

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



March 13, 2007

ALL COUNTY LETTER NO. 07-13

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS
ALL ADMINISTRATIVE LAW JUDGES

REASON FOR THIS TRANSMITTAL

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

SUBJECT: KINSHIP GUARDIANSHIP ASSISTANCE PAYMENT (KINGAP)
PROGRAM ENHANCEMENTS

REFERENCE: ASSEMBLY BILL (AB) 1808 (Chapter 75, Statutes of 2006)
ACL 99-97, ACL 00-09, ACL 00-70, ACL 01-64, ACL 05-24, ACL 05-37

The purpose of this All County Letter (ACL) is to provide counties with information about the new enhanced benefits available under the KinGAP Program. While AB 1808 established a new KinGAP Program which was to be known as KinGAP Plus, the bill also gave the California Department of Social Services (CDSS) the option to suspend KinGAP Plus if it were determined that implementation would not be advantageous to the state. During the implementation process, CDSS became aware of significant issues which necessitated suspending implementation of the KinGAP Plus Program. Per statute, if KinGAP Plus is suspended, CDSS is given authority to implement an alternative, adding the enhanced benefits to the existing KinGAP Program. Hence, as of October 1, 2006 the enhanced benefits will be implemented as part of the existing KinGAP Program.

Counties must implement the enhanced KinGAP benefits pursuant to this ACL and apply benefits retroactively to the October 1, 2006 implementation date for children otherwise eligible.

Program Enhancements

Recent statutory changes incorporated through AB 1808 expanded the existing KinGAP Program to include probation youth. The AB 1808 also increases the basic rate paid to all KinGAP recipients by an amount equal to any Specialized Care Increments (SCI) and any clothing allowances as described below. Enhancing benefits under the KinGAP Program to more closely match the benefits paid in foster care will promote family preservation and stability and provide a permanency option for children placed with relative guardians.

The statutory changes to the KinGAP Program became effective October 1, 2006. The benefit and funding enhancements did not change the basic KinGAP eligibility

requirements. The KinGAP Program is available to those children exiting the juvenile court dependency/delinquency system to live with a related legal guardian. Prior to entering the KinGAP Program, the children may have been receiving either federal Aid to Families with Dependent Children – Foster Care (AFDC-FC) or California Work Opportunity and Responsibility to Kids (CalWORKs) payments.

KinGAP Program Changes Implemented by AB 1808 and effective October 1, 2006:

- The Program has been extended to allow KinGAP benefits to be provided to probation youth in foster care and under the supervision of the juvenile delinquency court. To be eligible, the child must have lived with the relative at least 12 consecutive months prior to the establishment of legal guardianship; the relative guardianship must be established pursuant to a permanency planning hearing under Welfare and Institutions Code (W&IC) Section 727.3, Subdivision (b); and, the child must have his/her wardship terminated pursuant to subdivision (e) of W&IC Section 728, concurrently or subsequently to the establishment of the guardianship. These children may have been receiving either federal AFDC-FC or CalWORKs payments prior to entering KinGAP.
- The Program permits SCI payments as part of the KinGAP payment if the child was receiving AFDC-FC SCI payments in the month before the month that KinGAP benefits began.
- All KinGAP recipients are now entitled to the \$100 annual state supplemental clothing allowance.
- Children in receipt of KinGAP are now eligible to receive the same clothing allowance which they would have received had they been in foster care based on that county's clothing allowance plan.

Informing Recipients

The CDSS will mail notifications to recipients of KinGAP benefits to inform them of the new KinGAP Program enhancements. (See Attachment A) Recipients will also be instructed to contact their county office to discuss eligibility concerns.

Counties need to inform relative caregivers not currently in KinGAP about their possible eligibility for the KinGAP Program, including the enhanced benefits, if guardianship is a suitable permanent plan for the foster child. This includes: informing the relative caregiver that the KinGAP payment cannot be increased or decreased to accommodate any changes in the child's needs; and, that the rate may be increased or decreased according to the child's age if the county's specialized care plan requires such for foster care children. Such information should be provided in a manner consistent with each

county's current KinGAP notification practice. Relative caretakers of probation-supervised children should also be informed. The CDSS does not dictate which county employee must explain the KinGAP program options to the relative provider.

Forms

Program forms and Notices of Action (NOA) specific to KinGAP will be revised as appropriate.

