

# Guidance for Local Community Policy and Management Teams (CPMTs), Family Assessment and Planning Teams (FAPTs), and Children's Services Act (CSA) Coordinators on the Virginia Department of Social Services (VDSS) Kinship Guardianship Options

Issued April 2022

## I. Introduction

This guidance document is a resource for Children's Services Act Coordinators, FAPT and CPMT Teams, and CPMT Chairpersons to provide information about VDSS/LDSS Kinship Guardianship (KinGap) programs. This includes the existing **Federal Kinship Guardianship** and the new State-Funded Kinship Guardianship, referred to as **State-Funded Kinship Subsidy**. The guidance will assist in defining the role and expectations of CSA regarding each program. As foster children and their relative caregivers may be served through CSA in either type of kinship care, CSA staff and teams should understand both programs.

## II. Why Kinship Guardianship?

It is widely recognized that when children cannot safely remain with their parents, placement with relatives promotes stability, continuity in relationships and culture, and permanence. A sense of belonging is maintained, promoting well-being ([VDSS Foster Care Manual, Section 10.3](#)). The Virginia Department of Social Services (VDSS) and local Departments of Social Services (LDSS) have adopted a "Kin-First" framework for the provision of child protective services, in-home foster care prevention services, and foster care.

The "Kin-First" framework means that for children in or at risk of foster care, kinship placements be considered first and foremost with a "can-do" attitude toward making the relative placement work. Possible relative placements, including fictive kin, must be explored before placing a child outside the family system and ongoing efforts made even after the child is in foster care ([VDSS Foster Care Manual Section 10.1 - 10.3](#)).

To facilitate the "Kin-First" goal, Virginia now has two types of permanency-related kinship assistance. The Federal-Funded Kinship Guardianship Assistance program, or Federal KinGap, was implemented on July 1, 2018 ([COV §63.2-1305](#)). This program remains the preferred method of KinGap placement as the Federal rules for the program provide enhanced support for relative caregivers and include well-defined expectations. VDSS implemented the new State-Funded Kinship Guardianship Assistance program on January 1, 2022 ([COV §63.2-1306](#)) and has renamed this the "State-Funded Kinship Subsidy Program" in the Virginia Administrative Code (VAC) and VDSS guidance. It will be referred to as such in this document.

While the two options have the same basic framework (e.g., eligibility for CSA, the inclusion of fictive kin as potential kinship guardians, foster home approval process, expectations of relative/fictive kin caregivers, the requirement of a formal Agreement), there are significant

differences. As the Federal KinGap program offers a more robust set of resources, the State-Funded Kinship Subsidy Program should only be utilized if the child and kinship guardian arrangement are not eligible for the Federal KinGap program.

This guidance document will briefly describe the two types of kinship assistance programs, information about each, their similarities and differences, and includes a side-by-side comparison chart addressing issues such as how maintenance and services may be provided and funded.

### III. Eligibility for CSA

Children and families served through either Kinship program option are automatically eligible for CSA, as statutorily required by [COV §63.2-905](#) (definition of "foster care services"), [COV §2.2.-5212.4](#) (eligibility for CSA under "foster care services"), and [COV §2.2-5211](#) ("sum-sufficiency" of funding). Children are eligible for maintenance payments and the "full range of treatment, casework, and community-based services" ([COV §63.2-905](#)) provided by CSA.

As both the Federal and State KinGap programs were added to the statutory definition of foster care services, eligible children and families do not have to meet any other criteria to be eligible for CSA. Eligibility is established as the child is in foster care **until** their custody transfers from the local DSS to the relative caregiver/kinship guardian. At that point, the child is no longer in foster care placement. **After** custody transfer, the children and family are eligible through CSA for maintenance and services through either Federal KinGap or the State-Funded Kinship Subsidy.

### IV. Approval of Relative Foster Homes / Waiver of Certain Requirements

To encourage and facilitate KinGap placements, VDSS implemented a new Local Resource Home waiver approval process for relative and fictive kin foster homes. CSA teams and staff need to understand this process as it is the most likely route for Federal KinGap and State-Funded Kinship Subsidy placement.

When placing a child with a relative on an emergency basis, the local DSS may submit a waiver through the VDSS Regional Permanency Consultant, listing what required items for approval of the home (e.g., training, references) will be temporarily waived, up to six months. The required background checks cannot be waived. The LDSS must complete the Central Registry search and the state police name check before placement. Fingerprints of all adults in the household (i.e., anyone over age 18) must be taken and **submitted** within 72 hours of the placement. If those checks (Central Registry and police search) are completed, the fingerprints submitted within 72 hours, and the waiver request made, VDSS considers the home temporarily approved as a foster home, and CSA funds may be used.

