DHS-1926-G, Preliminary Guardianship Assessment, should be completed.

The assigned worker should provide a separate memo within the consent packet that explains which family is being recommended for guardianship and the supporting information for this determination.

If guardianship assistance will be requested, prospective guardians must be licensed foster parents and the child must live in the prospective guardian's home for at least six consecutive months prior to requesting guardianship assistance. In these cases, recommending a guardian other than the caregiver that the child has resided with for at least six months will cause a delay in permanency. The child will have to reside with the new prospective guardian for six months prior to the request for consent and guardianship assistance. This delay in permanency is significant but should not be the deciding factor in the caseworker's decision to recommend a guardian. Preference should be given to the prospective guardian who best meets the needs of the child and with whom the child has a significant bond.

Juvenile guardianship is an appropriate permanency goal only when reunification and adoption have been ruled out. If a relative or another adult with a significant relationship to the child is willing to adopt, the assigned worker must be able to demonstrate that there are compelling reasons why guardianship is the recommended permanency goal.

MCI wards may not be replaced with another family without the approval of the MCI Superintendent.

Guardianship Assistance Application

Each competing party family must be given information regarding the Guardianship Assistance Program (GAP), including Publication 140, Making the Decision to Become A Child's Permanent Family.

A guardianship assistance agreement must be signed by both the prospective guardian and the DHS designee **prior** to the court's appointment of the guardian and is effective on the date of the guardian's appointment by the court.

If the guardianship assistance agreement is not signed by all parties before the date of the court's appointment of the guardian, the child will not be eligible for juvenile guardianship assistance.

MCI REVIEW AND WRITTEN DECISION

The MCI office must review the information provided by the supervising agency and the prospective guardian. The MCI office may request additional information from the supervising agency. Consultation with other professionals may also occur. The MCI office may consult with the DHS Office of Family Advocate. The MCI superintendent must issue a written decision containing a brief description of the factors considered and whether the MCI superintendent consents to the juvenile guardianship.

DENIAL OF MCI CONSENT TO APPOINT A GUARDIAN FOR A SPECIFIC CHILD

Process

The following process is to be followed when an assigned worker recommends that a prospective guardian not be granted consent to become a guardian of a specific MCI ward.

Written Notice of Agency's Recommendation to Deny Consent

If the assigned worker determines that the prospective guardian should not be recommended for consent, the prospective guardian must be informed and provided with a summary of the factors that were considered.

The assigned worker must inform the family in writing, using the DHS-605G, Recommendation to Deny Request. The prospective guardian must also be informed that they may request a case conference with the supervising agency to discuss information contained in the BCAL-3130, Initial Foster Home/Adoption Evaluation or DHS-616, Juvenile Guardianship Home Study (Not Requesting Guardianship Assistance), and the DHS-2052, Caseworker's Permanency Planning Checklist. The conference must be requested by the prospective guardian within 14 calendar days of receipt of the denial form (DHS-605G).The directions for requesting a case conference are included in the DHS-605G.

Case Conference

Within 14 calendar days of receipt of the request for a case conference, the supervising agency director or designee must hold the case conference. The purpose of the case conference is to allow the prospective guardian to clarify or provide additional information concerning the BCAL-3130 or DHS-616 and the DHS-2051. Participants must include the assigned worker and the worker's supervisor. For purchased services cases, the DHS foster care monitor must be included. MCI office assistance may also be requested.

The prospective guardian may not discuss other applicant families in a competing party situation. A support person chosen by the prospective guardian may attend the case conference. Additional participants may be included at the discretion of the person conducting the conference. The supervising agency may limit the number of outside participants for good cause, such as the size of the group.

Final Recommendation of Supervising Agency

Following the case conference, the person conducting the case conference must inform the prospective guardian of the final recommendation in writing. If the agency does not recommend the prospective guardian be granted consent, the prospective guardian must be informed that additional information may be provided to the MCI office within 14 days. The appropriate mailing address must be provided. A copy of the letter to the prospective guardian should be forwarded to the lawyer-guardian ad litem (L-GAL) for the child. If an attorney represents the prospective guardian, a copy of the letter must also be provided to the attorney.

A copy of the DHS-605G, Recommendation to Deny Consent, must be submitted to the MCI office with a copy of:

- BCAL-3130, Initial Foster Home/Adoption Evaluation, or DHS-616, Juvenile Guardianship Home Study (Not Requesting Guardianship Assistance).
- DHS-2052, Caseworker's Permanency Planning Checklist.
- DHS-2051, Caregiver's Permanency Planning Checklist.
- Any addenda to these reports.

Assigned workers should include a cover letter to the MCI office summarizing the reasons for their recommendation. The cover letter should also identify the L-GAL for the child and any other professionals (for example, therapist, medical care staff, teachers, etc.) who work with the child.

Note: If the agency reverses its position and recommends the family for guardianship, the BCAL-3130, Initial Foster Home/Adoption Evaluation, or DHS-616, Juvenile Guardianship Home Study (Not Requesting Guardianship Assistance), must be updated to reflect the change in recommendation.

Written Notice to Family of MCI Decision

If the MCI office denies the consent to guardianship, a copy of the written decision must be sent from the MCI to the prospective guardian informing them of the denial of the request for consent to guardianship. The written decision must also be sent to the supervising agency and the L-GAL for the child. The supervising agency will be informed that they may proceed with permanency planning for the child.

Notification of the denial to the prospective guardian from the MCI office must include information that MCL 712A.19c allows an individual who has been denied a request for consent to guardianship to file a motion that consent was withheld in an arbitrary or capricious manner. This motion must be filed within 56 days of receipt of the decision to deny consent.

Forwarding Information to the Court

Copies of the denial of consent letter to the prospective guardian from the MCI office and the DHS-605G, Recommendation to Deny Consent, from the supervising agency must be presented to the court if a motion is filed.

Decision by the Court

When a motion is filed alleging that the MCI superintendent's failure to consent was arbitrary or capricious, the court must ensure that notice is provided to the MCI superintendent and other parties entitled to notice. The court must hold a hearing. If the court finds by clear and convincing evidence that the decision to withhold consent was arbitrary or capricious, the court may approve the guardianship without the MCI superintendent's consent.

Note: Upon request from the assigned worker's supervisor, the MCI superintendent or the director of the DHS Permanency Division may approve exceptions to the above process for MCI wards. Exceptions may be granted if it appears that doing so will achieve permanency and stability of a ward as quickly as possible and is in the best interest of the ward. The DHS-1785, Policy Decision, may be used for documenting an exception.

JUVENILE GUARDIANSHIP COURT DOCUMENTATION

The assigned worker must submit the following documentation to the **court** when requesting juvenile guardianship:

- A copy of the DHS-2052, Caseworker's Permanency Planning Checklist.
- A copy of the DHS-2051, Caregiver's Permanency Planning Checklist.
- A copy of the BCAL-3130, Initial Foster Home/Adoption Evaluation, or DHS-616, Juvenile Guardianship Home Study (Not Requesting Guardianship Assistance). Criminal background checks and Central Registry clearances must be completed for all adult members of the prospective guardian's household. Due to confidentiality issues, LEIN information and documents must not be shared via phone, fax or electronic mail (e-mail); see FOM 722-06A.
- Any addenda to the above assessments if the original assessment is more than one year old.
- Any special evaluations/licensing complaints regarding the prospective guardian(s).
- Fingerprint clearance for the prospective guardian(s).

Note: The court may request additional documents.

When the court grants approval to change the goal to juvenile guardianship and the prospective guardian(s) are requesting juvenile guardianship assistance, the following documentation must be submitted to the DHS subsidy office, along with the application for juvenile guardianship assistance. See GDM 715 for juvenile guardianship assistance application requirements.

A guardianship assistance agreement must be signed by both the prospective guardian and the DHS designee **prior** to the court's appointment of the guardian and is effective on the date of the guardian's appointment.

If the guardianship assistance agreement is not signed by all parties before the date of the court's appointment of the guardian, the child will not be eligible for juvenile guardianship assistance.

Note: When the child is a temporary or permanent court ward and the prospective guardian is **not** requesting juvenile guardianship assistance as indicated on the DHS-2051, Caregiver's Permanency Planning Checklist, the worker is not required to receive DHS subsidy office approval prior to the court appointing a juvenile guardian. When the child is an MCI ward, the worker must request and receive consent from the Michigan Children's Institute (MCI) superintendent on **all MCI cases,** including those in which juvenile guardianship assistance is not being requested by the prospective guardian or the prospective guardian is not eligible for juvenile guardianship assistance.

When the court approves the juvenile guardianship, an Order Appointing Guardian will be entered. If the court denies the guardianship, a Family Team Meeting (FTM) with all involved parties must be scheduled to determine an appropriate permanency goal for the child.

ORDER APPOINTING GUARDIAN

After the court has received the background checks, home study and the MCI superintendent's written consent (for state wards only), the court may enter an order appointing a juvenile guardian or schedule the matter for a hearing.

Note: If guardianship assistance is requested, the determination of eligibility for guardianship assistance and a signed guardianship assistance agreement must be completed before the court enters the order appointing the guardian; see GDM 700-745.

TERMINATION OF COURT JURISDICTION AND FOSTER CARE CASE ACTIONS

Temporary Court Wards

For temporary court wards, court jurisdiction over the case under MCL 712A.2(b) (the child protective proceeding) does not terminate until after the court appoints the juvenile guardian **and** conducts a review hearing. **The foster care case must remain open with all required foster care activities provided after the guardian is appointed. The foster care case must not be closed until the court terminates jurisdiction of the child abuse/neglect proceeding at a review hearing.**

State Wards

For state wards, MCI jurisdiction ends after the court appoints the juvenile guardian, however, **the foster care case must remain open with all required foster care activities provided after the guardian is appointed. The foster care case must not be closed until the court terminates jurisdiction of the child abuse/neglect proceeding at a review hearing.** Court jurisdiction terminates after the court appoints a juvenile guardian **and** conducts a review hearing.

Review Hearing Time Frames

Required review hearings must be conducted:

- No later than 91 days from the most recent review hearing if the guardian is appointed less than one year from the child's latest removal from home.
- No later than 182 days from the most recent review hearing if the guardian is appointed more than one year from the child's latest removal from home.

The court may require the department to file a written report for the review hearing.

The court may hold a review hearing and terminate jurisdiction of the child abuse/neglect proceeding earlier than the 91 or 182-day

requirement. It is possible for the review hearing to be scheduled immediately following the court's guardianship order. The foster care worker should routinely ask the court to schedule the final review hearing before the expiration of the 91 or 182-day time period. If the child has resided in the guardian's home for an extended period and the court has appointed the guardian, an extended period of court and agency supervision should not be necessary.

Required Foster Care Activities after the Guardianship Appointment

During the review period, the **foster care case and Medicaid remains open** and all required foster care worker activities must continue until the court terminates jurisdiction of the child abuse/neglect proceeding. Agency supervision remains open under the child abuse/neglect case.

A family who was licensed for foster care in order to receive juvenile guardianship assistance must maintain their license until the court's jurisdiction of the child abuse/neglect proceeding is terminated.

Payment Activities after the Guardianship Appointment

The foster care payment must be ended effective the day immediately prior to the court order of guardianship. **If the foster care payment authorization continues beyond the day immediately prior to the court order of guardianship, the foster care worker will need to recoup the foster care funds.** For a child under foster care supervision by a private contract agency, the foster care administrative rate will be paid through the DHS Permanency Division from the date of the court order of guardianship to the date immediately prior to the court dismissing the wardship.

Actions When The Court Terminates Jurisdiction of the Child Abuse/ Neglect Proceeding

The private child placing agency worker must send a copy of the court order terminating the jurisdiction of the child abuse/neglect proceeding to the DHS foster care monitor and the DHS Subsidy Office within 5 business days of the termination. For DHS supervised cases, a copy of the order terminating the jurisdiction of the child abuse/neglect proceeding must be sent to:

DHS Subsidy Office
235 S. Grand Ave., Suite 612
P.O. Box 30037
Lansing, MI 48909

In all cases, the standards and procedures in FOM 722-15 must be followed to close the foster care case and Medicaid when the court terminates jurisdiction of the child abuse/neglect proceeding.

COURT-ORDERED INVESTIGATIONS OF THE GUARDIANSHIP

Following the court's termination of jurisdiction under MCL 712A.2(b), termination of the MCI's jurisdiction and closure of the foster care case, the court's jurisdiction over the juvenile guardianship continues. The court must conduct annual reviews of the guardianship, which are based upon either a court hearing or an annual written report the guardian submits to the court and the DHS subsidy office. During the guardianship or in conjunction with an annual review, the court may appoint the department to conduct an investigation of the guardianship and file a written report of the investigation within 28 days of the appointment. The report must include a recommendation regarding whether the guardianship should continue or be modified and whether a court hearing should be scheduled. The assigned DHS worker may use the State Court Administrative Office (SCAO) JC 96 form, or another form as directed by the court.

REVOCATION OR TERMINATION OF JUVENILE GUARDIANSHIP

The court shall, on its own motion or upon petition from the Department or the child's lawyer guardian ad litem, hold a hearing to determine whether a guardianship shall be revoked. A guardian or interested person may also petition the court for permission to terminate the guardianship. The JC 98 may be used to petition the court. Interested persons may include a parent if the parent's rights were not terminated (for example, the guardianship was ordered prior to termination of parental rights). A petition to terminate a guardianship may include a request for appointment of a successor juvenile guardian (without guardianship assistance).

If a petition for revocation or termination of the guardianship is filed, the court must hold a hearing on the petition within 28 days. In conjunction with a revocation or termination petition, the court may order temporary removal of the child from the guardian's home pending the hearing. If the court orders the child's removal, the court must conduct an emergency removal hearing within 24 hours of the removal, and, unless the child has been returned to the home of the guardian, a review hearing within 14 days. The court may order a representative of the department to appear at the review hearing and give testimony or file a written report.

