

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, CA 95814



September 10, 2001

ALL COUNTY LETTER NO. 01-64

TO: ALL COUNTY WELFARE DIRECTORS  
ALL CHIEF PROBATION OFFICERSSUBJECT: KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT PROGRAM  
(KIN-GAP) QUESTIONS AND ANSWERS

REFERENCE: ALL COUNTY LETTER 99-92 and 00-70

The purpose of this All County Letter (ACL) is to provide answers to questions concerning the Kin-GAP Program which was implemented under Senate Bill 1901 (Chapter 1055, Statutes of 1998) and modified by Assembly Bill (AB) 1111 (Chapter 147, Statutes 1999) and AB 2876 (Chapter 108, Statutes of 2000).

If you have any questions regarding this ACL, please contact your county's Foster Care Eligibility Unit Consultant at (916) 324-5809. Questions pertaining to child welfare services and the Kin-GAP Program should be directed to the Foster Care Policy Bureau at (916) 445-0813.

Sincerely,

**Original Document  
Signed By**SYLVIA PIZZINI  
Deputy Director  
Children and Family Services Division

Enclosures

c: CWDA

**REASON FOR THIS TRANSMITTAL**

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

# **KIN-GAP QUESTIONS AND ANSWERS**

## **KIN-GAP (GENERAL)**

### **1. How is Supplemental Security Income/State Supplementary Payments (SSI/SSP) treated in Kin-GAP?**

Pursuant to Eligibility and Assistance Standards (EAS) Manual, Section 82-832.1(e), a person who receives SSI/SSP is excluded by law from any assistance unit. Therefore, a child who receives SSI/SSP is not eligible for a Kin-GAP payment. However, once the SSI payment ceases, the child can receive Kin-GAP payments provided all other eligibility criteria are met.

### **2. How are Social Security Benefits treated in Kin-GAP?**

Pursuant to EAS Manual, Sections 44-113.3 and 44-133.1, Social Security Survivor's Benefits are unearned income to the Assistance Unit (AU) (please refer to the exception in 44-133.311). Consequently, Social Security Survivor's Benefits paid to a Kin-GAP child are income to the child and are counted in total as a dollar for dollar reduction against the Kin-GAP payment.

Pursuant to EAS Manual, Sections 44-101.6, 44-111.23, and 44-113.214, Social Security Disability Benefits, which are based on the parent's disability, are disability-based unearned income and are subject to the \$225 disregard. Therefore, Social Security Disability Benefits paid to a Kin-GAP child are income to the child and must be treated in accordance with the \$225 disregard regulations, 44-111.23 and 44-113.214.

### **3. Can a child return to Foster Care after Kin-GAP?**

In order to be eligible for federal Foster Care, the child must have a valid authority for placement. For the federal Foster Care Program, this means either a court dependency/wardship or a voluntary placement agreement. Therefore, unless the child has a valid authority for placement, the child can no longer receive a federal Foster Care payment. If a petition is filed and the dependency reinstated, or a voluntary placement agreement signed, the child MAY be eligible for federal Foster Care, provided all other eligibility conditions are met.

In order to be eligible for State Foster Care, the child must live with a non-relative. If the parent's rights to the child have been relinquished or terminated by the court order, the child MAY be eligible for State Foster Care with the now non-related legal guardian, if all other eligibility conditions are met.

**4. If a child receives State Foster Care, will they remain State only when transferring to Kin-GAP?**

No. The only children who will be in the State only Kin-GAP Program, Aid Code 4G, are PRUCOL (Permanently Residing in the United States Under Color of Law) children. All other eligible children should be in the federal program. It is important to note that there should be few, if any, children who come from State Foster Care to Kin-GAP, as State Foster Care does not make payments to children living with relatives. Thus the only cases that could potentially come from State Foster Care would be those children living with former relatives.

**5. If we have a 16 year old child who is not attending school, do we keep the case in suspense like in CalWORKs?**

When a child age 16 or over fails to attend school, a penalty is applied pursuant to EAS Manual, Section 40-105.5. Because the penalty is to remove the child's portion of the grant, the penalty would be the entire Kin-GAP amount. However, the child's case is neither discontinued nor put in suspense. Rather, the child's case becomes a zero basic grant case and the child is still considered to be "aided".

**6. Can Kin-GAP children have dedicated accounts for college like CalWORKs? If it is found that withdrawals are made from this account, is it now considered available and would overpayments occur?**

Kin-GAP children may have dedicated accounts. These accounts can be utilized to save money for the purchase of a home, to pay for education or training, or to start a new business. Pursuant to EAS Manual, Section 89-130(i), if the child/caretaker relative makes a nonqualifying withdrawal and does not redeposit those funds within 30 calendar days from the date of the withdrawal, a period of ineligibility shall be applied as outlined in EAS Manual, Sections 89-130 (k), (l), (m), and (n). The non-qualifying withdrawal should not be treated as an overpayment.

