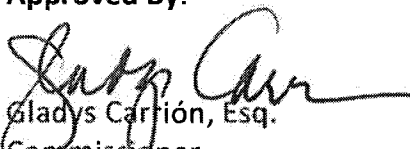


**Kinship Guardianship Assistance Program (KinGAP) Business Process**

<b>Approved By:</b>  Gladys Carrión, Esq. Commissioner	<b>Date Issued:</b> 9/16/2014	<b>Number of Pages:</b> 24	<b>Number of Attachments:</b> 6
<b>Related Laws:</b> Section 477 of the Federal Social Security Act; New York Social Services Law § 458-b; Family Court Act § 1096	<b>ACS Divisions/Provider Agencies:</b> Child Protection; Family Permanency Services; Administration (Records Management); Financial Services (Revenue Maximization - System Support Office & Central Eligibility Office); Family Court Legal Services; foster care provider agency staff	<b>Contact Office /Unit:</b> Office of Adoption and KinGAP Support Services 150 William Street 2nd Floor New York, NY 10038  Adoption and KinGAP Information Line:  (212) 676-2825	
<b>Supporting Regulations:</b> 18 NYCRR §§ 427.6 (c) and (d); 428.5; 436.1; 436.2; 436.3; 436.4; 436.5; 436.7; 436.8; 436.9; and 436.10	<b>Supporting Case Law:</b> N/A	<b>Key Words:</b> Kinship, guardianship, kinship guardianship, KinGAP, fair hearing, relative guardian	
<b>Bulletins &amp; Directives:</b> 11-OCFS-ADM-03, Kinship Guardianship Assistance Program (KinGAP), revised July 6, 2011	<b>Related Policies:</b> Procedure # 2011/07, Kinship Guardianship Assistance Program, dated August 8, 2011	<b>Supersedes:</b> N/A	
<b>Related Forms:</b> OCFS-4430NYC, OCFS-4431, OCFS-4432, OCFS-4433, OCFS-4434, and OCFS-4435s (See <a href="http://www.ocfs.state.ny.us/main/forms/kinship/">http://www.ocfs.state.ny.us/main/forms/kinship/</a> )			
<b>SUMMARY:</b> This business process provides step-by-step guidance to Administration for Children's Services (ACS) and foster care provider agency ("provider agency") staff on how to successfully navigate the KinGAP application process on behalf of families. It includes the roles and responsibilities of the ACS KinGAP reviewer ("KinGAP reviewer"), ACS KinGAP reviewer's supervisor ("KinGAP Unit supervisor"), Family Court Legal Services (FCLS) attorney, provider agency case planner, case planner's supervisor, and relative foster parent/prospective relative guardian. The document also outlines the responsibilities of every ACS division involved in completing the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Program application, finalizing the Prospective Relative Agreement, receiving court approval of guardianship, and obtaining post-guardianship certification.			

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## **I. INTRODUCTION**

### **A. Kinship Guardianship Assistance Program**

The Kinship Guardianship Assistance Program (“KinGAP”), which went into effect on April 1, 2011, is a federally supported program designed to provide financial assistance and medical coverage to qualified relative caregivers who assume legal guardianship of children formerly in their care as foster children. KinGAP was designed to promote permanency for foster children who do not have discharge goals of return to parent or adoption by providing safe permanent placements with relatives. It allows for permanency with relatives who, prior to the law’s implementation, may not have been able to pursue legal guardianship due to the loss of financial assistance and medical coverage that used to occur. KinGAP is a permanency option for children in appropriate foster care placements with relative caregivers<sup>1</sup> when it has been determined that a plan of return to parent or adoption is not appropriate.

### **B. KinGAP and Non-Recurring Guardianship Expenses Payment Program**

The KinGAP and Non-Recurring Guardianship Expenses Payment Program is designed to allow a relative who is a child’s current approved or certified foster parent and who has been that child’s foster parent for a minimum of six (6) consecutive months, to become the child’s legal guardian with financial and medical assistance. New York State allows both children who are eligible and those who are ineligible for Title IV-E to exit foster care through KinGAP.