Investigation and Report

In preparation for a revocation or termination hearing, the court must order DHS to conduct an investigation and file a written report with the court. The report must be filed with the court not later than seven days before the revocation or termination hearing. The report must include the reasons for terminating or revoking a guardianship and a recommendation regarding temporary placement, if necessary.

Hearing

After a hearing on a petition to revoke a juvenile guardianship, the court must revoke the guardianship if it finds by a preponderance of the evidence all of the following:

- Continuing the guardianship is not in the child's best interest.

- It is contrary to the child's welfare to be placed in or remain in the guardian's home.
- Reasonable efforts were made to prevent removal from the guardian's home.

After a hearing on a petition to terminate a juvenile guardianship, when there is no request to appoint a successor juvenile guardian, the court must follow the same procedure that is required for a hearing on revocation of a guardianship (above). If the termination petition includes a request for appointment of a successor guardian, the court must terminate the current guardian's appointment and proceed with the investigation and appointment of the successor guardian. The department must conduct the required background checks and home study. A successor guardian is ineligible for guardianship assistance.

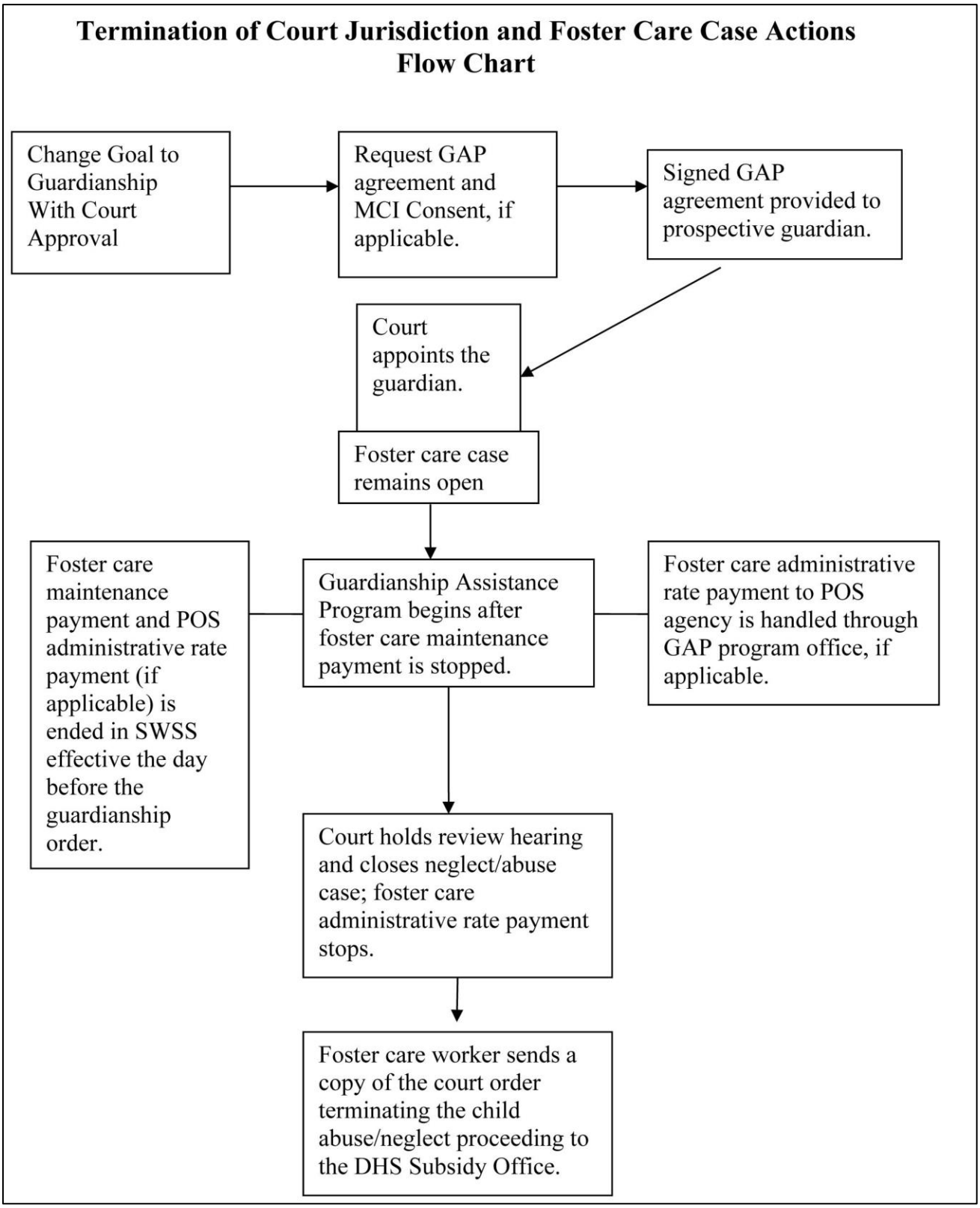
Following revocation or termination (without a successor guardian) of a guardianship, the court's jurisdiction over the previous child protective proceeding is reinstated under MCL 712A.2(b). The court must place the child under the care and supervision of the department or, if parental rights were previously terminated, commit the child to MCI under MCL 400.203.

Dispositional/ Review Hearings

Within 42 calendar days following revocation or termination of a guardianship, the court must hold a dispositional hearing or, if parental rights were terminated, a post-termination review hearing. The department must prepare a case service plan and file it with the court no later than seven calendar days before the hearing.

The court will schedule subsequent dispositional review hearings, regardless of whether the child has been returned to the custody of a parent or placed in out-of-home care.

EXHIBIT


Termination of Court Jurisdiction and Foster Care Case Actions Flow Chart
Change Goal to Guardianship With Court Approval
Request GAP agreement and MCI Consent, if applicable.
Signed GAP agreement provided to prospective guardian.
Court appoints the guardian.
Foster care case remains open
Foster care maintenance payment and POS administrative rate payment (if applicable) is ended in SWSS effective the day before the guardianship order.
Guardianship Assistance Program begins after foster care maintenance payment is stopped.
Foster care administrative rate payment to POS agency is handled through GAP program office, if applicable.
Court holds review hearing and closes neglect/abuse case; foster care administrative rate payment stops.
Foster care worker sends a copy of the court order terminating the child abuse/neglect proceeding to the DHS Subsidy Office.

LEGAL BASE

The Michigan Department of Human Services (DHS) provides both title IV-E funded and state-funded guardianship assistance programs (GAP) for foster children placed in juvenile guardianships. The title IV-E funded program is based on federal Public Act 110-351. The state funded program is based on Public Act 260 of 2008, as amended. Eligibility for either of these programs requires a DHS-3313, Guardianship Assistance Agreement.

FUNDING SOURCE

Depending on the child's eligibility, guardianship assistance is funded by either federal title IV-E or state funds.

PURPOSE

The purpose of guardianship assistance is to provide financial support to ensure permanency for children who may otherwise remain in foster care until reaching the age of majority. Guardianship assistance supports the goals of the Adoption and Safe Families Act of 1997 (AFSA), which determined that guardianship provides permanency for foster children when reunification and adoption are not viable permanency goals.

The transfer of legal responsibility removes the child from the child welfare system, allows a caregiver to make important decisions on the child's behalf, establishes a permanent caregiver for the child, and addresses financial needs through ongoing assistance payments. Juvenile guardianship should not be used for temporary placement of children. The program is specifically for children who would remain in foster care until age 18 if the juvenile guardianship was not established.

Guardianship Assistance

In order for a child to be eligible for guardianship assistance, the child must be in licensed foster care and meet either title IV-E or state funded guardianship assistance requirements (see GDM 715). Eligibility must be certified by DHS and a DHS-3313, Guardianship Assistance Agreement, must be signed by the guardian and the DHS designee before the court's appointment of the guardian.

Medicaid

Children who qualify for title IV-E funded guardianship assistance are categorically eligible for Medicaid.

The DHS Subsidy Office will determine Medicaid eligibility for children who qualify for state funded guardianship assistance. Children who meet asset and income criteria as a family of one in the guardianship will receive Medicaid through the guardianship assistance program.

Nonrecurring Expenses

Children who qualify for guardianship assistance are eligible for nonrecurring expenses reimbursement (see GDM 730).

Medical Subsidy

Children who meet eligibility criteria for guardianship assistance are eligible for the Medical Subsidy program as described in GDM 735. Medical subsidy applications may be submitted either before or after the appointment of the guardian and may be approved up to the child's 18th birthday. Specific medical and/or mental health conditions must be certified and a Medical Subsidy Agreement must be signed by the guardian and the DHS designee before the coverage begins.

OVERVIEW

The juvenile guardianship office has developed several forms and publications for use in the juvenile guardianship program.

Publications

DHS Publication 162, Michigan's Juvenile Guardianship Assistance Program, informs prospective guardians of the availability of juvenile guardianship assistance, nonrecurring juvenile guardianship expenses and juvenile guardianship medical subsidy program. The brochure is also available on the MDHHS public web site at: www.michigan.gov/mdhhs.

Forms

The following forms are used for eligibility certification, case opening and the nonrecurring guardianship expenses (NRE) claim process:

- DHS-2052, Caseworker's Permanency Planning Checklist for MCI and Permanent Court Wards.
- DHS-2053, Caseworker's Permanency Planning Checklist for Temporary Court Wards.
- DHS-2051, Caregiver's Permanency Planning Checklist.
- DHS-1127, Juvenile Guardianship Program-Other Payment Resources.
- DHS-591, Juvenile Guardianship Best Interest Determination for Temporary Court Wards.
- DHS-4817-G, Juvenile Guardianship Program Change Request.
- DHS-3309, Interstate Guardianship Plan Notice.
- DHS-3310, Juvenile Guardianship Assistance Application.
- DHS-3310-M, Juvenile Guardianship Medical Subsidy Application.
- DHS-1084, Guardian's Request for Medical Subsidy Post Placement.
- DHS-1344-G, Juvenile Assistance Case Opening Request.

- DHS-4815-G, Juvenile Guardian Claim for Nonrecurring Expenses Reimbursement.
- DHS-4816-G, Third Party Claim for Nonrecurring Expenses Reimbursement.
- DHS- 3310-SG, Successor Juvenile Guardianship Assistance Application.

The following forms are used for extension eligibility determination for youth who were placed in a juvenile guardianship and began receiving guardianship assistance payment on or after their sixteenth birthday:

- DHS-1339-G, Young Adult Guardianship Assistance Extension Application.
- DHS-881, Quarterly Young Adult Extension Review.

Location and Requests

These forms are available on the MDHHS public web site (www.michigan.gov/mdhhs) or copies may be requested. Local MDHHS county offices should complete the DHS-1434, Warehouse Requisition. Private agencies and court guardianship staff should submit a written request (including quantity requested, form number and mailing address) either by E-mail to MDHHS-FormsManagement@michigan.gov or by mail:

Michigan Department of Health and Human Services
Forms and Mail Management, Ste. 1207
P.O. Box 30037
Lansing MI 48909

PRELIMINARY DETERMINATION

Requests for guardianship assistance eligibility are completed by the supervising agency that is responsible for the care and supervision of the child. Prior to certifying a foster child's eligibility for juvenile guardianship assistance, the policy in GDM 600 must be followed to determine whether juvenile guardianship is an appropriate goal for the child. The certification of guardianship assistance eligibility is completed after the following documents are completed and included in the foster care case record to confirm that juvenile guardianship is an appropriate permanency goal:

- DHS-2051, Caregiver's Permanency Planning Checklist.
- DHS-2052 or DHS-2053, Caseworker's Permanency Planning Checklist.

Certification of guardianship assistance must be approved and a written guardianship assistance agreement must be signed by the guardian and the Department of Human Services (DHS) subsidy program manager or DHS designee before the guardianship appointment is ordered by the court.

GUARDIANSHIP ASSISTANCE ELIGIBILITY

Child Requirements

A child is eligible for guardianship assistance if **all** of the following requirements are met:

- The child was removed from his/her home as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.

- The child has resided in the home of the prospective guardian for at least six consecutive months prior to the application for a juvenile guardianship assistance eligibility determination.

- Reunification and/or adoption have been ruled out as appropriate permanency options for the child and documented in the case service plan.

- The child has been consulted about the guardianship arrangement if he/she is at least 14 years old and is in agreement.
- The child is strongly attached to the prospective guardian, and the guardian has a strong commitment to caring permanently for the child.

Guardian Requirements

A prospective guardian must request guardianship assistance by completing the DHS-2051, Caregiver's Permanency Planning Checklist. Only DHS can determine eligibility and authorize guardianship assistance payments.

A prospective guardian requesting guardianship assistance on behalf of an eligible child must meet the following qualifications:

All Funding Sources:

- The eligible child has resided with the prospective guardian in the prospective guardian's residence for a minimum of six consecutive months prior to applying for the guardianship assistance.
- All criminal background checks, including national database fingerprinting and clearance of the Central Registry are current, as listed in foster care policy FOM 922-1 and licensing requirements. All adults living in the home must have criminal background checks. All adults living in the home must also have clearance of the child abuse and neglect registry in any state in which they have resided during the past five years.

Title IV-E Funded:

- The prospective guardian is the title IV-E eligible child's relative and a licensed foster parent.
- The child must be eligible for title IV-E foster care maintenance payments while residing in the prospective relative guardian's foster home for at least six consecutive months after the license has been approved and prior to applying for juvenile guardianship assistance eligibility.

State Funded:

- The prospective guardian is a relative or legal custodian of the eligible child. The prospective guardian must become a licensed foster parent prior to applying for juvenile guardianship assistance eligibility.
- State funded guardianship assistance does not require the home to be licensed for the full six consecutive months that the child has resided in the home.

Determining Title IV-E Eligibility

The local DHS office designated staff person (Child Welfare Funding Specialist, supervisor or manager) must provide a copy of the DHS-350, Redetermination of Appropriate Foster Care Funding Source, (completed in the past 6 months) in all cases involving children living with a licensed relative in order to meet eligibility requirements for guardianship assistance. If it is determined that the child is not title IV-E eligible, relative guardianship assistance will be funded by state funds if all other eligibility requirements for the state program are met.