Until form revisions are completed, counties should use the NA 1209 form (Notice of Action – Change) to officially notify KinGAP recipients of the KinGAP benefit enhancement changes. (See Attachment B) This NOA should be sent to recipients upon the county's determination of eligibility for any enhanced benefits, but no later than June 30, 2007. When completing this form, counties should check the "Other" box on the left-hand side of the NA 1209 and provide an applicable explanation, such as "KinGAP Benefit Enhancement Changes."

Effective Date of KinGAP for Probation-Supervised Youth

Probation-supervised cases dismissed to a relative guardian as a result of a W&IC Section 727.3 permanency plan hearing on or after October 1, 2006 should be considered for eligibility to the KinGAP Program.

Effective Date of KinGAP Benefit Enhancements

For existing KinGAP recipients, eligibility for the enhanced benefits should be applied retroactively; beginning in the month that KinGAP eligibility was established, but no earlier than October 1, 2006. New entries to KinGAP will be entitled to benefits the first of the following month pursuant to an intraprogram status change. Proration is not necessary.

Annual Redetermination

Redetermination of eligibility for all children receiving KinGAP benefits must be performed on an annual basis. For existing KinGAP cases, counties do not need to change the redetermination date to the date the enhanced benefits were provided. The original redetermination date can be preserved.

Funding

The KinGAP Program provides a monthly payment to the relative caregiver equal to 100 percent of the basic foster care rate as defined in W&IC Section 11461. Previously, this basic rate was paid using Temporary Assistance to Needy Families (TANF) funding up to the regional per-child CalWORKS grant amount. The remainder of the rate was shared 50 percent state and 50 percent county.

Effective October 1, 2006 the TANF portion of the KinGAP monthly payment will be paid with State General Fund (SGF) that will be counted toward the TANF Maintenance of Effort, up to the regional per-child CalWORKs grant amount. The balance will continue to be shared equally 50 percent by the state and 50 percent by the county.

The Annual State Supplemental Clothing Allowance paid to KinGAP recipients will be paid 50 percent county and 50 percent SGF.

Clothing Allowances

The enhanced benefits provide for the following clothing allowances:

- **Annual State Supplemental Clothing Allowance**--All children receiving KinGAP will be entitled to the annual state supplemental clothing allowance of \$100 each state **fiscal year** (FY). The FY 2006-07 supplemental clothing allowance may be paid in a timeframe consistent with each county's payment cycle, but before June 30, 2007. If a KinGAP recipient received this state supplemental clothing allowance in the 2006/07 fiscal year while in the Foster Care program, the next supplement should be paid in the 2007/08 fiscal year.
- **Other Clothing Allowances**--Other clothing allowances are issued according to each county's clothing allowance payment structure. Children enrolling in KinGAP after October 1, 2006 will be eligible for the same clothing allowance which they would have received while in foster care. Children who enter KinGAP from the CalWORKs program are also eligible for clothing allowances. The clothing allowance may be paid in a timeframe consistent with each county's payment cycle but should include any other clothing allowance payments the recipient may have been entitled to since October 1, 2006. If a KinGAP recipient received a specific clothing allowance payment in the 2006/07 fiscal year while in foster care, they shall not receive the same payment again until the 2007/08 fiscal year.

Specialized Care Increment

For all existing KinGAP cases, the specialized care increments provided as part of the enhanced KinGAP Program will only apply to children who received AFDC-FC specialized care increments in the month before the month that KinGAP benefits began. Counties will need to determine SCI benefit eligibility based on the enhanced KinGAP statutory requirements. The CDSS recognizes the complexity, time and resources which may be involved in researching individual cases, data queries, and automation changes needed to identify children who were in receipt of SCI in the month before the month that KinGAP benefits began. As such, it may be difficult for some counties to determine prior foster care SCI eligibility immediately. Therefore, CDSS will permit counties some latitude in the timelines for establishing eligibility for these

children. However, counties should make every effort to determine eligibility for the SCI as soon as possible but no later than a child's next annual redetermination or the end of the state fiscal year, June 30, 2007 whichever is earlier. Regardless of when such eligibility is established, however, any children determined eligible for the SCI will be eligible retroactively to October 1, 2006.

For all new cases entering KinGAP after October 1, 2006 SCI eligibility will only apply to children who received AFDC-FC specialized care increments in the month before the month that KinGAP benefits began.

The KinGAP Program does not provide for SCI assessment or reassessment by a social worker. By statute, the amount of the SCI is determined by whatever SCI amount was received on behalf of the child in the month prior to entry into KinGAP. While the child's physical or behavioral condition may change, the KinGAP payment will not adjust as a result of any changes in the child's needs. However, if a county's specialized care plan automatically adjusts rates based on age, the KinGAP payment will also automatically adjust accordingly.

