



<p>Effective: July 12, 2011</p> <p>Revised: January 27, 2017 August 14, 2020</p>	<p>STANDARD FOR GUARDIANSHIP ASSISTANCE</p>
<p>Policy Statement:</p>	
<p>Idaho will address the needs of eligible children and their legal guardians through IV-E Relative or State-Funded Guardianship Assistance programs. Guardianship assistance shall be implemented in the context of all applicable laws and rules.</p>	
<p>Purpose:</p>	
<p>The purpose of this standard is to provide direction and guidance to Child and Family Services (CFS) program regarding guardianship assistance. This standard is intended to achieve statewide consistency in the development and application of CFS core services. This standard will also provide a measurement for program accountability.</p>	
<p>Practice and Policy Requirements:</p>	
<p>Eligibility Determination</p>	<ol style="list-style-type: none"> 1. Information regarding the appropriateness of guardianship as the child’s permanency goal, discussion of guardianship and adoption assistance benefits with the child, prospective legal guardian(s) and parent, attachment and relationship between the child and prospective legal guardian(s), and adoptive placement recruitment efforts must be documented in the Case Plan Part 2 (Child’s Plan). 2. Information contained in the request for guardianship assistance and Case Plan Part 2 is used to determine practice eligibility for IV-E guardianship assistance and state-funded guardianship assistance. 3. Legal, financial, and placement requirements in consideration of the practice eligibility finding are used to complete final IV-E and state-funded guardianship assistance eligibility determination. 4. Prospective legal guardians for children determined ineligible for guardianship assistance must receive the written

	<p>“Notice of Decision Denial of IV-E Guardianship Benefits” with a copy of a Fair Hearing Request form.</p>
<p>Types of Guardianship Assistance Agreements</p>	<p>There are four types of Guardianship Assistance Agreements:</p> <ol style="list-style-type: none"> 1. A standard Guardianship Assistance Agreement includes a paid monthly subsidy, Medicaid, and reimbursement of non-recurring expenses. 2. An Agreement-Only Guardianship Assistance includes Medicaid and non-recurring reimbursement of expenses. The monthly subsidy amount is set at \$0 (for state funded guardianship assistance) or \$1.00 (for IV-E funded guardianship assistance) but may be re-negotiated at any time. 3. Amended Guardianship Assistance Agreements are completed whenever guardianship assistance benefits are re-negotiated with a family. 4. A Waiver of Guardianship Assistance is completed when the legal guardian(s) of a child eligible for IV-E or state funded guardianship assistance chooses to waive all benefits.
<p>Guardianship Assistance Benefits</p>	<ol style="list-style-type: none"> 1. The assigned social worker meets with the prospective legal guardian(s) to negotiate the guardianship assistance benefit package for each child eligible for guardianship assistance. 2. Negotiated guardianship assistance benefits may include any or all of the following: <ol style="list-style-type: none"> a. Monthly Subsidy b. Medicaid c. Non-Recurring Reimbursement 3. IV-E Relative Guardianship Assistance Agreements also include eligibility for Title XX Social Services. 4. A Request for Assistance (RFA) is completed by the permanency worker to document the benefits requested by the prospective legal guardian(s). 5. Review and approval of requested guardianship assistance benefits is completed by a CFS program specialist.

Guardianship Subsidy

1. The Guardianship Subsidy payment cannot be more than the current payment received for the child in a foster family home in Idaho ([Idaho Administrative Code 16.06.01.702.4](#)).
2. A child with a IV-E Relative Guardianship Assistance Agreement must have a minimum of a \$1.00 monthly subsidy payment to receive Medicaid. This does not apply to a child with a State-Funded Guardianship Assistance Agreement.
3. For a child placed in a contracted, treatment, or therapeutic setting or transitioning from residential or congregate care placements, the maximum subsidy is the Level III severe rate.
4. The child's current qualification for a Level III rate must be documented in ESPI.
5. Consideration of financial and non-financial resources available to meet the child's needs should be made in negotiation the monthly subsidy payment.
 - a. Services covered by Medicaid are not included as a need requiring coverage through adoption subsidy.
 - b. Financial resources, such as continued receipt of Social Security death benefits after adoption finalization, are counted towards the maximum amount of monthly subsidy for which the child is eligible. For example, if the current monthly family foster care payment for the child is \$584 and the child will continue to receive a monthly death benefit of \$200, the maximum adoption subsidy payment for the child would be \$384 per month.
6. Guardianship subsidy payments cannot be extended past the child's 18th birthday for any reason.
7. Subsidy payments are paid to the child's legal guardian. They cannot be paid directly to the child.