Note: Purchased services agencies will need to request the completed DHS-352, Initial Determination of Appropriate Foster Care Funding Source from the DHS local office.

Title IV-E Funding for Siblings

If DHS and the relative agree that a foster child who is a sibling of a title IV-E guardianship assistance eligible child should be placed in the same relative guardianship arrangement, title IV-E funded guardianship assistance may be paid on behalf of the sibling regardless of the sibling's title IV-E eligibility. (See GDG for the definition of sibling.) The sibling does not have to meet the child eligibility requirements listed above, and the sibling's placement in the home does not need to occur simultaneously with the eligible child's placement.

State Funding for Siblings

Unlike the title IV-E program, each sibling must qualify for assistance and meet all eligibility requirements for the state-funded guardianship assistance program. The inability of one (or more) sib-

ling(s) to qualify for state-funded assistance does not prohibit siblings from being placed together in the same guardianship.

CASE PLAN REQUIREMENTS

When guardianship assistance payments are requested for a child with a permanency plan of guardianship, the following documentation must be included in the case plan:

- The steps the agency has taken to determine that it is not appropriate for the child to be returned home or adopted.
- For temporary court wards only:
  - The efforts made by the agency to discuss the guardianship assistance arrangement with the child's parents or the reasons why efforts were not made.
  - The reasons that termination of parental rights is not in the best interest of the child and the facts that demonstrate the guardianship is required on a permanent basis.
- The reasons for any separation of siblings during placement. In cases where siblings are not placed together, documentation of the arrangements for regular visitation or other interaction between the siblings must be included in the case plan, unless there is documentation that the visitation or other ongoing interaction would be detrimental to the safety or well-being of any of the siblings.
- The reasons why a permanent placement through a guardianship is in the child's best interest.
- The determination of the child's eligibility for a guardianship assistance payment listed on the DHS-3310, Juvenile Guardianship Assistance Application.
- The efforts the agency has made to discuss adoption by the prospective guardian as a more permanent alternative to guardianship. If the prospective guardian is a relative, the case plan must document the reasons why the relative has chosen not to pursue adoption.
- The special needs of each child and the proven ability of the prospective guardian to adequately address the needs.

Specific services and supports the child has received or is currently receiving must be listed.

CERTIFICATION PROCESS

The certification of eligibility is completed when the prospective guardian has requested guardianship assistance on the DHS-2051, Caregiver's Permanency Planning Checklist and the Case Plan Requirements (above) have been met.

1. The assigned worker completes the DHS-3310, Juvenile Guardianship Assistance Application which documents that the following information is in the foster care case record (in addition to the Case Plan Requirements information):

    - The child's demonstration of a strong attachment to the prospective guardian.
    - The guardian has a strong commitment to caring permanently for the child.
    - The child, if age 14 or older, has been consulted about guardianship.
    - The child is under age 18.
    - The child was placed in the prospective guardian's home as a foster child.
    - The prospective guardian is a licensed foster parent.
    - All adult household members have successfully completed a criminal history check and child abuse registry check in accordance with foster care licensing requirements.
    - Title IV-E funded only: Prior to certification for guardianship assistance, the child has been eligible for title IV-E foster care payments while residing with the licensed prospective relative guardian for at least six consecutive months before applying for juvenile guardianship assistance and the prospective guardian has been a licensed foster care provider during those six months.
    - State funded only: The child has resided with the prospective guardian for at least six consecutive months in

the prospective guardian's home prior to applying for juvenile guardianship assistance and the prospective guardian is a licensed foster care provider.

2. The assigned worker and supervisor sign the DHS-3310 certifying that all of the above information is complete and in the foster care case record.

3. The completed DHS-3310 is submitted to the DHS subsidy office in central office with the following documents to request guardianship assistance:

   - The DHS-350, Redetermination of Appropriate Foster Care Funding Source, completed within the past six months, for children being placed with a relative guardian.
   - The current Determination of Care (DOC) form (DHS-470, 470A or 1945) if the child is eligible for and/or receiving a foster care Determination of Care rate.
   - The Updated Service Plan (USP) including narrative of the case plan requirements.
   - A copy of the child's birth certificate.
   - A copy of the most recent court order.
   - A copy of the DHS-2052 or DHS-2053, Caseworker's Permanency Planning Checklist.
   - A copy of the DHS-2051, Caregiver's Permanency Planning Checklist.

4. Designated below are the additional required documents for temporary, permanent and MCI wards:

   Temporary court wards

   The following documents must be included in the packet requesting guardianship assistance for a temporary court ward:

   - DHS-2053, Permanent Guardianship Consent Request for Temporary Court Wards.
   - Copy of the child's birth certificate.

- Copy of the current BCAL-3130, Initial Foster Home/Adoption Evaluation, and any addenda.
- Copies of any special evaluations/licensing complaints for the prospective guardian(s).
- A copy of the DHS-591, Juvenile Guardianship Best Interest Determination for Temporary Court Wards.

Permanent Court Wards

The following documents must be included in the packet requesting guardianship assistance for a permanent court ward:

- DHS-2052, Permanent Guardianship Consent Request for Permanent Court Wards.
- The original DHS-2051, Caregiver's Permanency Planning Checklist.
- Copy of the child's birth certificate.
- The JC 63, Order Terminating Parental Rights (Child Protective Proceedings).
- The applicable legal documents committing a child to the court following a voluntary release (PCA 305, 306, 318).
- Copy of the current BCAL-3130, Initial Foster Home/Adoption Evaluation, and any addenda.
- Copies of any special evaluations/licensing complaints for the prospective guardian(s).

MCI Wards

When the child is an MCI ward, a single packet should be submitted to apply for MCI consent and guardianship assistance. If applying for both, the following consent documents must also be included in the packet:

- Permanent Guardianship Consent Request for MCI Wards (DHS-2050).
- The original DHS-2051, Caregiver's Permanency Planning Checklist.

- Copy of the child's birth certificate.
- The JC 63, Order Terminating Parental Rights (Child Protective Proceedings).
- The applicable legal documents committing a child to DHS following a voluntary release (PCA 305, 306, 318, 322).
- Copy of the current BCAL-3130, Foster Home/Adoption Evaluation and any addenda.
- Copies of any special evaluation/licensing complaints for the prospective guardian(s).
- Child Adoption Assessment and any addenda, if available.

5. The DHS subsidy office reviews the documentation, determines eligibility and the maximum monthly guardianship assistance rate and issues a DHS-3313, Guardianship Assistance Agreement. The agreement is sent to the assigned worker. (If MCI consent is requested, the agreement will be sent after consent is approved.)

   Note: If it is determined that the child is not eligible for guardianship assistance, a Guardianship Assistance Denial letter (DHS-3311) will be sent to the assigned worker for delivery to the prospective guardian.

6. The assigned worker reviews the agreement with the prospective guardian and negotiates the amount of ongoing monthly subsidy payments with the prospective guardian. The prospective guardian enters the amount of the negotiated ongoing monthly guardianship payment and signs the agreement. Another adult must witness the signature and sign the agreement as a witness. (The assigned worker may sign as the witness if the prospective guardian signs in the worker's presence.)

7. The assigned worker returns the signed agreement to the DHS subsidy office at the DHS central office.

8. The DHS subsidy office reviews the agreement for accuracy and the DHS designee in the DHS subsidy office signs the agreement. A copy is returned to the assigned worker. The DHS subsidy office will retain a copy of the agreement(s).

9. The assigned worker gives the prospective guardian the copy of the signed agreement and maintains a copy in the foster care record. In purchased services cases, the assigned worker must send a copy of the agreement to the DHS foster care monitor for inclusion in the case record.

After the guardianship assistance agreement has been signed by the prospective guardian and the DHS designee in central office, the assigned worker must ask the court to order the guardianship. No petition or filing fee is required.

TIME FRAMES

The request for guardianship assistance will be assessed and either approved or denied within 30 calendar days of receipt of a complete application in the DHS subsidy office.

INTRODUCTION

Federal Law

The Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351) includes an option for states to extend guardianship assistance agreements for youth who began receiving guardianship assistance at age 16 years or older.

State Law

To implement this option, Michigan passed the Young Adult Voluntary Foster Care Act (MCL 400.665 - 400.671 and MCL 722.876(6)(2)), which allows eligible youth who were placed in Juvenile Guardianship with subsidy from the Michigan public child welfare system after their 16th birthday, to receive guardianship assistance until their 21st birthday, if they are in school, in job training, employed or incapable due to a documented medical condition.

PROGRAM ELIGIBILITY AND REQUIREMENTS

The guardianship assistance eligibility policies in GDM 715 apply to guardianship assistance for youth who were 16 or older when their guardianship assistance agreement became effective. For a youth to qualify for an extension of guardianship assistance until the youth's 21st birthday, the youth must satisfy all of the following requirements:

1. The youth began receiving guardianship assistance at age 16 or older and is now between the ages of 18 and 20, and requests to extend guardianship assistance payments to the age of 21.
2. The original guardianship order remains in effect.
3. The youth had a guardianship assistance agreement effective up until his/her 18th birthday.
4. The youth has signed a DHS-1339G, Young Adult Guardianship Assistance Extension Application.
5. The youth meets at least one of the conditions listed below:

- Actively completing high school or a program leading to a general equivalency diploma (GED).
- Enrolled at least part-time in a college, university, vocational program, or trade school.

  Note: A youth who is on a semester, summer, or other break, but was enrolled in school the previous semester and will be enrolled after the break, is considered enrolled in school.
- Employed in either full- or part-time work, or participating in a program that promotes employment (such as Job Corps, Michigan Works! or another employment skill-building program). Participation must be at least 80 hours per month and may be at one or more places of employment, and/or a combination of any of the above activities.
- Incapable of doing any of the above educational or employment activities due to a documented medical condition.

  Note: If eligibility is based on incapacity, the subsidy worker must provide direction to the youth and/or guardian(s) on how to apply for Supplemental Security Income (SSI).

6. The DHS-1339G, Young Adult Guardianship Assistance Extension Application, is reviewed by the DHS Subsidy Office and an agreement is issued if the youth meets the requirements of the program. The youth and the guardian(s) must sign a DHS-3313-YA, Young Adult Guardianship Extension Agreement, requesting the court to continue the guardianship.

Note: The DHS-3313-YA, Young Adult Guardianship Extension Agreement, is an agreement between the guardian and DHS which outlines eligibility requirements in the area of education and employment.

VERIFICATION OF ELIGIBILITY

The following must be provided to the DHS Subsidy Office to apply for a Young Adult Guardianship Assistance Extension:

- DHS-1339G, Young Adult Guardianship Assistance Extension Application.
- One or more of the appropriate verification forms to document eligibility must be completed and returned with the DHS-1339G:
  - DHS-3380, Verification of Student Information (may also be used to verify vocational training).
  - DHS-38, Verification of Employment.
  - DHS-54A, Medical Needs.

Home Schooling

Legal guardians who are requesting an extension of the guardianship assistance payments for a child who is being educated at home must submit the following additional information to the DHS Subsidy Office with the extension application:

- A copy of a comprehensive individual educational curriculum for the time period of 9th grade through 12th grade. The individual education curriculum must include instruction in the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar; see www.michigan.gov/npshs.
- A copy of confirmation of registration.
  - For a child residing in Michigan, the home school registration is available through the Michigan Department of Education. The registration document is SM-4325, Nonpublic School Membership form. Families may contact the Michigan Department of Education at:

    Michigan Department of Education
    Bureau of School Finance and School Law
    Nonpublic School Unit
    P. O. Box 30008
    Lansing, MI 48909

    Website: www.michigan.gov/mde
    Phone: (517) 373-1833

- For a child residing outside of Michigan, the family must provide confirmation of registration as available in the state in which the child resides.

Note: Foster care policy does not permit home schooling for children who have open foster care cases.

APPLICATION FOR EXTENSION

Guardians of youth who exited foster care to the guardianship assistance program between the ages of 16 and 18 may apply for a Young Adult Guardianship Extension if all of the following program requirements are met:

- Continued to receive guardianship assistance up until their 18th birthday.
- Under the age of 21.
- Meets the qualifications of the young adult guardianship program.
- Still placed under his/her original juvenile guardianship order.

The DHS-1339G, Young Adult Guardianship Assistance Extension Application, and the DHS-628-G, Young Adult Guardianship Extension Notice, will be mailed to the guardians no later than 90 calendar days prior to the youth's 18th birthday. The DHS-628-G, Young Adult Guardianship Extension Notice, will explain that the guardianship assistance payments will end when the youth reaches age 18 unless an extension agreement is in place. An explanation of eligibility, the application, and documentation requirements for extension will be included. The Young Adult Guardianship Extension Notice notifies the guardian that he or she has 30 calendar days following the youth's 18th birthday to submit the application and required eligibility verification.

The DHS-628-G, Young Adult Guardianship Extension Notice, must also be sent to the court holding jurisdiction over the guardianship no later than 90 calendar days prior to the youth's 18th birthday.The DHS-628-G, Young Adult Guardianship Extension Notice, informs the court that the youth may be eligible for an extension and asks the court to keep the guardianship case open for 120 calendar days following the youth's 18th birthday or when they receive notification from the DHS Subsidy Office using the

DHS-1392, Notice of Young Adult Guardianship Assistance Denial form, whichever is sooner, unless the court determines that continuation of the guardianship is not in the youth's best interest. If approved for an extension, the DHS-3313-YA, Young Adult Guardianship Assistance Extension Agreement, will be mailed to the court informing them that the case has been extended and to not dismiss the guardianship order.