If a SCI adjustment is requested by a KinGAP recipient who was not in receipt of SCI in the month before the month that KinGAP payments began, a NOA should be issued to inform the recipient they are not entitled to the SCI. The NOAs should specify any changes in funding amounts, detail any amounts of aid which have been denied, and provide recipients with hearing rights.

County with Payment Responsibility

The county with payment responsibility for KinGAP will continue to be the county in which the court had jurisdiction over the legal guardianship. If a child received a host county SCI rate while in foster care in the month before entering the KinGAP Program, the KinGAP SCI payment shall continue to be based on that host county rate. If the KinGAP child subsequently moves to another county with a different SCI rate, the SCI amount for a KinGAP child does not change but continues to be based on the original host county SCI rate. Only children residing in California are eligible for KinGAP.

Age Requirement

To be eligible for KinGAP, a child must be under the age of 18. However, KinGAP benefits can continue to be paid on behalf of the child until the age of 19 as long as he or she is attending high school, vocational or technical training school full-time or pursuing a GED AND is reasonably expected to complete school by their 19th birthday AND continues to live with their KinGAP guardian. In order to continue receiving KinGAP benefits until age 19, the child must also sign the "Mutual Agreement" (KG 1 form) before or within the month of their 18th birthday.

Independent Living Services

Children in receipt of KinGAP benefits will remain eligible for Independent Living Services.

Tracking KinGAP

The KinGAP population will continue to be tracked using the existing KinGAP aid codes of 4F and 4G.

CWS/CMS Episode Termination and Case Closure

Once a child enters the KinGAP Program, the Placement Episode should be terminated with a Termination Reason Type of "Guardianship," and the CWS/CMS case should be closed with a Case Closure Reason Type of "KinGAP."

Medi-Cal

The current system for determining Medi-Cal eligibility should continue until counties are instructed otherwise. Counties will receive subsequent direction from the CDSS and the California Department of Health Services.

Child Support

The current structure of child support collection and the distribution procedures for the KinGAP Program will not be impacted by the enhanced program benefits. Child support will be collected and returned to the county and state under Title IV-D rules. The caregiver will receive the first \$50 per month of a current child support payment paid on behalf of a KinGAP child. Pursuant to AB 1743, Statutes of 2005, the county should make a determination whether or not it is in the best interests of the child to have the case referred to the local child support agency for child support services as set forth in ACL 05-37.

Administrative Hearings

Should a relative or guardian disagree with a county's determination regarding KinGAP eligibility or benefits, the guardian has the right to dispute or appeal the decision by requesting a state hearing. Administrative Law Judges will be informed of the requirements of AB 1808 via this ACL. The AB 1808 requires that to be eligible for an SCI adjustment under the KinGAP Program, a foster child must have been receiving SCI in the month immediately prior to entry into KinGAP. Therefore, for purposes of administrative hearings, if a foster child was not in receipt of a specialized care increment at the time of entry into KinGAP, the child would not be eligible for an SCI adjustment, even under the KinGAP benefit enhancements.

Regulation Changes

Regulations will be developed to incorporate the above changes.

Fiscal Claiming

Assistance and County Expense Claim instructions will be issued in a forthcoming County Fiscal Letter.

Questions About The Program

Program questions pertaining to the KinGAP Program should be directed to the Foster Care Funding and Eligibility Unit at (916) 651-9152.

Sincerely,

Original Document Signed By:

MARY L. AULT
Deputy Director
Children and Family Services Division

Attachments

c: CWDA
CPOC

ATTACHMENT A

Important Notice

You now get a Kinship Guardianship Assistance Payment (KinGAP). A new law gives more money to most KinGAP recipients. KinGAP Program changes began October 1, 2006.

You will get a clothing allowance for your child from the KinGAP Program. The county will let you know about the clothing allowance in the next few months.

You may also get more money if your child **was already getting** a specialized care rate as part of his/her foster care payment before receiving KinGAP. If you receive your KinGAP payment from Los Angeles County, the county will let you know if you can get more money for specialized care. For all other counties, please call the county that pays your KinGAP if you think you were getting the specialized care money while in foster care.

If you have any questions about the KinGAP Program, ask your county.

NOTICE OF ACTION - CHANGE

Notice Date : _____
Case Name : _____
Number : _____
Worker Name : _____
Number : _____
Telephone: _____
Address : _____

(ADDRESSEE)

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Questions? Ask your Worker.