	<ol style="list-style-type: none"> 8. Subsidy payments should be paid through direct deposit unless the legal guardian(s) do not have the ability to receive electronic payments. 9. Subsidy payments remain in effect paid by Idaho regardless of the state of residence of the legal guardian(s).
Non-Recurring Reimbursement (NRR)	<p>The legal guardian(s) of a child with a Guardianship Assistance Agreement may be reimbursed up to \$2,000 for reasonable and necessary guardianship-related expenses such as:</p> <ul style="list-style-type: none"> • Attorney's fees • Court costs • Costs associated with obtaining a home study such as medical references or background checks • Costs associated with travel for pre-placement visitation <p>NRR may only be paid after the finalization of the guardianship.</p> <ul style="list-style-type: none"> • Legal guardians may not be reimbursed through both NRR and an employer-sponsored or other program • Documentation of actual expenses is required to be added to the child's electronic file prior to the reimbursement payment being issued. • Legal expenses should be reimbursed to the legal guardian(s) whenever possible. • If the circumstances of the prospective legal guardian(s) prohibit their payment to an attorney, CFS may use NRR to pay the attorney directly. These payments cannot exceed \$2,000 per child. Any costs paid directly to an attorney will be deducted from the funds available for reimbursement for other expenses. Use of this option should be limited.
Medicaid	<ol style="list-style-type: none"> 1. Idaho Medicaid is provided for any child with an Idaho IV-E Relative or State-Funded Guardianship Assistance Agreement who resides in Idaho.

	<ol style="list-style-type: none"> 2. Medicaid will be provided in any state of residence for a child with a IV-E Relative Guardianship Assistance Agreement. 3. The legal guardian(s) of a child with a State-Funded Guardianship Assistance Agreement residing in any state of than Idaho will need to apply for medical assistance in accordance with guidelines for the state in which they live. The child may or may not be eligible to receive Medicaid in that state.
<p>Successor Legal Guardian(s) (IV-E Relative Guardianship Assistance Only)</p>	<ol style="list-style-type: none"> 1. The prospective legal guardian(s) may identify a successor legal guardian in the IV-E Relative Guardianship Assistance Agreement to be appointed guardian of the child should the original guardian die or become incapacitated and unable to care for the child. 2. Successor legal guardians are not required to be relatives but cannot be the child's birth parent(s). 3. Before benefits can be paid to a successor legal guardian(s): <ol style="list-style-type: none"> a. The successor legal guardian(s) and all adults residing in the home must pass a fingerprint-based criminal history background and child abuse registry check. b. The successor legal guardian(s) must assume guardianship of the child. c. A new Guardianship Assistance Agreement must be negotiated.
<p>Guardianship Assistance Agreement</p>	<ol style="list-style-type: none"> 1. The Guardianship Assistance Agreement must be signed by CFS and the prospective legal guardian(s) prior to finalization of the guardianship. <ol style="list-style-type: none"> a. A Waiver of Guardianship Assistance is completed using the Waiver of Guardianship Assistance document. b. All other new agreements are completed using the Guardianship Assistance Agreement document. 2. A copy of the Guardianship Assistance Agreement signed by CFS and the legal

	<p>guardian(s) must be added to the child's electronic file upon completion.</p> <ol style="list-style-type: none"> 3. Before a guardianship subsidy can be paid or post-guardianship Medicaid issued, a copy of the court order finalizing the legal guardianship must be received, documented in ESPI, and added to the child's electronic file.
Guardianship Assistance and Child Support	<ol style="list-style-type: none"> 1. In cases where parental rights have not been terminated and there is a court-ordered child support obligation, child support may continue to be collected from the birth parent(s) after a guardianship is finalized. 2. Child support funds collected by the Idaho Department of Health and Welfare (IDHW) after guardianship finalization will be used to offset the general fund contribution to the child's guardianship assistance. If child support payments exceed the guardianship assistance payment, the payment difference may go to the legal guardian(s). 3. CFS will negotiate the amount of monthly guardianship subsidy in consideration of the legal guardian(s) receipt of the child support payment.
Guardianship Assistance and TAFI Relative Grants	<ol style="list-style-type: none"> 1. When there is a Guardianship Assistance Agreement in effect, a legal guardian(s) may not also apply for or receive a TAFI relative grant.
Guardianship Assistance Re-negotiation and Post-Guardianship Support	<ol style="list-style-type: none"> 1. A legal guardian of any child with a Guardianship Assistance Agreement may request post-guardianship support services for the child and family. 2. The permanency team in the regional office where the legal guardian and child resides is responsible for providing post-guardianship services to that child and family. 3. If the legal guardian and child reside out of state, the permanency team completing the most recent guardianship assistance negotiation for the child is responsible for providing post-guardianship services to that child and family. 4. A legal guardian of a child with an Idaho Guardianship Assistance Agreement