If an incomplete extension application is submitted to the DHS Subsidy Office, the subsidy worker must respond in writing to the guardian with the DHS-793, Young Adult Guardianship Assistance Extension Missing Documentation Notice, within 14 calendar days of receipt of the application. The DHS-793, Young Adult Guardianship Assistance Extension Missing Documentation Notice, will clarify the documentation requirements and will notify the guardian of any missing application or verification information.The guardian will have 30 calendar days following the date of the DHS-793, Young Adult Guardianship Assistance Extension Missing Documentation Notice, to provide missing documentation for the application to be processed with an effective date of the young adult's 18th birthday.

If the guardian does not provide the missing documentation within this time frame, the application will be denied and the guardian will need to re-apply. Once a complete application with required documentation is received by the DHS Subsidy Office, the department will process the application within 30 calendar days. The effective date will be the date the complete application was received in the DHS Subsidy Office. If at any time the court dismisses the guardianship order, the youth will no longer be eligible to re-apply.

If an extension application is denied, the DHS Subsidy Office will provide a denial notice to the guardian that includes the reason(s) for the denial and information regarding the right to request an administrative hearing; see GDM 780, Administrative Hearings. The DHS Subsidy Office will send written notification to the court with jurisdiction over the guardianship case following the deadline to request an appeal or following the administrative hearing order.

EXTENSION AGREEMENT RATES

The maximum daily rate for extensions will be the same maximum rate that was established on the original DHS-3313, Juvenile Guardianship Assistance Agreement. The actual rate will be negotiated between the guardian(s) and the department.

EXTENSION AGREEMENTS

After an extension is approved by the DHS Subsidy Office, the DHS-3313-YA, Young Adult Guardianship Assistance Extension Agreement, will be mailed to the guardian for signatures. The signed agreement must be returned to the DHS Subsidy Office within 30 calendar days of the agreement issuance date and must be signed by the DHS Subsidy Office manager before the extension payments are authorized. If the agreement is missing information the DHS-792, Young Adult Guardianship Assistance Extension Agreement(s)-Incomplete Notice will be sent to the legal guardians. If the agreement is not received within 30 calendar days of the agreement issuance date or the date of the DHS-792, the effective date will be the date the agreement was received by the DHS Subsidy Office.

JUDICIAL DETERMINATION

Within 30 calendar days of the date the DHS-3313-YA, Young Adult Guardianship Assistance Extension Agreement, was signed by the DHS Subsidy Office manager, the DHS Subsidy Office will provide a copy of the agreement to the guardian and the court with jurisdiction over the guardianship. Once the court receives the DHS-3313-YA, Young Adult Guardianship Assistance Extension Agreement, requesting the court to continue the guardianship, the court will determine whether guardianship remains in the youth's best interest within 365 days of the youth's 18th birthday and annually thereafter. The court order and proof of service reflecting the court's decision to continue or deny extension of the guardianship must be provided by the guardian to the DHS Subsidy Office no later than 30 calendar days following the receipt of the guardianship order.

FUNDING SOURCE

The Young Adult Guardianship Assistance Extension program is funded by title IV-E and state funds. The funding source for the youth's young adult guardianship extension is the same funding source that was established on the original DHS-3313, Juvenile Guardianship Assistance Agreement, when the child entered guardianship.

During periods of ineligibility, a grace period for re-establishing eligibility may occur. A funding source change must occur for title

IV-E-funded cases during the grace period. Title IV-E-funded cases must be changed to state-funding when any grace period begins and must be changed back to title IV-E funding when the youth re-establishes eligibility.

MEDICAID

Youth who are eligible for this program are categorically eligible for Medicaid during the extension period.

CHANGE REPORTING

Change reporting by the guardian of the Young Adult Guardianship Assistance is required as listed in GDM 740, Guardian Responsibilities, with the exception of the time frame for reporting. The guardian must report changes as soon as they occur, but no later than two weeks after changes that impact eligibility.

GRACE PERIOD

A grace period is the period of time after the youth ceases to meet the educational, employment, and/or incapacitating medical conditions requirements. Grace periods are to be applied based on the following:

- Youth are allowed a 30-day grace period in which to re-establish eligibility.
- Youth are allowed up to three grace periods per fiscal year.
- The grace period begins the day immediately following the day the youth becomes ineligible, whether or not it is reported timely.
- The Young Adult Guardianship Assistance payments and Medicaid coverage continues during the grace period.

  Note: A funding source change must occur for title IV-E-funded cases during the grace period. Title IV-E-funded cases must be changed to state-funding when any grace period begins and must be changed back to title IV-E funding when the youth re-establishes eligibility.

The guardian should contact the DHS Subsidy Office to discuss ways in which the youth could meet the requirements or the guardianship assistance will terminate at the end of the grace period.

A grace period can **not** be used for youth who become ineligible due to one of the following circumstances:

- Reaches his or her 21st birthday.
- Enters military service.

Exception: Membership in the Reserve Officers' Training (ROTC) or the reserve component of the Armed Forces; such as, Army National Guard of the United States, Air Force Reserve, and Coast Guard Reserve does not disqualify a youth from the Young Adult Guardianship Assistance Extension, unless participation requirements exceed 21 consecutive calendar days of active duty or training responsibilities.

- Marries.
- Begins receiving federal Supplemental Security Income (SSI) payments.
- Is living with his/her biological parent(s).
- Death.
- The guardianship is terminated by order of the court having jurisdiction in the guardianship proceeding.

QUARTERLY REVIEWS

Continued eligibility for the extension program will be reviewed by the DHS Subsidy Office every three months, beginning three months from the effective date of the extension. Verification of the youth's continued employment, education, vocational or job training enrollment, or inability to participate in any educational or employment activities due to medical reasons must be provided every three months.

The DHS-881-YA, Quarterly Young Adult Extension Review, and applicable verification forms will be mailed to the guardian 30 calendar days prior to the quarterly review due date for completion. If the DHS-881-YA, Quarterly Young Adult Extension Review, and applicable verification documentation are not returned to the DHS Subsidy Office within 30 calendar days from date on the DHS-881-YA, Quarterly Young Adult Extension Review, payments will be terminated.

TERMINATION OF EXTENSION

DHS may terminate the DHS-3313-YA, Young Adult Guardianship Assistance Extension Agreement and payments will end, if the youth becomes ineligible. Ineligibility occurs when the youth:

- Discontinues his/her educational, vocational, or trade program and does not re-enter a similar program or meet another eligibility requirement within the 30 calendar day grace period.
- Is no longer employed at least 80 hours per month or participating in a program that promotes employment (such as, Job Corps, Michigan Works! or another employment skill-building program) and has not met one of the other eligibility requirements within the 30 calendar day grace period.
- Is no longer deemed incapable due to a medical condition and is not in compliance with another eligibility requirement.
- Is incarcerated for more than 30 calendar days.
- Reaches his or her 21st birthday.
- Marries.
- Enters military service.

Exception: Membership in the Reserve Officers' Training (ROTC) or the reserve component of the Armed Forces; such as, Army National Guard of the United States, Air Force Reserve, and Coast Guard Reserve does not disqualify a youth from the Young Adult Guardianship Assistance Extension, unless participation requirements exceed 21 consecutive calendar days of active duty or training responsibilities.

- Begins receiving federal Supplemental Security Income (SSI) payments.
- Is living with his/her biological parent(s).
- Dies.
- The guardian requests that the payment permanently stop.
- The guardian no longer provides any support for the youth.

- The youth is adopted by the guardian or another individual.
- The guardianship is terminated by order of the court having jurisdiction in the guardianship proceeding.

The DHS Subsidy Office will send written notification of termination by mail to the guardian. This written notification will include a statement of the department's reason(s) for termination and rights to an administrative hearing; see GDM 780, Administrative Hearings.The DHS Subsidy Office will send written notification to the court with jurisdiction over the guardianship case following the deadline to request an appeal or following the administrative hearing order.

RE-ENTERING THE YOUNG ADULT GUARDIANSHIP ASSISTANCE EXTENSION PROGRAM

To re-enter the Young Adult Guardianship Assistance Extension Program the guardian must contact his/her subsidy worker for an application and required verification forms or locate this information on the DHS website, and submit this documentation to the DHS Subsidy Office. A guardian may re-apply for a youth to re-enter the Young Adult Guardianship Assistance Extension program if the youth exited foster care to the Juvenile Guardianship Assistance program between the ages of 16 and 18, is under the age of 21, and the young adult guardianship assistance extension was terminated when the youth:

- Discontinued his/her educational, vocational, or trade program and did not re-enter a similar program or meet another eligibility requirement within the 30 calendar day grace period.
- Was no longer employed at least 80 hours per month or participating in a program that promotes employment (such as Job Corps, Michigan Works! or another employment skill-building program) and did not meet one of the other eligibility requirements within the 30 calendar day grace period.
- Was no longer deemed incapable due to a medical condition and did not meet the other eligibility requirements within the 30 calendar day grace period.
- Was incarcerated for more than 30 calendar days.

The guardian may apply to re-enter the youth in the Young Adult Guardianship Assistance Extension program if he/she is under the age of 21, currently meets the eligibility requirements of the program, and continues to be under a juvenile guardianship with the original guardian.

Once a complete application with required documentation is received by the DHS Subsidy Office, the department will process the application within 30 calendar days. The effective date will be the date the complete application was received in the DHS Subsidy Office.

If an extension application is denied, the DHS Subsidy Office will provide a denial notice to the guardian that includes the reason(s) for the denial and information regarding the right to request an administrative hearing; see GDM 780, Administrative Hearings.The DHS Subsidy Office will send written notification to the court with jurisdiction over the guardianship case following the deadline to request an appeal or following the administrative hearing order.

RECOUPMENT

Recoupment for overpayments will be pursued retroactively to the date that eligibility ceased; see GDM 770, Recoupment/Underpayments/Tax Implications.

RATE DETERMINATION OVERVIEW

After a child is determined eligible for guardianship assistance, a guardianship assistance payment rate is determined. A two-step process is used to establish the ongoing monthly guardianship assistance payment.

1. The Department of Human Services (DHS) subsidy office determines the maximum guardianship assistance rate, based on the state's foster care rates (see FOM 905-3).

2. The prospective guardian and the assigned worker discuss the child's needs and negotiate the ongoing monthly assistance payment up to the maximum rate. The agreed upon monthly payment is documented on the DHS-3313, Guardianship Assistance Agreement. The DHS-3313 must be signed by the guardian and the DHS designee prior to the court's appointment of the guardian.

MAXIMUM RATE DETERMINATION

The DHS subsidy office determines a maximum rate for the child's guardianship assistance payment. The rate is determined based on the foster care rate the child received prior to application for guardianship assistance without regard to the income of the guardian. The rate determination includes any Determination of Care (DOC) rate that is approved for the child in foster care.

Children Not Receiving Family Foster Care Payments

For children whose care has been funded through financial support other than foster care payments (Such as, Department of Community Health funds, Retirement, Survivors, Disability Insurance (RSDI), Supplemental Security Income (SSI)), a foster care rate must be determined and approved by the DHS local office. The rate must be determined based on the foster care payment the child would receive in a family foster home, including any DOC, if the alternate financial support was not being paid. The maximum guardianship assistance rate will be set using the foster care rate approved by the DHS local office.

Required Documentation of Child's Needs

The following documentation must be attached to the DHS-3310, Juvenile Guardianship Assistance Application in order to establish the maximum guardianship assistance rate. The documentation must be current at the time the complete application is received in the DHS subsidy office in order for it to be accepted and not subject to expiration during the review process.

No DOC rate

A copy of the most recent (within the last six months) DOC assessment (DHS-470, 470-A, or 1945) must be submitted.

DOC Rate

A foster care rate that exceeds the DHS current standard maintenance payment is considered a Determination of Care (DOC) Rate; see Foster Care Payment Resources, 903-03. If a child has care needs above a standard foster care maintenance rate, copies of the following foster care documents must be attached.

DOC I, II, III

- A DOC Level I, II and III requires:
  - A copy of a current **DHS-approved** DOC assessment (DHS-470, 470A, or 1945) dated within six months. This may be the approval for a projected rate if the child is not currently receiving foster care payments.
  - A copy of the DHS-67, Parent-Agency Treatment Plan & Service Agreement (for children receiving foster care payments), dated within three months of the application date.

DOC Rate Above Level III

- A DOC above Level III requires all of the above, plus:
  - A copy of the supporting documents that were submitted to the designated DHS manager to justify the rate.
  - A copy of the professional documentation that supports the DOC rate, if applicable.

- A copy of the approval memo from the designated DHS manager.
- A description of the child's special needs and specific information showing how the exceptional rate was calculated.

Rate Changes before Guardianship Approval

When a child's DOC increases or decreases after a guardianship agreement has been issued, but prior to the court's appointment of the guardian, the assigned worker must notify the DHS subsidy office. The assigned worker must submit a completed Change Request form (DHS-4817G) and attach a current DOC form (DHS-470, 470A, or 1945) if applicable. The DHS subsidy office will review the DOC form and all supporting documentation. The guardianship assistance maximum rate will be reviewed and a new DHS-3313, Guardianship Assistance Agreement will be issued with a new guardianship assistance maximum rate.

If the DOC rate has decreased, the guardianship assistance maximum rate will decrease. If the DOC rate has increased, the maximum guardianship assistance rate will increase. After the DHS-3313 is issued, the agreement must be signed by the prospective guardian and the DHS designee prior to the court's appointment of the guardian.

Base Rate Increases After the Guardianship Appointment

Guardianship assistance base rates increase when the child has a birthday which would affect the base guardianship assistance rate or when the legislature authorizes an increase in the base guardianship assistance rate. DOC rates are set prior to the appointment of the guardian and are not subject to increases after the guardianship begins.

Negotiation of the Ongoing Monthly Payment

The ongoing monthly guardianship assistance payment is negotiated in discussion between the guardian and the assigned worker by taking into account the child's needs and guardian's circumstances. The ongoing monthly payment may be set at any rate up to the maximum guardianship assistance rate determined by the DHS subsidy office.

The assigned worker assists the prospective guardian in determining the amount that is needed to support the addition of the child to the prospective guardian's family.