Once fingerprint results reflect no disqualifying legal convictions, the home is considered approved for title IV-E purposes, even if none of the other waived requirements has been accomplished. If the child is title IV-E eligible, title IV-E pays the maintenance costs. If the child placed in the home is not eligible for title IV-E, CSA pays the maintenance costs. If the waived requirements are not satisfied within the six months, the home is no longer approved, and neither title IV-E nor CSA may (continue to) pay.

## V. Kinship Overview

Generally speaking, both the Federal KinGap program and the new State-Funded Subsidy Program require that the child has been in the custody of the LDSS and foster care placement for a specified time frame. These time frames vary depending on the option chosen. After this point, the relative may petition the court for custody of the child. When custody is awarded to the relative, the foster care case is closed, and the LDSS opens a KinGap case. The LDSS and the kinship relative then enter into an Agreement that FAPT must approve if CSA funds are used. As long as the Agreement remains in effect, the child and relative custodians can participate until the child is age 18. More information about each Kinship model is found in the following sections.

## VI. Federal Kinship Guardianship (Federal KinGap) ([COV §63.2-1305](#))<sup>1</sup>

The Federal Kinship Guardianship Program (implemented July 1, 2018) allows the placement of a child with relatives/fictive kin as a permanency option when alternatives such as reunification and adoption have been ruled out. The relative or fictive kin must demonstrate commitment to the child and become an approved foster parent (including using the relative approval process described earlier). The child must be a foster child in the custody of the local DSS and must have resided in the approved relative foster home for at least six months before transferring custody to the relative. The permanency goals of adoption and return home must be ruled out.

Both basic and enhanced maintenance (additional daily supervision), as determined by the VEMAT, may be paid. Similar to adoption assistance, the VDSS state negotiator determines the maintenance amount. Unlike adoption assistance, there are no special services payments. If the family requires additional support, interventions, or services, they may be provided through other community resources or requested from the local FAPT. **Reminder:** Children and their relative caregivers in KinGap placements are eligible and mandated for CSA because of their foster care (before custody transfer) or Kinship Guardianship (after custody transfer) status.

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<sup>1</sup> The Federal KinGap program is described in [CSA Administrative Memo #18-07](#)

Whether title IV-E or CSA funds the placement, the preference is for all children to be served through the Federal Kinship Guardianship Program rather than the State-Funded Kinship Subsidy Program.

#### Title IV-E Eligibility

VDSS requires that all foster children are screened for title IV-E eligibility. If a child and the kinship foster home have been determined to be title IV-E eligible and meet the Federal program's criteria, they should be served through Federal KinGap. If a child and the kinship foster home have been determined not to be title IV-E eligible but meet all other criteria of the Federal program, the child and relative family should be served by the "Federal" KinGap program using CSA funds.

#### Kinship Guardianship Agreement<sup>2</sup>

The LDSS and the relative caregiver must sign the negotiated Kinship Guardianship Agreement, which is renewable yearly when the relative caregiver provides an Affidavit ensuring, among other things, that the child remains in their home.

Information required in the Kinship Guardianship Agreement includes, but is not limited to:

- The agreed-upon terms for Kinship Guardianship financial assistance include, as appropriate, basic maintenance, enhanced maintenance, and non-recurring expenses, including the type, duration, and amount of assistance requested.
- **The process for requesting services from the FAPT in the locality where the child and relative custodian reside.**
- The process for how the Agreement may be periodically adjusted in consultation with the relative custodian and based on changes in the needs of the youth or family; and
- The requirements that the family:
  - Documents that a school-age child is enrolled in school full time or that the youth has completed secondary school;
  - **Participate in FAPT meetings (as required by the locality) and comply with CSA requirements and CPMT policies when requesting and receiving services through the CSA state pool of funds;**
  - Participate in annual visits with the LDSS and the youth when requested by the LDSS;
  - Submit written notification of changes such as change of address, if the child has been determined by a medical professional to be unable to attend school, change in child or family needs, or the youth is no longer eligible for Kinship Guardianship;

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<sup>2</sup> **Note:** Specific references to CSA expectations are highlighted in bold.

**Source:** (VDSS Foster Care Manual Section 10.16.1, January 2022)

- Signature and submission of the annual Affidavit;
- The circumstances for suspending payments;
- The circumstances for terminating services, payments, and the Agreement.

### Medicaid

Children placed in Federal KinGap who are title IV-E eligible are eligible for Medicaid. Title IV-E-based Medicaid eligibility continues even after the transfer of custody to the relative. If the child in Federal KinGap is not title IV-E eligible and CSA funds are being used to support the placement, the relative custodian should be advised to apply for Medicaid at the time of custody transfer, using other Medicaid eligibility criteria.