### **C. Purpose of the KinGAP Business Process**

This business process provides detailed instructions and directions to ACS and provider agency staff on completing the KinGAP application process. It outlines established time frames, feedback methods, and roles and responsibilities for effectively accomplishing required tasks. This business process begins with the pre-application process and continues

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<sup>1</sup> Kinship guardianship must be explored as a permanency option if the following apply: a) the child is under 21 years of age; b) the prospective relative guardian is related to the child by blood, marriage or adoption; c) the child has been placed in the prospective relative guardian’s home for at least six (6) consecutive months while the home was fully certified or approved as a foster home before application for KinGAP, with no lapses in certification or approval during this period; d) the child was placed in foster care before his or her 18th birthday by means of Article 3, 7, 10, or 10-C, or a voluntary placement or voluntary surrender; e) there is a documented compelling reason why reunification and adoption are not appropriate permanency alternatives; f) the child demonstrates a strong attachment to the prospective relative guardian and the prospective relative guardian has a strong commitment to caring for the child on a permanent basis; g) age appropriate consultation with children - children aged 14 or older must be informed of the benefits and consequences of KinGAP. It is a mandatory requirement. If the child is 18 years or older, the child must consent; h) the prospective relative guardian is ready, willing and able to provide a permanent home until the child reaches adulthood; and i) for all children in foster care, the child’s first permanency hearing must have been completed for the child to be eligible. Additionally, for children placed in foster care pursuant to Article 10, fact-finding must also have been completed for the child to be eligible. See 11-OCFS-ADM-03.

to the post-guardianship certification process and subsequent amendments and changes to case status.

**D. Time Frame for a KinGAP Application**

ACS has 30 days to decide whether or not to approve a KinGAP application once a complete application has been submitted. The 30-day time frame is not triggered until a complete application has been received. However, in order to expedite permanency, ACS has instituted mandatory deadlines for provider agencies to follow if they submit an incomplete KinGAP application [see section III(B)], or if the KinGAP application is denied [see section III(D) below].

**II. PROVIDER AGENCY BUSINESS PROCESS**

**A. Permanency Planning**

As part of permanency planning, the provider agency case planner (“case planner”) shall:

1. Provide information to the relative foster parent/kinship resource about the various permanency options, including KinGAP;
2. Provide the relative foster parent with the Office of Children and Family Services (OCFS) publication *Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)*<sup>2</sup>; and
3. Provide a face-to-face explanation of the KinGAP program in addition to answering any of the relative foster parent’s questions.

**B. The Role of the Case Planner if the Relative Foster Parent Wishes to Pursue KinGAP**

If the relative foster parent decides to pursue KinGAP as the permanency option, the case planner shall:

1. Provide the relative foster parent with OCFS-4430NYC *Application for the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs (KinGAP)*<sup>3</sup> (hereafter, “KinGAP application” or “application”) and explain which sections need to be completed;
2. Assist the relative foster parent in filling out Part 1 of the KinGAP application;
3. Consult all children about permanency options including the kinship guardianship arrangement using age-appropriate language. For youth aged 14 or older, consultation

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<sup>2</sup> See <http://ocfs.ny.gov/main/publications/pub5108.pdf>.

<sup>3</sup> See <http://www.ocfs.state.ny.us/main/forms/kinship/> for the application.

is mandatory; and youth aged 18 or older must consent to the kinship guardianship arrangement;<sup>4</sup>