The DHS-3313, Guardianship Assistance Agreement includes both the maximum rate set by the DHS subsidy office and the ongoing monthly rate requested by the prospective guardian. The agreement must be signed by the prospective guardian and the DHS designee prior to the court's appointment of the guardian.

Negotiated Changes in Ongoing Guardianship Payments

Payments Established Below the Maximum Rate

If the guardian agrees to an ongoing monthly assistance payment that is less than the maximum guardianship assistance rate indicated on the DHS-3313, they may request a change once every 12 months in the payment at a later date.

The ongoing monthly guardianship assistance payment may not exceed the maximum guardianship assistance rate determined prior to the court's appointment of the guardian. The rate may include any increases to the base guardianship assistance rate due to legislated or age-appropriate increases.

If the child's or guardian's circumstances change and the guardian decides that the ongoing monthly guardianship assistance payment needs to be increased, they may request an increase of the ongoing monthly guardianship assistance payment up to the maximum rate that was established by the DHS subsidy office prior to the guardianship.

Payments Established at the Maximum Rate

Guardians may request a decrease in the ongoing monthly guardianship assistance payment if they decide that it is appropriate.

Address for Requesting Rate Changes

Requests for ongoing monthly rate changes must be made in writing and sent to:

DHS Subsidy Office
Michigan Department of Human Services
Grand Tower, Suite 612
P.O. Box 30037
Lansing, MI 48909

Effective Date of Rate Changes

The effective date of a rate change is based on the date of DHS approval but no more than 30 calendar days from the date the written request for rate change was received by the DHS subsidy office. The child is not eligible for an increased payment prior to the effective date. The rate change is activated when both the DHS designee and guardian have signed the new agreement.

OTHER FINANCIAL BENEFITS

When the court appoints the guardian, the guardian should apply to become the representative payee for children who are eligible for Supplemental Security Income (SSI), Retirement, Survivors, Disability Insurance (RSDI) or Veteran's Administration (VA) benefits. Guardians should contact their local Social Security Administration office regarding SSI and RSDI. Guardians may apply to become the representative payee for VA benefits by contacting the Veteran's Administration. The assigned worker must assist the guardian in applying for these benefits by providing the claim number under which benefits are received.

A child may be eligible for both guardianship assistance payments and SSI. In the case of children who have been eligible for SSI prior to guardianship, the guardian must immediately notify SSI of the guardianship and the amount of the ongoing monthly guardianship assistance payment. The Social Security Administration will determine the child's continued eligibility for SSI after guardianship and the amount of the payment.

If a guardian chooses not to request guardianship assistance because the child receives other financial support and does not have a guardianship assistance agreement signed by both the guardian and the DHS designee prior to the court's appointment of the guardian, they will not be eligible for guardianship assistance payments in the future.

The assigned worker must inform the prospective guardian that RSDI, SSI, and VA benefit payments may not provide ongoing assistance through age 18, depending on the source of the benefits and possible eligibility requirements based on income or continued disability.

TITLE IV-E FUNDED GUARDIANSHIP ASSISTANCE

Children who are determined eligible for title IV-E funded guardianship assistance are categorically eligible for Medicaid. A signed Guardianship Assistance Agreement (DHS-3313) and court appointment of a guardian are required in order to receive Medicaid through the program. The DHS Subsidy Office will open and maintain the Medicaid case after the foster care case is closed. Medicaid eligibility will continue as long as the guardianship assistance agreement is in effect.

STATE FUNDED GUARDIANSHIP ASSISTANCE

Medicaid eligibility for children who are eligible for state funded guardianship assistance and living in Michigan is determined by the DHS subsidy office. Children in juvenile guardianship will be eligible for Medicaid under Other Healthy Kids (see BEM 131), or Department Wards, Title IV-E and Adoption Assistance Recipients (see BEM 117).

There may be some cases where the child has significant income (above 150% of poverty level) from sources other than guardianship assistance. The child's eligibility for Group 2 Persons Under Age 21 Medicaid should be determined. There may be a deductible in these cases (see BEM 132).

Possible sources of income are Retirement, Survivors, Disability Income (RSDI) or other financial support the child receives. The prospective guardian's income and assets are not considered in the determination of Medicaid eligibility for the child. See BEM 211 for Medicaid group composition information.

The child's countable income must be considered. The DHS subsidy office will open and maintain the Medicaid case after the foster care case is closed.

INTRODUCTION

Nonrecurring Expenses (NRE) eligibility is based on the state's federally approved title IV-E plan and state law.

After eligibility is determined, the agreement is signed by the guardian and the DHS designee, and the court has appointed the guardian, the DHS subsidy office will determine allowable expenses claimed by the guardian or a third party (that incurred expenses on behalf of the guardian). The maximum allowable reimbursement is $2,000 per child.

ELIGIBILITY

A child may be determined eligible for nonrecurring expenses reimbursement if the child has been determined eligible for Guardianship Assistance (see GDM 715).

AGREEMENT

A written agreement, Guardianship Assistance Agreement (DHS-3313) between the prospective guardian(s) and the department setting forth the nature of the payment and the claim process, must be signed by both the guardian and the DHS designee before the court appointment of a guardian. A copy of the signed agreement will be given to the guardian.

Detailed information about the agreement is available in GDM 740, Guardianship Assistance Agreements.

PROCESS

NRE are reasonable and necessary fees and expenses directly related to the process of obtaining juvenile guardianship of an eligible child.

Nonrecurring expenses do not include costs or expenses incurred in violation of state or federal laws or that have been reimbursed from other sources or funds.

The guardian or a third party, with the assigned worker's assistance, must claim expenses to be reimbursed within two (2) years or less of the date of the court's appointment of the guardian. If the expenses are not claimed within two (2) years of the guardian appointment, eligibility for reimbursement ends.

Claim Forms

Nonrecurring expenses must be claimed on the Guardian Claim for Reimbursement of Nonrecurring Expenses (DHS-4815G), or the Third Party Claim for Reimbursement of Nonrecurring Expenses - Guardianship (DHS-4816G). More than one DHS-4815G or DHS-4816G may be submitted for a child within the two-year period following the date of the court's appointment of the guardian, if the expenses being claimed were not previously submitted and total no more than $2,000.

Third Party Reimbursement

A third party is a party who has incurred NRE expenses directly related to obtaining juvenile guardianship of an eligible child on behalf of the guardian.

Guardianship Termination

If a child's guardianship is revoked or terminated before the two-year expiration of expense reimbursement, the guardian or third party remains eligible for reimbursement of nonrecurring expenses for two years after the date of the original appointment of the guardian.

Sibling Group Claims

Nonrecurring expenses applying to an entire sibling group may be submitted on one claim form, providing total expenses related to obtaining juvenile guardianship do not exceed the maximum allowable reimbursement of $2,000 per child.

If the expenses exceed $2,000 for one child, those expenses must be divided and reported on each child's claim form. If the expenses exceed $2,000 per child, only $2,000 per child will be reimbursed. Receipts or other appropriate documents must be attached to each sibling claim form.

Child Not Placed Into Guardianship

If a child who was certified eligible for NRE is not placed into guardianship by court order, NRE reimbursement is not available.

Claim/ Reimbursement

Claim procedures for the guardian who has incurred or will incur expenses, and is ultimately responsible for payment of the expenses related to obtaining juvenile guardianship, are as follows:

1. The guardian completes, with the assigned worker's assistance, the Guardian Claim for Reimbursement of Nonrecurring Expenses (DHS-4815G). Attach receipts or appropriate document for each expense incurred as outlined below and submit to the DHS subsidy office within two years or less after the date of the appointment of the guardian.

2. The DHS subsidy office will determine the reimbursable expenses, the amount of reimbursement, authorize the reimbursement and initiate payment to the guardian after the guardian has been appointed by the court and a guardianship assistance case is opened by the DHS subsidy office.

Third Party Claim/ Reimbursement

Claim procedures for a third party that has incurred NRE on behalf of a guardian (who retains ultimate responsibility for payment), that are directly related to obtaining juvenile guardianship of a foster child are as follows:

1. With the assigned worker's assistance, the guardian and third party complete the Third Party Claim for Reimbursement of Nonrecurring Expenses (DHS-4816G). Receipts or appropriate document for each expense incurred must be attached. The claim must be submitted to the DHS subsidy office within two (2) years or less after the guardianship appointment by the court.

   If more than one third party has incurred expenses on behalf of a guardian, a DHS-4816G must be submitted for each third party (and one for each child in a sibling group).

2. After the guardian has been appointed by the court and a guardianship assistance case is opened by the DHS subsidy office, the office will determine appropriate reimbursable amounts, authorize reimbursement and initiate payment to the third party.

Expense/Fee	Receipt/Document/Other Required
Travel	**Mileage-** Detailed travel log including dates traveled, addresses traveled to and from and purpose of travel. Mileage must be approved by the worker for the purpose of obtaining juvenile guardianship or other reasonable mileage required by the supervising agency. The DHS subsidy office will determine the reimbursable amount based on the state mileage rate in effect at the time of travel. **Airfare-** A receipt showing passenger's name, flight dates, points of travel, and cost of ticket. Airfare may be reimbursable if determined necessary by the assigned worker for the purpose of court hearing. Airfare would typically apply to interstate travel of a prospective guardian. Assigned workers should contact the DHS Interstate Office prior to necessary travel regarding potential available transportation for a child over age five, or a child age five or under and a transporter (i.e, prospective guardian) when a child is required to travel between Michigan and another state. **Gas-** Gas expenses are not specifically reimbursable. Mileage reimbursement includes coverage for gas expenses. **Bridge/Toll Fee-** Receipt showing fee paid. These expenses may be reimbursable if associated with mileage as described above.
Lodging	A receipt for lodging if the guardian travels in excess of 50 miles from the family residence for the purpose of obtaining juvenile guardianship. The DHS subsidy office will determine the reimbursable amount based on the current state rate plus taxes.

Expense/Fee	Receipt/Document/Other Required
Meals	Travel must be for the purpose of obtaining juvenile guardianship. A receipt for each meal for immediate family members and foster child whose guardianship is in process, plus the date of travel, the meal (breakfast, lunch or dinner) and the number of people for whom meals were purchased. The maximum daily meal reimbursement rate for regular travel are in the state rate schedule. Individual meal reimbursement is based on the following schedule: Breakfast - When travel begins before 6 a.m. and extends beyond 8:30 a.m. Lunch - When travel begins before 11:30 a.m. and extends beyond 2 p.m. Dinner - When travel begins before 6:30 p.m. and extends beyond 8 p.m.
Medical	Reimbursable medical expenses are for prospective guardians and family members living in the household and for expenses related to foster care licensing physicals only if required for guardianship eligibility that are not covered by other sources. A physician's invoice or an insurance explanation of benefits identifying the patient's name, date of service, description of service, and amount the prospective guardian must pay is required.
Psychological Evaluation	Reimbursable expenses relate to a psychological evaluation for a prospective guardian when required by the assigned worker. Required documentation of the expense includes a psychologist's invoice or insurance explanation of benefits identifying the guardian's name, date of service, description of service, and the amount the guardian is responsible for and written correspondence from the assigned worker documenting agency's requirement for the evaluation.
Licensing Assessment	Foster care licensing assessments are completed without charge in the state of Michigan. For out of state licensing assessments, a detailed invoice from the agency where an expense was incurred by the guardian for licensing assessment, and written correspondence from the licensing worker detailing the circumstances surrounding the necessity of the expense.

Expense/Fee	Receipt/Document/Other Required
Attorney Fees	An invoice from the attorney including dates of service, description of services, amount billed for services, attorney's signature, and guardian's signature verifying services. The guardianship process in Michigan does not require attorney services.

OVERVIEW

Children who are eligible for the Guardianship Assistance Program (GAP) are eligible for post permanency services in the same manner as adoptive families, including eligibility for medical subsidy. Medical Subsidy is a state-funded program. Eligibility is determined without respect to the guardian's or child's income. However, before medical subsidy reimbursement is made, the guardian must pursue all available private and public funding sources for medical costs, including private health insurance and public health benefits, such as Medicaid and Children's Special Health Care Services.

ELIGIBILITY

A child may be eligible for the state funded Juvenile Guardianship Medical Subsidy if all of the following apply:

- The child is certified eligible and approved by the DHS subsidy office for the GAP.
- The child is under age 18.
- The expenses to be covered by the medical subsidy are necessary due to a physical, mental or emotional condition that existed or the cause of which existed before the court order of guardianship appointment.
- The physical, mental or emotional condition is certified as an eligible condition by the DHS subsidy office.
- The guardian and DHS subsidy office designee have entered into a Juvenile Guardianship Medical Subsidy Agreement (DHS-3013-GA) covering all of the following:
  - Identification of the physical, mental or emotional condition(s) covered by the medical subsidy.
  - The duration of the medical subsidy agreement.
  - Conditions for continued eligibility for the medical subsidy.

APPLICATION

The assigned worker should apply for the Juvenile Guardianship Medical Subsidy (DHS-3310-M) concurrently with the Certification of Juvenile Guardianship Assistance Eligibility and Request for Agreement (DHS-3310), prior to the court's order of guardianship. If

additional physical, mental or emotional conditions are diagnosed after the juvenile guardian is appointed by the court, the guardian may apply for certification of the conditions by using the same application form (DHS-3310-M).

Prior to Guardianship Appointment

Approved applications submitted prior to the court's order of guardianship appointment will be effective on the date of the court order of guardianship. A Juvenile Guardianship Medical Subsidy Agreement (DHS-3013-GA) must be signed by DHS and the guardian prior to submission of medical bills.

After Guardianship Appointment

Approved applications submitted on or after the date of the court order of guardianship will be effective the date the application is received by the department if the necessary documentation is received within 90 days after the application is received and the condition is approved. If the necessary documentation is not received with 90 days after the application is received, the application will be denied. A Juvenile Guardianship Medical Subsidy Agreement (DHS-3013-GA) must be signed by DHS and the guardian prior to submission of medical bills.