### Other Expenses

Non-recurring expenses related to the transfer of legal custody (e.g., legal fees) are allowable through title IV-E for all children served through the Federal KinGap program, whether or not they are title IV-E eligible. For these specific costs, CSA funds should not be necessary for non-title IV-E youth in the Federal KinGap program.

After the transfer of custody to the relative caregivers, the child is no longer eligible for a supplemental clothing allowance, child care, or transportation as additional maintenance costs.

In certain circumstances, a youth may be eligible for services after age 18. The VDSS Foster Care Manual, Section 10, contains more information.

## **VII. State-Funded Kinship Subsidy ([COV §63.2-1306](#))**

In 2021, the Virginia General Assembly established the State-Funded Kinship Guardianship Assistance Program (renamed the State-Funded Kinship Subsidy Program). The relative may become an approved foster parent; however, the State-Funded Kinship Subsidy Program allows for specific exemptions from the foster home approval process if the LDSS has determined that the relative placement is in the child's best interest. The relative must complete all background checks, not be convicted of a Federal barrier crime, and complete a home study. These exemptions result in a child being placed in the State-Funded Kinship Subsidy instead of the Federal KinGap program. Upon transfer of custody, the relative does not become an approved foster parent but will be eligible for the State-Funded Kinship Subsidy Program. Please contact your VDSS Regional Permanency Consultant for more information on exemptions.

Although it is preferable for a title IV-E eligible child to be placed through the Federal Kinship Guardianship Program, there may be reasons why the State-Funded Subsidy Program is more appropriate for a specific child and relative caregiver. For example, the decision that the child could be placed for adoption has not been ruled out, which is a requirement of the Federal

program. Permanency goals of adoption or return home may be utilized for children and families served by the State-Funded Kinship Subsidy.

State-Funded Kinship Subsidy homes are not eligible for payments other than basic maintenance. Maintenance due to the child's need for additional daily supervision, non-recurring expenses associated with custody transfer, or the supplemental clothing allowance is not permitted. CSA is responsible for the cost of basic maintenance and the provision of services, if needed, through the routine FAPT and CPMT processes.

As with Federal KinGap, State-Funded Kinship Subsidy requests must be submitted to the VDSS state negotiator for review and approval of the Agreement. As only basic maintenance is available, the amount will not be negotiated. Within 30 days after the negotiator returns the approval to the LDSS, the LDSS must submit the proposed State-Funded Subsidy Agreement to the FAPT for review and recommendation for funding to the CPMT. These steps must occur before transferring custody. The LDSS then executes the Agreement upon custody transfer to the kinship guardian. A locality may adopt a policy exempting "maintenance-only" cases from FAPT review, but CPMT must still initially authorize CSA funding and reauthorize it annually.

The State-Funded Kinship Subsidy Agreement includes but is not limited to a statement of the amount of maintenance, the custodian's responsibility to provide medical care, the availability of services through the local FAPT process, the responsibility of the local DSS to financially support the Agreement no matter where the family may live, management of the annual Affidavit, when the Agreement may be terminated, and the appeal process.

#### Medicaid

Children placed through the State-Funded Kinship Subsidy are not automatically eligible for Medicaid after custody transfer. The relative caregiver must apply for Medicaid if appropriate.

#### Additional Services

As with Federal KinGap, if the child and family require services after transfer of custody, they should request a FAPT be held in their locality of residence. Again, children and their families are eligible for CSA through either kinship assistance option.

## **VIII. Practical Application of Federal KinGap and State-Funded Kinship Subsidy Policies for CSA**

### **CSA Requirements**

As with any CSA-funded placement or service, the frequency of FAPT reviews is governed by local CPMT policy. If the child is determined to be title IV-E eligible and the KinGap home receives only title IV-E maintenance, there is no requirement for FAPT involvement. If CSA funds support the placement with "maintenance-only" funds, the local CPMT may exempt these placements from ongoing FAPT review (beyond the original approval). Local CSA policy must reflect these exemptions. Even if FAPT review is not required by local policy, CPMT must still authorize the expenditure of CSA funds on at least an annual basis.

A locality may opt to hold an ongoing FAPT review when the relative caregiver submits the annual Affidavit to "check-in" on the placement's stability and progress and assess if needs have arisen, which may then be addressed through CSA-funded services, interventions, or supports. The minimum of an annual CANS is also required, whether or not the FAPT reviews the case. If the child and family are receiving additional services from the CSA program, the frequency of FAPT review and CANS administration is determined by local policy but must be done at least annually to meet the minimum state requirement.

As noted earlier, in addition to maintenance payments, children in both the Federal KinGap and the State-Funded Kinship Subsidy programs are eligible for CSA-funded services. Relative caregivers should be encouraged to seek assistance through the FAPT process if needs arise. As with any FAPT referral, the team may recommend services funded by other funding streams such as Medicaid or in-home title IV-E prevention services (Family First Prevention Services Act) before using CSA funds.