	<p>may request to re-negotiate the agreement at any time.</p> <ol style="list-style-type: none"> 5. Documentation reflecting changes in the child's physical and/or mental health diagnoses, treatment recommendations, and/or academic needs is required to support related re-negotiation requests and must be added to the child's electronic file. The child's health and education information must also be updated in ESPI. 6. The maximum allowable subsidy for a re-negotiated subsidy agreement is the payment a foster family would receive to care for the child if the child were in foster care at the time of the re-negotiation. 7. Re-negotiated guardianship subsidies may have a start date no earlier than the first day of the month in which the legal guardian(s) requested the re-negotiation. 8. Re-negotiated agreements are finalized using the Amended Guardianship Assistance document.
<p>Termination of Guardianship Assistance and Repayment</p>	<p>The termination of a Guardianship Assistance Agreement will occur in any of the following circumstances:</p> <ol style="list-style-type: none"> 1. Child reaches the age of 18 2. Upon the death of the child 3. Upon the death of the legal guardian(s) of the child 4. Cessation of legal responsibility of the legal guardian(s) for the child including: <ol style="list-style-type: none"> a. The legal guardian(s) makes an informed request to be removed as the legal guardian b. The child marries c. The child enlists in the military <p>The suspension of subsidy payments included in a Guardianship Assistance Agreement, will occur in any one of the following circumstances:</p> <ol style="list-style-type: none"> a. The child no longer resides in the home of the legal guardian(s) and CFS determines the child is no longer receiving financial

	<p>support from the legal guardian(s)</p> <p>b. The child is placed in foster care in Idaho or through any other state, tribe, or territory</p> <p>The legal guardian(s) is responsible for repayment of any funds provided on behalf of the child, which occur after the child's eligibility for guardianship assistance benefits has terminated according to one or more of the above provisions.</p>
Notification of Changes in the Situation of the Legal Guardian(s)	<p>The legal guardian(s) of any child with a Guardianship Assistance Agreement is responsible for notifying the Department when:</p> <ol style="list-style-type: none"> 1. They are no longer legally responsible for the support of the child 2. The child is placed in foster care in any state, tribe, or territory 3. They have a change in address 4. There is a need to change the amount of the payment
Training Requirements	<p>All CFS case carrying social workers will complete training on guardianship assistance and related processes within nine months of employment or whenever there is legislation, practice standard, and/or process updates.</p> <p>Additional training or coaching may be required based on results of Quality Assurance Reviews.</p>
Annual Review Requirements	<p>An Annual Review of all families with an Idaho Guardianship Assistance will be conducted (Idaho Code § 56-805(2)). Guardianship assistance benefits will not be suspended or terminated for failure to respond to the Annual Review. The Annual Review will be used to verify information including the family's current address, child's enrollment in educational services, and the child's residence.</p>
Definitions	<p>Legal Guardianship: A judicially-created relationship, including one made by a tribal court, between a child and a relative or non-relative. The relationship is intended to be permanent and self-sustaining as evidenced by the</p>

transfer to the guardian of the following parental rights with respect to the child:

- a. protection;
- b. education;
- c. care and control of the person;
- d. custody of the person; and
- e. decision making.

Relative:

A person related to a child by blood, marriage or adoption. This includes a child's grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling, and half-sibling. ([Idaho Code § 16-1602\(38\)](#))

Relative Guardian:

A relative who is appointed a child's legal guardian including a guardianship established by a tribal court.

Sibling:

A person who shares the same biological or adoptive mother and/or father of the child. Siblings may be full-siblings or half-siblings. Siblings include those children who would be considered a sibling if not for a disruption in parental rights, such as a termination of parental rights (TPR) or death of a parent ([42 U.S.C. 675](#)).