DOCUMENTATION REQUIREMENTS

Documentation requirements for Juvenile Guardianship Medical Subsidy are the same as for adoption medical subsidy. The requirements are in CFS 400.

AGREEMENTS

Policy regarding the medical subsidy agreement is in GDM 740.

COVERED SERVICES

Children who are eligible for Juvenile Guardianship Medical Subsidy are eligible for the same services as are adopted children. Policy regarding covered services is in CFS 640.

INTRODUCTION

State and federal law require that the Department of Human Services (DHS) enter into Guardianship Assistance Agreements (DHS-3313) and state-funded Juvenile Guardianship Medical Subsidy Agreements (DHS-3013GA) with the guardian as a condition of eligibility for:

- Guardianship assistance.
- Nonrecurring expenses.
- Guardianship assistance-related Medicaid.
- State-funded medical subsidy.

Guardianship assistance and medical subsidy agreements are written legally binding arrangements between the department and the guardian(s) which include the agreement provisions.

AGREEMENT PROVISIONS

Guardianship Assistance/ Nonrecurring Expenses

The following provisions are included in both title IV-E and state funded guardianship assistance agreements:

- Type of assistance to be paid.
- Maximum guardianship assistance rate.
- Amount of negotiated ongoing monthly guardianship assistance payment agreed to by the guardian(s) and the Department of Human Services (DHS) and any services and other assistance to be provided under the agreement.
- Provisions for the protection of the interests of the child in cases where the guardian(s) and child move to another state while the agreement is in effect.
- The guardianship agreement is in effect regardless of the state in which the guardian and child reside.
- Nature and amount of nonrecurring expenses to be paid.
- Medicaid eligibility.

- Conditions for continued payment of guardianship assistance.
- Legislative increases and decreases that affect all cases.
- Duration of the ongoing guardianship assistance monthly payment.
- The procedures by which the guardian may apply for additional services as needed.

Note: If a needed service specified in the agreement is not available in the state of residence, the state making the original guardianship assistance payment remains financially responsible for providing the specified service.

Medical Subsidy (State-Funded)

The following provisions are included in state-funded medical subsidy agreements:

- Medical conditions covered by medical subsidy.
- Requirements for continued payment of medical subsidy.
- Continuation of eligibility regardless of a change in state residency.
- Duration of the medical subsidy agreement.
- Reimbursement requirements.

OBTAINING AGREEMENTS

Guardianship Assistance Agreements

The DHS-3313, Guardianship Assistance Agreement, is issued by the DHS subsidy office. The assigned worker applies for this agreement by submitting a DHS-3310, Certification of Guardianship Assistance Eligibility and Request for Agreement, to the DHS subsidy office.

Ongoing monthly guardianship assistance is paid in the amount negotiated between the guardian(s) and DHS, up to the maximum

amount entered by the DHS subsidy office on the DHS-3313, Guardianship Assistance Agreement. Details of the rate determination process are in GDM 720.

Nonrecurring Expenses (NRE) Agreements

The guardian(s) and DHS enter into an agreement for reimbursement of nonrecurring expenses as a result of submission and approval of the DHS-3310, Certification of Guardianship Assistance Eligibility and Request for Agreement. Approval of the DHS-3310 application results in the issuance of the DHS-3313, Guardianship Assistance Agreement.

All agreements must be signed by both the guardian(s) and the DHS designee prior to the court's appointment of the guardian. If the court's appointment of the guardian is signed by the court prior to completion of all signatures on the agreement, reimbursement is not available.

Claims for reimbursement of expenses by the guardian or authorized third party may be initiated after the agreement is signed by all parties. Processing of reimbursement payments will begin after the appointment of the guardian, the DHS-1344G, Guardianship Case Opening Request, and appropriate receipts/documentation have been received by the DHS subsidy office. (See GDM 745, Guardianship Assistance Case Opening and Duration.)

Nonrecurring expenses claims may be paid up to two (2) years after the date of the appointment of the guardian. The guardian(s) or authorized third party must claim the reimbursement for eligible expenses not later than two (2) years from the date of the court's appointment of the guardian. (See GDM 730, Nonrecurring Expenses Reimbursement.)

Medical Subsidy Agreements

The Medical Subsidy Agreement (DHS-3013GA) is issued by the DHS subsidy office after approval of the DHS-1341G, Juvenile Guardianship Medical Subsidy Application. Prior to guardianship, the assigned worker assists the prospective guardian in applying for the medical subsidy agreement by submitting the DHS-1341G to the DHS subsidy office. After the guardian is appointed, the

guardian(s) apply for the medical subsidy agreement by submitting the DHS-1341G to the DHS subsidy office.

The medical subsidy agreement must be signed by the guardian(s) and the DHS designee after the child's eligibility has been determined by the DHS subsidy office. If the medical subsidy is signed by all parties on or before the court's signature on the guardian's appointment, the effective date of the agreement will be the date of the court's appointment of the guardian.

If the medical subsidy agreement is signed after the court's signature on the appointment of the guardian, the effective date of the agreement will be the date of the appointment of the guardian or the effective date entered on the agreement by the DHS subsidy office, whichever is later.

Medical bills will not be processed for payment until the guardian(s) and the DHS designee have signed the agreement and the DHS-1344G, Guardianship Assistance Case Opening Request, has been processed by the DHS subsidy office.

AGREEMENT PROCEDURES

Guardianship Assistance and Medical Subsidy

The DHS subsidy office:

- Prepares the appropriate agreement for the child.
- Sends the guardianship assistance agreement to the assigned worker.
- Sends the medical subsidy agreement to the assigned worker with the DHS-3012GA, Medical Subsidy Agreement Instructions.

The assigned worker:

- Reviews each agreement with the guardian. For Guardianship Assistance Agreements, negotiates the ongoing monthly guardianship assistance payment amount with the guardian. (See GDM 720.)

- Assists the guardian(s) in filling in all blanks on the agreement according to the agreement instructions.
- Returns the agreement to the DHS subsidy office.

The DHS subsidy office:

- Reviews the agreement for completeness and accuracy and resolves all problems before proceeding.
- Obtains the DHS designee signature on the agreement.
- Returns the agreement to the assigned worker.

The assigned worker:

- Provides the original signed agreement to the guardian and maintains a copy in the foster care case record. POS agencies must provide a copy of the agreement to the DHS foster care monitor.
- Proceeds with the guardianship process.

Post-Guardianship Medical Subsidy

The DHS subsidy office:

- Prepares the Medical Subsidy Agreement (DHS-3013GA).
- Sends the agreement to the guardian with the DHS-3012GA, Medical Subsidy Agreement Instructions.

The guardian:

- Reviews the agreement, signs, and has a witness sign the agreement, following the instructions on the DHS-3012GA, Medical Subsidy Agreement Instructions.
- Returns the signed agreement to the DHS subsidy office.

The DHS subsidy office:

- Reviews the agreement for completeness and accuracy and resolves all problems before proceeding.
- Obtains the DHS designee signature on the agreement.
- Returns the signed agreement to the guardian.

AGREEMENT SIGNATURES

Guardianship Assistance

A guardianship assistance agreement must be signed by both the guardian and the DHS designee prior to the court's appointment of the guardian and is effective on the date of guardian's appointment.

If the guardianship assistance agreement is not signed by all parties before the date of the court's appointment of the guardian, **the child will not be eligible for guardianship assistance**.

Medical Subsidy

A medical subsidy agreement can be signed any time after the child is certified eligible. If the medical subsidy agreement is signed before the date of the court's appointment of the guardian, the effective date of the agreement will be the date of the guardian's appointment.

If the medical subsidy agreement is signed after the court's appointment of the guardian, the effective date of the agreement will be the date of the court's appointment of the guardian, or the effective date entered on the agreement by the DHS subsidy office, whichever is later.

GUARDIAN RESPONSIBILITIES

The guardian(s) must notify the DHS subsidy office, in writing, no later than 7 days after a change in the guardian's address.

The guardian(s) must notify the DHS subsidy office, in writing, no later than 30 days after any of the following occur:

- The guardianship is revoked or terminated.
- The child's marriage.
- The child's death.
- The child enters the military service.
- The child becomes emancipated.
- The child is adopted.

- The child becomes a ward of the Juvenile Court through voluntary or involuntary action.
- The guardian is no longer providing any support of the child.

Recoupment procedures will be followed for changes that result in an overpayment.

School Attendance

All school-age children who receive juvenile guardianship assistance payments must be enrolled full-time (or in the process of enrolling) in elementary or secondary education through a school, home school, or independent study program in accordance with the law in their residence state, or unable to attend school on a full-time basis due to a medical condition that is supported by documentation in the child's case record.

Note: Foster care policy does not permit home schooling for children who have open foster care cases.

The annual report is used to provide the above information to DHS.

Annual Review of Eligibility

An annual report will be provided to all guardians receiving guardianship assistance to determine continuing eligibility of the child and guardian. Failure to complete and return the annual report to the DHS subsidy office will result in further action to determine the child's and guardian's continued eligibility for guardianship assistance programs.

CASE OPENING

Guardianship Assistance and Medical Subsidy

The assigned worker is responsible for informing the DHS subsidy office of the appointment of a guardian immediately after the court signs the guardianship order. Guardianship assistance, nonrecurring expenses and medical subsidy is opened when all of the following are completed:

1. A guardianship assistance and medical subsidy agreement, signed by the guardian(s) and the Department of Human Services designee, is complete.

2. The foster care payment has been closed.

3. The assigned worker has submitted the DHS-1344G, Guardianship Assistance Case Opening Request, signed by the guardian(s).

   Note: The DHS-1344G is required to initiate the guardianship assistance payment and to determine the appropriate funding source for the guardianship assistance (title IV-E or state funds).

4. The assigned worker has submitted a copy of the court's signed appointment of guardianship.

GUARDIANSHIP ASSISTANCE DURATION

Guardianship assistance eligibility shall exist until one of the following conditions occurs:

- The child becomes 18 years of age.

- The child has not yet reached his/her 18th birthday, but is emancipated by any of the following:

  - Court order.
  - Marriage.
  - Entering the military service.

- The child dies.

- The child is adopted.
- The guardianship is revoked or terminated.
- The guardian has requested in writing that the guardianship assistance payment permanently stop.
- A determination of ineligibility is made by the Department of Human Services.

  One or more of the following are reasons for a determination of ineligibility:

  - The guardian dies.
  - The guardian is no longer legally responsible for the support of the child.
  - The guardian is no longer providing support for the child.

Reporting Changes

The guardian (or guardian's representative, in the event of the guardian's death) must notify the DHS subsidy office in writing within 30 days after any of the above changes occur. Recoupment procedures will be followed for changes not reported timely.

Notice of Agreement Termination

The guardian shall be notified of guardianship assistance agreement termination due to one or more of the above conditions by a DHS-4103-G, Guardianship Assistance Case Closure/Overpayment Notice. A copy of this form must also be sent to the court with jurisdiction over the juvenile guardianship.

MEDICAL SUBSIDY DURATION

Note: Medical subsidies are not title IV-E funded or subject to title IV-E regulations.

Medical subsidy eligibility shall exist until one of the following conditions occurs:

- The child becomes 18 years of age.

- The child has not yet reached his/her 18th birthday, but is emancipated by any of the following:
  - Court order.
  - Marriage.
  - Entering the military service.
- The child dies.
- The guardianship is terminated.
- A determination of ineligibility is made by the Department of Human Services based on one or more of the following:
  - The guardian receives a Family Support Subsidy for the child from the Michigan Department of Community Health.
  - The child is removed from his/her home as a temporary court ward due to delinquency or due to a child protective proceeding (MCL 712A.2(a) or.2(b)).

Reporting Changes

The guardian must notify the DHS subsidy office in writing within 30 days after any of the above changes occur. Recoupment procedures will be followed for overpayments.

Notice of Agreement Termination

The guardian shall be notified of the medical subsidy agreement termination due to one or more of the above conditions by a DHS-4103G, Guardianship Assistance Case Closure/Overpayment Notice, from the DHS subsidy office. Recoupment of excess payments will be initiated if necessary.

CHILD MADE A TEMPORARY COURT WARD

Guardianship Assistance

If a child is removed from his or her home due to delinquency as a temporary court ward under MCL 712A.2(a) or a child protective

proceeding under MCL 712A.2(b), the guardianship assistance payment must be continued unless the guardian is no longer providing any support for the child. Support includes various forms of financial support such as payments for therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child's special needs. If the state determines that the guardian is providing some form of financial support to the child, the state may continue the guardianship assistance payment after renegotiation of the ongoing monthly guardianship assistance payment and signatures by the guardian(s) and the DHS designee on the renegotiated agreement.

Child Removed and Placed Outside the Home as a Temporary Court Ward

MCL 712A.18(2) requires a court to order a guardian to reimburse the costs of care or service when a child is placed outside of his or her home.

Child Placed in Own Home as a Temporary Court Ward

MCL 712A.18(3) permits the court to order a guardian to reimburse the costs of care or service when a child is placed in his or her own home.

Medical Subsidy

Medical subsidy will be closed during the period when a child is removed from the home as a temporary court ward due to delinquency or due to a child protective proceeding. The medical subsidy may be reopened upon the child's return to the home.

Adoption by the Guardian

If a guardian is receiving guardianship assistance and subsequently applies to adopt the child, a DHS-1341, Adoption Support Subsidy/Nonrecurring Adoption Expenses Application must be submitted to the DHS subsidy office prior to the finalization of the adoption. If the child is determined eligible as a special needs child, an adoption support subsidy agreement must be signed by the

adoptive parent(s) and the DHS designee prior to the finalization of the adoption. If the child was eligible for title IV-E adoption support subsidy prior to the guardianship, the title IV-E funding eligibility will be available for the adoption.

INTRODUCTION

Pursuant to state and federal law, the Michigan Department of Health and Human Services (MDHHS) may enter into a guardianship agreement with the successor guardian for:

- Guardianship assistance.
- Nonrecurring expenses.
- Guardianship assistance-related Medicaid.
- State-funded medical subsidy.