### **LEDRS Coding**

In the LEDRS system, Foster Care Mandate Types and Expenditure Codes should be used, as with any other foster care placement, until custody transfers to the relative. After custody transfer to the relative, the Mandate Type changes to "Kinship Guardianship" (Mandate Type 12). As appropriate, the Expenditure Code is either State-Funded Kinship Guardianship (2e1) or Federally-funded Kinship Guardianship (2e2). Use Expenditure Code 2f for community-based services provided to these children.

### **Case Management and Jurisdictional Issues**

Children in foster care who are in the custody of a local agency may be placed with relative caregivers/kinship guardians in another Virginia locality through either Federal KinGap or State-Funded Kinship Subsidy. While the child remains in a foster care placement, the local DSS agency holding custody of the child (and the FAPT/CPMT in that locality) is responsible for

working with the caregiver to ensure the success of the placement and for payment of maintenance and the provision of services. The locality holding custody is also responsible for foster home approval and development and ongoing monitoring of the Kinship Guardianship Agreement. When a relative is awarded custody in one of these two types of kinship care (Federal KinGap and State-Funded Kinship Subsidy), the local DSS closes the foster care case and opens a new KinGap case.

If services (beyond maintenance payments) are being provided or expected to be needed at the time of custody transfer, the local CSA transfers the services part of the CSA case to the locality of residence as indicated in both State Executive Council (SEC Policy 4.2) and DSS policy (VDSS Foster Care Manual Section 10.19). The maintenance payment will not transfer, and responsibility will remain with the locality holding the Kinship Guardianship Agreement (Federal KinGap and the State-Funded Kinship Subsidy). In these situations, relative custodians should be made aware that the locality holding the Kinship Guardianship Agreement, whether Federal or State, cannot commit to providing services in the locality in which they reside. The FAPT and CPMT will make those service decisions in that locality.

If there are no services in place when custody transfers, the family may initiate a request with the FAPT in the locality in which they reside. These children and families are eligible for CSA, and FAPT/CPMT would follow their usual assessment, planning, and service provision processes.

The VDSS Foster Care Manual, Sections 10.19.1 and 10.19.2 outline the responsibilities of each local DSS when multiple jurisdictions are involved and the family requests services. "The LDSS responsible for the kinship guardianship assistance and the LDSS where the family resides should establish a process for working collaboratively, in conjunction with the family to meet the needs of the family." These references establish the responsibility of LDSS staff in each locality to present information to FAPT and requires that "the LDSS where the family resides should be added to the OASIS case as a secondary worker." This will ensure that a FAPT case manager is assigned.

Please see the following page for a comparison chart of Federal KinGap and the State-Funded Kinship Subsidy programs.

*This guidance does not cover all aspects of the Federal Kinship Guardianship or the State-Funded Kinship Subsidy Programs and does not substitute for the VDSS Foster Care Manual. It is intended to provide CSA staff and teams with general information, particularly how these programs interface with CSA. Please see the VDSS Foster Care Manual, Section 10, for additional information.*



### Comparison of Requirements of Federal Kinship Guardianship and State-Funded Kinship Subsidy

<b>Requirements</b>	<b>Federal KinGap</b>	<b>State-Funded Kinship Subsidy</b>
Foster home approval	Yes	Yes, with limited exemptions
Length of time child must be in the approved foster home before custody transfer	Six (6) months	None, but the child must have been in LDSS custody for at least 90 days.
Payment of Maintenance	Basic + Enhanced	Basic only
Payment for services to child and family	May be provided through the FAPT/CPMT process in the locality of residence.	May be provided through the FAPT/CPMT process in the locality of residence.
Maintenance – Supplemental clothing allowance	No	No
Maintenance – Child care	No	No
Maintenance – Transportation	No	No
FAPT review	If CSA funds are used but can be exempted if "maintenance-only." (CPMT policy)	Yes, but it can be exempted if "maintenance-only." (CPMT policy)
CPMT approval	If CSA funds are used	Yes
Age Eligibility Ends	May be extended to 21 under certain circumstances.	Age 18
Fostering Futures	May be provided if the youth is over age 16 when entering the KinGap placement.	No
Medicaid	By default, if the child is title IV-E eligible. If the child is CSA-funded, the KinGap guardian must apply.	Kinship guardian must apply.
Title IV-E Reimbursable	If the child and home are title IV-E eligible.	No
Referral to the Division of Child Support Enforcement	Yes	Yes
Administration of CANS	If CSA funds are used.	Yes
Placement of siblings	Yes	Yes