**7. If a child transferring to Kin-GAP is found to have over \$2000, is he/she eligible? If they dispose of the property to become eligible, is there a penalty?**

No, if a child has over the \$2000 property limit, they are ineligible for Kin-GAP (unless the money is earned pursuant to an ILP plan). In accordance to 42-221.1, "a period of ineligibility (POI) shall result when a recipient AU gives away or transfers, for less than fair market value, nonexcluded income or property that would cause the AU to exceed its eligibility for benefits". The child/caretaker relative does have the option to put the excess property in a dedicated account. (See question #6).

- 8. Which county has payment responsibility in the following situation: County A places the child in County B. County A transferred court jurisdiction to County B. County B granted legal guardianship.**

Pursuant to ACL 99-97, the “county of payment responsibility will be the county which had dependency of the Kin-GAP child ... at the time the guardianship was established.” (Also refer to EAS Manual, Sections 40-189.27 and 90-105.2.) Thus if County B had accepted the transfer of jurisdiction, it was the county which had the dependency of the child at the time the guardianship was established, and will be the county with payment responsibility.

- 9. The State has said that when doing an intraprogram status change from Foster Care to Kin-GAP, the child is eligible for Foster Care payment until the end of the month in which the dependency is dismissed. What is the authority for payment?**

Welfare and Institutions Code (WIC), Section 11374(b) and EAS Manual, Section 44-317.651 provides for the continuance of Foster Care or CalWORKs to the end of the month and the approval of the Kin-GAP payment effective the first of the following month.

- 10. Who is responsible for verifying the 12 consecutive months of placement?**

Eligibility workers should verify that the child has been placed with the caretaker relative for 12 consecutive months.

- 11. To qualify for Kin-GAP, must the child have status? Can they be undocumented?**

As in CalWORKs and Foster Care, to claim TANF funds towards a Kin-GAP payment (Aid Code 4F), the child must be either a United States citizen or a qualified alien. To receive a State Kin-GAP payment (Aid Code 4G), the child must be a qualified alien or have PRUCOL status. Undocumented alien children are not eligible for Kin-GAP.

- 12. Does a Kin-GAP child get automatic birthday increases?**

Yes. As in Foster Care, when a child has a birthday which puts him/her in a higher age bracket, an automatic increase is granted.

- 13. What if a Kin-GAP child gets married, does this affect Kin-GAP eligibility?**

Yes. A marriage makes the child emancipated and terminates the legal guardianship. Accordingly, the child would no longer be eligible for Kin-GAP, as there would no longer be a valid guardianship.

**14. Do relatives have a choice between Foster Care and Kin-GAP?**

Relatives have a choice as to whether they become legal guardians or not. It is not mandatory that they accept legal guardianship. However, once they've chosen to become a legal guardian, and the court has dismissed the dependency, they may only choose between CalWORKs and Kin-GAP, where the child is eligible for both.

**15.. Is fingerprinting through the Statewide Fingerprint Imaging System (SFIS) a requirement in Kin-GAP?**

Due to the recent passage of AB 429 (Chapter 111, Statutes of 2001), SFIS fingerprint imaging is no longer required in Kin-GAP. New regulations reflecting this change will be forthcoming. Counties are advised to immediately discontinue SFIS fingerprint imaging within the Kin-GAP Program.

**16. A child in Kin-GAP is placed by Probation into a group home for a month; the wardship remains intact. Can the child return to Kin-GAP?**

If the child returns home with or without the wardship intact, Kin-GAP may be paid provided the legal guardianship is still in existence and all other eligibility criteria are met.

**17. If the child was receiving Kin-GAP and the court reinstated dependency for one month, would the child still be eligible?**

The child would not be eligible for Kin-GAP during the time that the dependency was in existence, but the child may be eligible for a foster care payment. Once the court dismissed the dependency, the child could resume Kin-GAP eligibility provided all other eligibility conditions are met.

**KIN-GAP FORMS**

**18. Do we need a SOC 369 in the services or eligibility file?**

While the SOC 369 is not a condition of eligibility for the Kin-GAP Program, it is essential that the county complete a SOC 369, explain it to the relative provider, and obtain their signature. This form has been mandatory since 1986 (ACL 86-23). Although State regulations do not specify which file, it is HIGHLY recommended that the form be filed in the eligibility file, as the services case will be closed and difficult to locate when needed.

- 19. If the dependency is dismissed between January 1, 2000, and the time that the county implements Kin-GAP, is it acceptable to complete the SOC 369 at the point that Kin-GAP is available (instead of when the dependency was dismissed since there was no form available)?**

The SOC 369 has been mandatory and available since 1986 (although the newest version of the form was not available until February 10, 2000). Those cases that were dismissed prior to the implementation of Kin-GAP at the county level should have been given the older version of the SOC 369 prior to the dismissal of dependency. If this did not occur, a SOC 369 should be presented to the caretaker relative immediately.