4. Convene a Family Team Conference for the purpose of a Goal Change as required by the *Foster Care Quality Assurance Standards (2011)*, pages 50-55, in order to determine if a discharge to guardianship under KinGAP is in the child or children's best interests;
5. If the goal change is approved, have the relative foster parent and any youth aged 18 or older sign Part 1 of the KinGAP application;
6. If necessary, ask the relative foster parent to fill out the *Affidavit of Relationship* (Form OCFS-4436);<sup>5</sup>
6. Complete Part 2 of the KinGAP application (including the recommendation to approve or deny the application), and gather the supporting documentation;
7. Submit the KinGAP application, supporting documentation, and when necessary, the *Affidavit of Relationship* to his or her supervisor for review. The case planner's supervisor shall review the package prior to sending it to ACS, and the case planner shall make changes or gather other required documentation if needed;
8. Submit the application, supporting documentation, and the *Affidavit of Relationship* (if necessary) to the KinGAP reviewer;
  - a. The case planner shall submit the completed application including required supporting documentation and the agency's recommendations by mail or in person to:  
  
NYC Administration for Children's Services  
Office of Adoption and KinGAP Support Services  
150 William Street, 2nd Floor  
New York, NY 10038  
Attn: Director of Adoption and KinGAP Support Services
9. Inform the assigned Division of Family Court Legal Services (FCLS) attorney that the application has been submitted.

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<sup>4</sup> See NY Soc. Serv. Law § 458(b)(1)(d); 18 NYCRR § 436.3 (a)(4); 11-OCFS-ADM-03; and the OCFS *Kinship Guardianship Assistance Practice Guide* (2011), available at [http://ocfs.ny.gov/kinship/KinGAP\\_Practice\\_Guide.pdf](http://ocfs.ny.gov/kinship/KinGAP_Practice_Guide.pdf).

<sup>5</sup> According to the OCFS *Kinship Guardianship Assistance Practice Guide*, the *Affidavit of Relationship* is one form that can be used to document the child/caregiver relationship. The agency may also use the birth certificate, Family Bible records, or the CONNECTIONS/FAD screen documenting approval status. The *Affidavit of Relationship* is Appendix I in the *Kinship Guardianship Assistance Practice Guide*.

### III. ACS BUSINESS PROCESS

#### A. Receipt of the KinGAP Application From the Provider Agency

1. Once ACS receives the application package, it is logged and the case is assigned to a KinGAP reviewer;
2. The KinGAP reviewer shall verify that all eligibility criteria have been met in the KinGAP application and determine if the application package is complete; and
3. The KinGAP reviewer shall complete the following sections of the *Kinship Guardianship Assistance Eligibility Checklist* (OCFS-4435) available through the following link: [Kinship Guardianship Assistance Eligibility Checklist](#).
  - a. Section I – Case Information;
  - b. Section II – Kinship Guardianship Assistance Program Eligibility;
  - c. Section III – Title IV-E Reimbursement;
  - d. Section IV – Sibling Exception for Title IV-E Eligibility;
  - e. Section V – Medical Assistance/Medical Coverage; and
  - f. Section VII – Documentation

#### B. If the KinGAP Application Package is **Incomplete**:

1. The KinGAP reviewer shall obtain the case planner's contact information from the application and advise the case planner and case planner's supervisor by email or telephone what is required to complete or correct the package and shall give the case planner seven (7) business days to provide the information.
2. The case planner shall make the necessary changes and send any missing information to the KinGAP reviewer within the seven (7) business day time frame. If the missing information is not received within seven (7) days, the application package will be deemed incomplete.

#### C. If the KinGAP Application Package is **Complete**:

1. The KinGAP reviewer shall forward the package to his or her supervisor with a recommendation about whether to approve or deny the application.
2. The KinGAP Unit supervisor or authorized signee shall:
  - a. Review the application package and make a determination;
  - b. Check "Approved" or "Denied" on the KinGAP application; and
  - c. Sign the KinGAP application.

#### D. If the KinGAP Application is **Denied**:

1. The KinGAP Unit supervisor shall return the KinGAP application package to the KinGAP reviewer with an explanation of the denial;
2. The KinGAP reviewer shall send a *KinGAP Fair Hearing Notice Denial* letter (see Attachment C) to the case planner by mail and email and copy the KinGAP Unit supervisor;
3. The case planner shall send the *KinGAP Fair Hearing Notice Denial* letter to the foster parent. The letter informs the foster parent of the option to have a fair hearing since the KinGAP application was denied;
4. The KinGAP Unit shall notify the FCLS Legal Compliance Unit of all denials immediately after they happen; and
5. The Legal Compliance Unit shall notify the assigned FCLS attorney.