Guardianship assistance and medical subsidy agreements are legally binding between the department and the successor guardian(s).

JUVENILE GUARDIANSHIP ASSISTANCE

The MDHHS juvenile guardianship assistance eligibility determination process must be completed and if found eligible, an agreement must be completed when a successor guardian requests juvenile guardianship assistance.

Guardianship Assistance Application

A successor guardian may be eligible to receive guardianship assistance on behalf of an eligible child, if the MDHHS Adoption and Guardianship Assistance office determines that all of the following apply:

- A DHS-3313, Juvenile Guardianship Assistance Agreement, for the child was in effect before the appointment of the successor guardian.
- The successor guardian was appointed by the court as a result of the death or incapacitation of the preceding guardian.
- The preceding guardian had an active DHS-3313, Juvenile Guardianship Assistance Agreement, for the child before his/her death or incapacitation.
- The successor guardian meets all of the conditions set forth in policy and law.

Program eligibility is completed when the successor guardian has requested Juvenile guardianship assistance via the DHS-3310-SG,

Successor Juvenile Guardianship Assistance Application, and all of the following occurs:

1. The completed DHS-3310SG is submitted to the MDHHS Adoption and Guardianship Assistance office:

   Adoption and Guardianship Assistance Office
   Michigan Department of Health and Human Services
   235 S. Grand Ave, Suite 612
   P.O. Box 30037
   Lansing, MI 48909

2. The following documents must be submitted with the application:

   - Court order appointing the successor juvenile guardian, which specifies that the appointment is due to the death or incapacitation of the preceding guardian.
   - Copy of the preceding guardian's death certificate, if applicable.
   - Signed statement from the successor guardian(s) indicating the date they assumed care of the child.

3. Criminal background checks and clearances of the child abuse and neglect registry are obtained on all adults living in the home including clearance of the child abuse and neglect registry in any state in which they have resided during the past five years.

4. The MDHHS Adoption and Guardianship Assistance office reviews the documentation, determines eligibility and the maximum monthly guardianship assistance rate and issues a DHS-3313, Juvenile Guardianship Assistance Agreement.

Note: If the application is incomplete, the MDHHS Adoption and Guardianship Assistance office must notify the successor guardian of any missing application information or required documentation within 14 calendar days of receipt of the application. The successor guardian will have 30 calendar days following the date of the notice to provide missing documentation for the application to be processed. If the successor guardian does not provide the missing documentation within this time frame, the application will be denied and the successor guardian will need to re-apply.

Guardianship Assistance Rates

The maximum daily rate for guardianship assistance for successor guardian(s) will be the same maximum rate that was established on the original DHS-3313, Juvenile Guardianship Assistance Agreement. The actual rate will be negotiated between the successor guardian(s) and the department; see GDM720 for detailed rate determination policy.

Other Financial Benefits

When the court appoints the successor guardian, the successor guardian must apply to become the representative payee for children who are eligible for Supplemental Security Income (SSI), Retirement, Survivors, Disability Insurance (RSDI) or Veteran's Administration (VA) benefits. Successor guardians must contact the local Social Security Administration office regarding SSI and RSDI. Successor guardians may apply to become the representative payee for VA benefits by contacting the Veteran's Administration.

A child may be eligible for both guardianship assistance payments and SSI. In the case of children who have been eligible for SSI prior to guardianship, the successor guardian must immediately notify SSI of the guardianship and the amount of the ongoing monthly guardianship assistance payment. The Social Security Administration will determine the child's continued eligibility for SSI after guardianship and the amount of the payment.

If a successor guardian chooses not to request guardianship as the child receives other financial support and does not have a guardianship assistance agreement signed by both the successor guardian and the MDHHS Adoption and Guardianship Assistance program manager or designee, the child will not be eligible for guardianship assistance payments in the future.

Guardianship Assistance Payments

If the successor guardian began caring for the child before the court appoints the successor guardian, guardianship assistance payments can be made retroactively to either the date of the death of the preceding guardian, the date of incapacity of the preceding

guardian, or the date the successor guardian assumed care of the child, whichever is **later**.

Funding Source

The guardianship assistance program is funded by title IV-E and state funds. The funding source for guardianship assistance for the successor guardian is the same funding source that was established on the original DHS-3313, Juvenile Guardianship Assistance Agreement, when the child entered guardianship.

Exception: The funding source may change in the event that any adult household member has a criminal history that is not allowable for title IV-E eligibility.

Medicaid

Youth who were eligible for Medicaid through the guardianship assistance program with the preceding guardian are eligible for Medicaid with the successor guardian.

Guardianship Assistance Agreements

The DHS-3313, Juvenile Guardianship Assistance Agreement, is issued by the MDHHS Adoption and Guardianship Assistance office. The successor guardian applies for this agreement by submitting a DHS-3310-SG, Successor Juvenile Guardianship Assistance Application, to the MDHHS Adoption and Guardianship Assistance office.

Ongoing monthly guardianship assistance is paid in the amount negotiated between the successor guardian(s) and MDHHS, up to the maximum amount entered by the MDHHS Adoption and Guardianship Assistance office on the DHS-3313, Juvenile Guardianship Assistance Agreement.

A guardianship assistance agreement must be signed by both the successor guardian and the MDHHS Adoption and Guardianship assistance program manager or designee **prior to** the issuance of guardianship assistance payments.

Nonrecurring Expenses (NRE) Agreements

The successor guardian(s) and MDHHS enter into an agreement, DHS-3313, Juvenile Guardianship Assistance Agreement, for reimbursement of nonrecurring expenses as a result of submission and approval of the DHS-3310-SG, Successor Juvenile Guardianship Assistance Application.

Claims for reimbursement of expenses by the successor guardian or authorized third party may be initiated after the agreement is signed by all parties. Processing of reimbursement payments will begin after the appointment of the successor guardian and the DHS-1344-SG, Successor Guardianship Case Opening Request, and appropriate receipts/documentation are received by the MDHHS Adoption and Guardianship Assistance office.

Nonrecurring expenses claims may be paid up to two years after the date of the appointment of the successor guardian. The successor guardian(s) or authorized third party must claim the reimbursement for eligible expenses no later than two years from the date of the court's appointment of the guardian; see GDM730 for detailed nonrecurring expenses policy.

Medical Subsidy Agreements

Children who are eligible for the guardianship assistance program (GAP) are eligible for post permanency services in the same manner as adoptive families, including eligibility for medical subsidy. Medical subsidy is a state-funded program. Eligibility is determined without respect to the successor guardian or child's income. Before medical subsidy reimbursement is made, the successor guardian must pursue all available private and public funding sources for medical costs, including private health insurance and public health benefits, such as Medicaid and Children's Special Health Care Services.

Medical subsidy applications may be submitted either before or after the appointment of the successor guardian and may be approved up to the child's 18th birthday. Specific medical and/or mental health conditions must be certified and a medical subsidy agreement must be signed by the successor guardian and the

MDHHS Adoption and Guardianship Assistance Program Manager or designee before the coverage begins.

If a child was found eligible for medical subsidy with the preceding guardian, the medical subsidy will transfer to the successor guardian once the following occurs:

- The successor guardian and MDHHS Adoption and Guardianship Assistance office designee have entered into a DHS 3013GA, Juvenile Guardianship Medical Subsidy Agreement, covering all of the following:
  - Identification of the physical, mental, or emotional condition(s) covered by the medical subsidy.
  - The duration of the medical subsidy agreement.
  - Conditions for continued eligibility for the medical subsidy.

The DHS 3013-GA, Juvenile Guardianship Medical Subsidy Agreement, is issued by the MDHHS Adoption and Guardianship Assistance office after approval of the DHS-1341-M, Juvenile Guardianship Medical Subsidy Application. After the successor guardian is appointed, the successor guardian(s) apply for the medical subsidy agreement by submitting the DHS-1341-M Juvenile Guardianship Medical Subsidy Application to the MDHHS Adoption and Guardianship Assistance office.

The DHS-1341-M is mailed to:

Adoption and Guardianship Assistance Office
Michigan Department of Health and Human Services
235 S. Grand Ave, Suite 612
P.O. Box 30037
Lansing, MI 48909

The medical subsidy agreement must be signed by the successor guardian(s) and the MDHHS Adoption and Guardianship Assistance program manager or designee after the child's eligibility is determined by the MDHHS Adoption and Guardianship Assistance office.

If the medical subsidy agreement is signed after the court's signature on the appointment of the successor guardian, the effective date of the agreement will be the date of the appointment of the successor guardian or the effective date entered on the agreement

by the MDHHS Adoption and Guardianship Assistance office, whichever is later.

Medical bills will not be processed for payment until the successor guardian(s) and the MDHHS Adoption and Guardianship Assistance program manager or designee have signed the agreement and the DHS-1344-SG, Successor Guardianship Assistance Case Opening Request, is processed by the MDHHS Adoption and Guardianship Assistance office; see GDM735 for detailed medical subsidy policy.

AGREEMENT PROCEDURES

The MDHHS Adoption and Guardianship Assistance office is responsible for preparing and sending the appropriate agreement for the child, to the successor guardian.

Successor Guardian

The successor guardian is responsible for the following agreement procedures:

- Reviewing and completing each agreement according to the agreement instructions.
- Signing each agreement and obtaining a witness signature on each agreement.
- Returning the agreement(s) to the MDHHS Adoption and Guardianship Assistance office.

MDHHS Adoption and Guardianship Office

Upon receipt of the completed and signed agreement, the MDHHS Adoption and Guardianship Office is responsible for the following agreement procedures:

- Reviewing the agreement(s) for completeness and accuracy and resolving all problems before proceeding.
- Obtaining the MDHHS Adoption and Guardianship program manager or designee signature on the agreement(s).

- Returning the original agreement(s) to the successor guardian.

AGREEMENT PROVISIONS

Guardianship Assistance/ Nonrecurring Expenses

The following provisions are included in both title IV-E and state funded guardianship assistance agreements:

- Type of assistance to be paid.
- Maximum guardianship assistance rate.
- Amount of negotiated ongoing monthly guardianship assistance payment agreed to by the successor guardian(s) and MDHHS and any services and other assistance to be provided under the agreement.
- Provisions for the protection of the interests of the child in cases where the successor guardian(s) and child move to another state while the agreement is in effect.
- The guardianship agreement is in effect regardless of the state in which the successor guardian and child reside.
- Nature and amount of nonrecurring expenses to be paid.
- Medicaid eligibility.
- Conditions for continued payment of guardianship assistance.
- Legislative increases and decreases that affect all cases.
- Duration of the ongoing guardianship assistance monthly payment.
- Successor guardian(s) responsibilities.
- The procedures by which the successor guardian may apply for additional services as needed.

Medical Subsidy (State-Funded)

The following provisions are included in state-funded medical subsidy agreements:

- Medical conditions covered by medical subsidy.
- Requirements for continued payment of medical subsidy.
- Continuation of eligibility regardless of a change in state residency.
- Duration of the medical subsidy agreement.
- Reimbursement requirements.
- Successor guardian(s) responsibilities.

CASE OPENING

Guardianship assistance, nonrecurring expenses and medical subsidy is opened when the successor guardian submits the DHS-1344-SG, Successor Guardianship Assistance Case Opening Request.

If the successor guardian began caring for the child before the court appointed the successor guardian, guardianship assistance payments can be made retroactively to either the date of the death of the preceding guardian, the date of incapacity of the preceding guardian, or the date the successor guardian assumed care of the child, whichever is **later**.

GUARDIANSHIP ASSISTANCE DURATION

Guardianship assistance eligibility shall exist until one of the following conditions occurs:

- The child becomes 18 years of age.
- The child has not yet reached his/her 18th birthday, but is emancipated by any of the following:
  - Court order.
  - Marriage.

    - Entering the military service.

- The child dies.
- The child is adopted.
- The guardianship is revoked or terminated.
- The successor guardian has requested in writing that the guardianship assistance payment permanently stop.
- A determination of ineligibility is made by MDHHS.

  One or more of the following are reasons for a determination of ineligibility:

    - The successor guardian dies.
    - The successor guardian is no longer legally responsible for the support of the child.
    - The successor guardian is no longer providing support for the child.

MEDICAL SUBSIDY DURATION

Medical subsidies are not title IV-E funded or subject to title IV-E regulations.

Medical subsidy eligibility exists until one of the following conditions occurs:

- The child becomes 18 years of age.
- The child has not yet reached his/her 18th birthday, but is emancipated by any of the following:

    - Court order.
    - Marriage.
    - Entering the military service.

- The child dies.
- The guardianship is terminated.

- A determination of ineligibility is made by MDHHS based on one or more of the following:
  - The successor guardian receives a Family Support Subsidy for the child from MDHHS.
  - The child is removed from his/her home as a temporary court ward due to delinquency or due to a child protective proceeding (MCL 712A.2(a)).

Extension Agreements

The guardianship assistance eligibility policies in GDM 715 apply to guardianship assistance for youth who were 16 or older when their original guardianship assistance agreement became effective.

SUCCESSOR GUARDIAN RESPONSIBILITIES

The successor guardian(s) must notify the MDHHS Adoption and Guardianship Assistance office, in writing, no later than seven days after a change in the successor guardian's address.

The successor guardian(s) must notify the MDHHS Adoption and Guardianship Assistance office, in writing, no later than two weeks after any of the following occur:

- The guardianship is revoked or terminated.
- The child's marriage.
- The child's death.
- The child enters the military service.
- The child becomes emancipated.
- The child is adopted.
- The child becomes a ward of the Juvenile Court through voluntary or involuntary action.
- The guardian is no longer providing any support of the child.

- Family Support Subsidy for the child is obtained from MDHHS (medical subsidy only).

Recoupment procedures will apply for changes that result in an overpayment.

Notice of Agreement Termination

The successor guardian must be notified of guardianship assistance agreement and/or medical subsidy agreement termination due to one or more of the above conditions by a DHS-4103-G, Guardianship Assistance Case Closure/Overpayment Notice from the MDHHS Adoption and Guardianship Assistance office. Recoupment of excess payments will be initiated, if necessary.