- 20. Prior to the dismissal of the dependency, the caretaker relative must be told of the options of receiving Kin-GAP or continuing the dependency via the SOC 369. Is it the responsibility of the Child Welfare Worker to explain Kin-GAP options OR the responsibility of the Eligibility Worker?**

The CDSS does not dictate which county employee must explain the options to the relative provider.

#### **KIN-GAP AND THE INDEPENDENT LIVING PROGRAM (ILP)**

- 21. If the child is not 16 when they exit Foster Care, will he/she be eligible for ILP services later?**

Yes. WIC Section 11375 provides that children in receipt of Kin-GAP benefits are eligible for ILP services.

#### **KIN-GAP AND INFANT SUPPLEMENT**

- 22. If a Kin-GAP minor parent is receiving an infant supplement and the infant's other parent moves in to the same home, does Kin-GAP eligibility terminate? What if the other minor parent has income?**

Infant supplement is a payment on behalf of the Kin-GAP minor parent because of the existence of an infant. There is no separate eligibility determination for an infant supplement (other than the existence of the infant), and the infant is not in receipt of aid (the minor mother is). Accordingly, if the infant child's other parent moves into the home and has income, this does not impact the infant supplement, as it would have no effect on the minor parent's Kin-GAP payment. However, the county should do a District Attorney's child support referral on both minor parents.

**23. Is the Infant Supplement child eligible for other things, like special diet special need?**

No, the infant is not actually in receipt of aid, rather the minor parent receives the aid because of the existence of the infant. Therefore, because the infant is not in receipt of aid, he/she cannot receive a special needs payment, such as that for special diet.

**KIN-GAP DURATIONAL REQUIREMENTS**

**24. If a child is receiving Kin-GAP, and ends up in a group home for a month, does that break the 12 consecutive months of living with a caretaker relative and does the child then need to live with the caretaker relative for another 12 months before Kin-GAP eligibility can be re-established?**

Once the child receives Kin-GAP, the 12 consecutive month requirement has already been met. If the placement into a group home happens once the child has lived with the relative for one consecutive year, then the child could be eligible for Kin-GAP again provided all other eligibility conditions are met. (See question #16)

**25. Do you have to have dependency for 12 consecutive months or can the child have lived with the relative informally for some of the 12 months?**

The child must be formally placed by child welfare services with the relative for 12 consecutive months via a voluntary placement agreement or dependency. Thus, any time spent living with the relative in an “informal” situation does not count toward the 12 consecutive month period.

**KIN-GAP CALWORKs QUESTIONS**

**26. Is a needy relative eligible for CalWORKs when the only child in the home is receiving Kin-GAP?**

Pursuant to ACL 99-92, “The Kin-GAP child is considered an otherwise eligible dependent child for purposes of establishing CalWORKs Cash Aid eligibility for needy caretaker relatives who are the legal guardians of Kin-GAP children. An AU of one may be established for an otherwise eligible needy caretaker relative of a Kin-GAP recipient child if the caretaker is not included in another AU.” (Also refer to EAS Manual, Section 82-820.22)

**27. Should we apply penalties to needy caretaker relatives if the Kin-GAP minor hasn't met immunization or school attendance requirements?**

Pursuant to EAS Manual, Section 40-105.4(g), when the applicant/recipient has failed to submit verification of immunization, "the grant shall be reduced by the amount allowed for the needs of the parent(s)/caretaker relative in the AU. "EAS Manual, Section 40-105.5(d) provides that the grant will be reduced, for children under 16 who do not attend school regularly, by the amount equal to the needs of the parent(s)/caretaker relative in the AU. Since the Kin-GAP child and needy caretaker relative will have separate AUs, there is no caretaker relative in the Kin-GAP AU to penalize. Thus, no penalty is applied to the Kin-GAP AU for lack of immunizations or failure to attend school (for children under 16) of the Kin-GAP child.

**KIN-GAP AND CHILD SUPPORT**

**28. How is the \$50 child support disregard applied to multiple sibling groups in Kin-GAP?**

Pursuant to EAS Manual, Section 44-111.47, the first \$50 per month of a current child support payment paid to or on behalf of an assistance unit is disregarded. Pursuant to EAS Manual, Section 82-520.44, the \$50 disregard is applied to each AU when payment is collected from an absent parent for children in multiple AUs. Since each Kin-GAP child has his/her own AU, the \$50 disregard is applied to each Kin-GAP AU.

**OTHER KIN-GAP QUESTIONS**

**29. Are non-needy caretaker relatives eligible for child care? Does funding come through CalWORKs as in CalWORKs cases?**

No, only needy caretaker relatives who are participating in Welfare-to-Work activities are eligible for childcare through the CalWORKs program.