State Hearing: If you think this action is wrong, you can ask for a hearing. The back of this page tells you how. Your benefits may not be changed if you ask for a hearing before this action takes place.

As of _____, the County is changing your Kin-GAP cash aid from \$ _____ to \$ _____ per month.

Here's why:

The aid you got was for _____.

- There was a change in the amount of income received.
- The child's age changed.
- You will get an infant supplement on behalf of _____.
- You are no longer eligible to receive _____.
- Because you moved to _____ County.
- Other _____.

Rules: These rules apply. You may review them at your county welfare office: MPP Sections 90-110.1(g), 90-115.2, 11-301.2, .31 and .4.

YOUR HEARING RIGHTS

You have the right to ask for a hearing if you disagree with any county action. You have only 90 days to ask for a hearing. The 90 days started the day after the county gave or mailed you this notice.

If you ask for a hearing before an action on Cash Aid, Medi-Cal, Food Stamps, or Child Care takes place:

- Your Cash Aid or Medi-Cal will stay the same while you wait for a hearing.
- Your Child Care Services may stay the same while you wait for a hearing.
- Your Food Stamps will stay the same until the hearing or the end of your certification period, whichever is earlier.

If the hearing decision says we are right, you will owe us for any extra Cash Aid, Food Stamps or Child Care Services you got.

To let us lower or stop your benefits before the hearing, check below:

Yes, lower or stop: Cash Aid Food Stamps Child Care

While You Wait for a Hearing Decision for:

Welfare to Work:

You do not have to take part in the activities.

You may receive child care payments for employment and for activities approved by the county before this notice.

If we told you your other supportive services payments will stop, you will not get any more payments, even if you go to your activity.

If we told you we will pay your other supportive services, they will be paid in the amount and in the way we told you in this notice.

- To get those supportive services, you must go to the activity the county told you to attend.
- If the amount of supportive services the county pays while you wait for a hearing decision is not enough to allow you to participate, you can stop going to the activity.

Cal-Learn:

- You cannot participate in the Cal-Learn Program if we told you we cannot serve you.
- We will only pay for Cal-Learn supportive services for an approved activity.

OTHER INFORMATION

Medi-Cal Managed Care Plan Members: The action on this notice may stop you from getting services from your managed care health plan. You may wish to contact your health plan membership services if you have questions.

Child and/or Medical Support: The local child support agency will help collect support at no cost even if you are not on cash aid. If they now collect support for you, they will keep doing so unless you tell them in writing to stop. They will send you current support money collected but will keep past due money collected that is owed to the county.

Family Planning: Your welfare office will give you information when you ask for it.

Hearing File: If you ask for a hearing, the State Hearing Division will set up a file. You have the right to see this file before your hearing and to get a copy of the county's written position on your case at least two days before the hearing. The state may give your hearing file to the Welfare Department and the U.S. Departments of Health and Human Services and Agriculture. **(W&I Code Sections 10850 and 10950.)**

TO ASK FOR A HEARING:

- Fill out this page.
- Make a copy of the front and back of this page for your records. If you ask, your worker will get you a copy of this page.
- Send or take this page to:

OR

- Call toll free: 1-800-952-5253 or for hearing or speech impaired who use TDD, 1-800-952-8349.

To Get Help: You can ask about your hearing rights or for a legal aid referral at the toll-free state phone numbers listed above. You may get free legal help at your local legal aid or welfare rights office.

If you do not want to go to the hearing alone, you can bring a friend or someone with you.

HEARING REQUEST

I want a hearing due to an action by the Welfare Department of _____ County about my:

Cash Aid Food Stamps Medi-Cal

Other (list) _____

Here's Why: _____

If you need more space, check here and add a page.

I need the state to provide me with an interpreter at no cost to me. (A relative or friend cannot interpret for you at the hearing.)

My language or dialect is: _____

NAME OF PERSON WHOSE BENEFITS WERE DENIED, CHANGED OR STOPPED

BIRTH DATE

PHONE NUMBER

STREET ADDRESS

CITY

STATE

ZIP CODE

SIGNATURE

DATE

NAME OF PERSON COMPLETING THIS FORM

PHONE NUMBER

I want the person named below to represent me at this hearing. I give my permission for this person to see my records or go to the hearing for me. (This person can be a friend or relative but cannot interpret for you.)

NAME

PHONE NUMBER

STREET ADDRESS

CITY

STATE

ZIP CODE