CONTINUED ELIGIBILITY WHEN A CHILD IS MADE A TEMPORARY COURT WARD

If a child is removed from his or her home due to delinquency as a temporary court ward under MCL 712A.2(a) or a child protective proceeding under MCL 712A.2(b), the guardianship assistance payment must be continued unless the successor guardian is no longer providing any support for the child. Support includes various forms of financial support such as payments for therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child’s special needs. If MDHHS determines that the successor guardian is providing some form of financial support to the child, the department may continue the guardianship assistance payment after renegotiation of the ongoing monthly guardianship assistance payment and signatures by the successor guardian(s) and the MDHHS Adoption and Guardianship Assistance program manager or designee on the renegotiated agreement.

Child Removed and Placed Outside the Home as a Temporary Court Ward

MCL 712A.18(2) requires a court to order a guardian to reimburse the costs of care or service when a child is placed outside of his or her home as a temporary court ward.

Child Placed in Own Home as a Temporary Court Ward

MCL 712A.18(3) permits the court to order a guardian to reimburse the costs of care or service when a child is placed in his or her own home as a temporary court ward.

Medical Subsidy for Child who is a Temporary Court Ward

Eligibility for medical subsidy ends when a child is removed from the home as a temporary court ward due to delinquency or due to a child protective proceeding. The medical subsidy may be reopened upon the child's return to the home.

Address Changes

See GDM760 for detailed address change policy.

Annual Review of Eligibility

An annual report will be provided to all successor guardians receiving guardianship assistance to determine continuing eligibility of the child and successor guardian. Failure to complete and return the annual report to the MDHHS Adoption and Guardianship Assistance office will result in further action to determine the child's and successor guardian's continued eligibility for guardianship assistance programs.

Recoupment

Recoupment for overpayments will be pursued retroactively to the date that eligibility ceased to exist; see GDM770 for detailed recoupment policy.

Administrative Hearings

See GDM 780 and AAM 700 for detailed administrative hearing policy.

Legal Authority

PL113-183; The Social Security Act [42 USC 673(d)(3)(c)] preserves the eligibility of a child of kinship guardianship assistance payment under certain circumstances when a guardian is replaced with a successor guardian due to death or incapacitation of the preceding guardian.

Policy Contact

Adoption and Guardianship Assistance office
Michigan Department of Health and Human Services
235 S. Grand Ave, Suite 612
P.O. Box 30037
Lansing, MI 48909
517-335-7801

GENERAL INFORMATION

Once approved, juvenile guardianship assistance and medical subsidy will continue even if the guardian(s) moves out of the state, provided all other eligibility requirements are met. A guardian may not change a child's domicile to another state without court approval.

Children moving into Michigan with guardianship assistance and medical assistance from another state may be eligible to have Michigan Medicaid opened by the DHS subsidy office.

ADDRESS CHANGES

Address changes must be submitted to the DHS subsidy office in writing within 7 days of the change of address. The change information should be submitted as far in advance as possible so that guardianship assistance checks can be directed to the correct address. The written address change must include the following information:

- Guardian's name.
- Phone number.
- Child's name.
- Child's date of birth.
- Complete old address.
- Complete new address (including any post office box number, if applicable).
- Effective date of new address.
- Guardian's signature.

Note: If the guardian is also a licensed foster parent or day care provider, they must also contact the appropriate licensing office. A guardian must inform the court of any change of address within 7 days of the change.

MEDICAID

New Cases Opening With an Out-of-State Address

Michigan Medicaid will not be opened for children whose guardian's home is located in another state.

At case opening, the DHS subsidy office will complete Interstate Compact on Adoptions and Medical Assistance (ICAMA) Form 6.01 and notify the child's state of residence that the Medicaid should be opened in that state.

Michigan Children Moving to Other States

For title IV-E funded guardianships, children who are eligible for Medicaid through Michigan's guardianship assistance program should be eligible for the Medicaid program in the state where they live.

For state funded guardianships, the guardian should apply for their state's Medicaid program at the social services office in their community.

Before moving, the guardian should contact the DHS subsidy office to change their address and inform the office that they will need Medicaid in the new state.

The DHS subsidy office will complete the DHS-315, ICAMA Form 6.01 Notice of Medicaid Eligibility/Case Activation, for the child and inform the new state of the need for medical assistance through that state's program.

Children Moving to Michigan from Other States

A child who moves into Michigan with guardianship assistance-related Medicaid eligibility from another state may receive Medicaid through Michigan's Medicaid program. All title IV-E funded guardianship assistance cases are categorically eligible for Medicaid.The DHS subsidy office in central office authorizes and maintains current Medicaid for these children.

The guardian of an eligible child who is moving into Michigan should contact the state that issued the guardianship assistance agreement.The originating state should complete the ICAMA Form 6.01 Notice of Medicaid Eligibility/Case Activation and forward it to:

Michigan Department of Human Services
DHS Subsidy Office, Suite 612
P.O. Box 30037
Lansing, Michigan 48909

RECOUPMENT

Recoupment for overpayments will be pursued retroactively to the date that eligibility ceased to exist.

Notice of Non-Support Process

When the DHS subsidy office is made aware that a child is no longer in the guardian(s) home and the guardian(s) are no longer providing any support for the child, the DHS subsidy office will send the DHS-1184-G, Initial Letter Regarding Guardianship Support, to the guardian(s).

The DHS-1184-G notifies the guardian(s) that the DHS subsidy office was informed that the child is no longer in their care and that they are no longer providing any support for the child. The DHS-1184-G informs the guardian(s) that they must notify the DHS subsidy office, in writing as to how they have been providing support for the child and how they intend to provide support for the child in the future. A written response and supporting documentation are required within 14 calendar days from receipt of the DHS-1184-G by the guardian(s).

Failure by the guardian(s) to provide the requested information will result in a DHS-4103-G, Juvenile Guardianship Assistance Case Closure/Overpayment Notice, being issued to the guardian(s) and commencement of the recoupment process. Recoupment will be retroactive to the date reported on the DHS-1184-G, that the child was no longer in the guardian(s) home and being supported by the guardian(s).

The DHS-4103-G notifies the guardian(s) of their right to an administrative hearing; see GDM 780- Administrative Hearings for more information.

Note: Recovery of juvenile guardianship assistance overpayments is handled by the Reconciliation and Recoupment Section in Central Office.

Recoupment Process When Eligibility Ceases to Exist

If fraud is suspected, the DHS subsidy office must make a referral to the Office of Inspector General for their investigation; see Office

of Inspector General Referral Process subsection below for process information. When a referral to the Office of Inspector General is not required, the DHS subsidy office will begin the process below.

The recoupment process for an overpayment will be immediately initiated when the DHS subsidy office is made aware that eligibility no longer exists; see GDM 745-Juvenile Guardianship Assistance Case Opening and Duration, for more information regarding eligibility criteria.

The DHS subsidy office will initiate the recoupment process by issuing the DHS-4103-G, Juvenile Guardianship Assistance Case Closure/Overpayment Notice, to the guardian(s). The DHS-4103-G must include the dates the overpayment was issued, the total amount of overpayment and a short description of the cause of the over payment. The DHS-4103-G also notifies the guardian(s) of their right to an administrative hearing; see GDM 780-Administrative Hearings for more information.

The DHS-4103-G must be mailed to the guardian(s) along with the DHS-325-AA, Debtor Repayment Agreement. The DHS-325-AA informs the guardian(s) that they have the option to make payment in full, have a reduction in their assistance (if currently receiving assistance for another child) or make monthly payments. The DHS subsidy office must upload a copy of the DHS-4103-G and the DHS-325-AA, into MiSACWIS. The guardian(s) must indicate which repayment option they have selected from the options listed above by one of the following actions:

- Send a check or money order for the entire amount due payable to the State of Michigan to the DHS Cashiers Unit, or
- Return a signed copy of the DHS-325-AA, to Reconciliation and Recoupment Section, Suite 710, PO Box 30037, Lansing MI 48909 with one of two boxes checked, either assistance reduction (only can occur if provider has an active assistance case) or manual monthly payments made payable to the State of Michigan and send to the DHS Cashiers Unit.

Note: Recovery of juvenile guardianship assistance overpayments is handled by the Reconciliation and Recoupment Unit in Central Office.

Reconciliation and Recoupment Overpayment Process

When the DHS-325-AA, Debtor Repayment Agreement, is received by the DHS Reconciliation and Recoupment Section, the recoupment information will be entered into their unit recoupment database, as a receivable.

Whenever the guardian(s) have questions regarding how the amount of overpayment was determined, the Reconciliation and Recoupment Section will direct the guardian(s) to the DHS subsidy office. The DHS subsidy office will review the information on the DHS-4103-G with the guardian(s) and will address concerns and disputes with the guardian(s).

After the DHS subsidy office addresses any concerns or disputes with the guardian(s), the DHS subsidy office may make changes to the recoupment amount or dates for the overpayment time period. If a change is made, the DHS subsidy office will reflect this on a revised, DHS-4103-G and send an updated DHS-325-AA to the guardian(s). The DHS subsidy office may determine that the initial recoupment amount and dates were correct and will notify the Reconciliation and Recoupment Section to proceed with recoupment of funds.

If the DHS-4103-G is revised, a copy must be uploaded in MiSACWIS and copies must be sent to the Reconciliation and Recoupment Section and the guardian(s).

The Reconciliation and Recoupment Section establishes the receivable into the subsidy overpayment database, monitors for compliance of repayments based on the signed DHS-325-AA, Debtor Repayment Agreement, and assesses for delinquency in payments. Reconciliation and Recoupment Section receives notification of voluntary payments from the Cashiers Unit and adjusts guardian(s) debtor accounts accordingly to maintain the proper debtor claim balance.

Note: All phone calls or written correspondence received regarding payments will be addressed by the Reconciliation and Recoupment Section unless it is a new concern or debate of the overpayment amount.

Attorney General Referral

In the event a debt due to an overpayment of juvenile guardianship assistance becomes delinquent, the debt may be referred by Reconciliation and Recoupment staff to the Attorney General's Office for further collection efforts. The Attorney General's Office will pursue collections on such claims through voluntary repayments, civil lawsuits, probation violations and seizure/garnishment on civil and criminal restitution orders.

Office of Inspector General's Referral

A referral to the Office of Inspector General shall be made if fraud is suspected. The DHS subsidy office must make a referral to the Office of the Inspector General for investigation, using the DHS-834, Fraud Investigation Request.

UNDERPAYMENTS

Retroactive payments are issued to correct underpayments caused by administrative error. An underpayment occurs when the guardian is paid less than the amount of assistance they are eligible to receive. Examples of administrative errors are:

- Computer or machine errors.
- Misapplication of policy by DHS staff.
- Failure to process a change in a timely manner.

TAX IMPLICATIONS

Guardians with specific tax questions or requests for information about how guardianship assistance affects their income tax must be referred to the Internal Revenue Service (www.irs.gov) or the Michigan Department of Treasury (www.michigan.gov/treasury).

ISSUES SUBJECT TO ADMINISTRATIVE HEARINGS

The Department of Human Services has an administrative hearing process to provide for the right to contest a department decision or case action when a client believes the decision is contrary to law or DHS policy. The issues of eligibility denials, failure of the state to complete required paperwork prior to the court's appointment of the guardian, rates, case closure, and/or reduction of benefits are issues subject to administrative hearings. The guardian has the burden of proof in a hearing.

Guardianship assistance rates are negotiated, agreed to and signed by guardians by the act of signing the DHS-3313, Guardianship Assistance Agreement.

Notice Requirements

Application forms and each written notice of action taken on a case must provide applicants with information on their right to a hearing. This includes an explanation of how and where to file a hearing request and the right to be assisted by and represented by anyone chosen by the applicant.

The applicant must receive a written notice of all case actions affecting eligibility or the amount of benefits. When a case action is proposed or taken, the notice must specify:

- The action the department is taking.
- The reason(s) for the action.
- The specific manual item(s) that cites the legal basis for an action, or the regulation or law itself.
- The circumstances when assistance will continue until the hearing decision is received. If the DHS action is upheld, the payments made during the time must be repaid to the department.

  Note: When title IV-E assistance cases are continued until the hearing decision the funding source must be changed to state-funded. If the hearing decision is to continue assistance the funding source must be change back to title IV-E.

Exception: There will not be a notice of case action when a hearing decision is issued. The decision serves as notice of the action.

The subsidy office must give **timely** and **adequate** notice of actions that will result in discontinuance, termination, suspension or reduction of assistance.

Adequate notice means a notice containing the information above. **Timely notice** of these actions means that the notice must be mailed at least 10 calendar days before the effective date of action by the department.

In the following circumstances, the subsidy office must send **adequate notice** to the applicant/guardian no later than the date of the action taken (immediate negative action):

- When the subsidy office has factual information confirming the death of the payee or the eligible child.
- When the subsidy office receives a written statement signed by the payee that he/she no longer wishes to receive guardianship assistance or the statement provides information which requires termination or reduction of assistance, and the payee has indicated in writing that he/she understands that the discontinuance of assistance is the result of the information.
- The payee's whereabouts are unknown and the DHS mail directed to the payee has been returned by the post office indicating no known forwarding address. The payee's check must be made available to him/her if the whereabouts become known during the payment period covered by a returned check.
- A special allowance granted for a specific time period is terminated, and the recipient has been informed in writing at the time of the initiation that the allowance shall automatically terminate at the end of the specified period.
- When the subsidy office has factual information in the form of a court order reporting that the guardianship has been terminated.

Who May Request an Administrative Hearing

Administrative hearings may be requested by an applicant for guardianship assistance or a guardian or a child who has received assistance under a guardianship assistance agreement.

A hearing request with a client signature may name an authorized hearings representative who is authorized to stand in for or represent the client in the rest of the hearing process.

See AAM 700 for detailed administrative hearing policies.