**E. If the KinGAP Application is **Approved**:**

1. The KinGAP reviewer shall send the notification letter to the case planner by mail and email and copy his or her supervisor.
2. The case planner shall make arrangements with the prospective relative guardian to sign Form OCFS-4431, *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement*. The case planner shall begin work on the KinGAP Agreement with the prospective relative guardians (see section IV below, "KINGAP EXPENSES AGREEMENT PROCESS").
  - a. The case planner shall assist the prospective relative guardian with the following:
    - i. Identifying a KinGAP attorney;
    - ii. Obtaining letters or an order of guardianship; and
    - iii. Forwarding the letters or order of guardianship and Form FPS 003 - *Notice of KinGAP Subsidy Initiation* to the ACS KinGAP Unit.
  - b. The KinGAP Unit shall notify the FCLS Legal Compliance Unit of all approved KinGAP applications immediately following approval. The Legal Compliance Unit shall then notify the assigned FCLS attorney.

**F. Intervening Events**

1. On rare occasions, sometimes after the KinGAP application is approved by the KinGAP Unit, a report of suspected child abuse or maltreatment is called in to the Statewide Central Register of Child Abuse and Maltreatment (SCR) regarding the prospective relative guardian. If such a report is made, the following process must be followed:



- a. Responsibilities of the Provider Agency
  - i. The provider agency shall notify both the KinGAP supervisor and the ACS Office of Special Investigations (OSI) immediately when there is a report of suspected child abuse or maltreatment against the prospective relative guardian.
  - ii. After the investigation is complete and OSI has made a case determination, OSI shall inform the provider agency and the KinGAP Unit supervisor whether the case is indicated or unfounded.
  - iii. If the case is indicated, the provider agency shall complete a report and send it to the KinGAP Unit supervisor. The report shall include the following information:
    - a) Safety concerns;
    - b) Family dynamics, including any changes;
    - c) Whether or not corrective action has been taken;
    - d) The result of the follow-up age-appropriate conversations with the child(ren) about whether they still want to move forward with the plan for guardianship; and
    - e) The agency's recommendation about whether the KinGAP application should move forward or be revoked.
- b. Responsibilities of the Office of Special Investigations (OSI) Applications Unit
  - i. The assigned OSI Unit supervisor shall send the case determination (unfounded or indicated) with the corrective action plan (CAP), if applicable, to the following:
    - a) Provider agency;
    - b) KinGAP Unit by email at [KinGAP@acs.nyc.gov](mailto:KinGAP@acs.nyc.gov);
    - c) Corrective Action Monitoring Unit (CAMU) by email at [acs.sm.CAMU@acs.nyc.gov](mailto:acs.sm.CAMU@acs.nyc.gov);
    - d) OSI Applications Unit by email at [FCA.CAPUnit@acs.nyc.gov](mailto:FCA.CAPUnit@acs.nyc.gov)
- c. Responsibilities of the KinGAP Unit Supervisor
  - i. The KinGAP Unit supervisor shall review OSI's case determination and the information substantiating the allegations for indicated cases;
  - ii. The KinGAP Unit supervisor shall review the report from the provider agency;
  - iii. The KinGAP Unit supervisor shall discuss the case with the CAMU supervisor to determine if the OSI CAP has been resolved; and

- iv. The KinGAP Unit supervisor and the provider agency supervisor shall conference the case and decide whether or not the KinGAP application will move forward or be revoked.

2. Revoking the KinGAP Application<sup>6</sup>

- a. The KinGAP Unit shall send the *KinGAP Fair Hearing Notice Revocation* letter (Attachment D) revoking the KinGAP application to the prospective relative guardian;
- b. The KinGAP Unit shall send a copy of this letter to the case planner;
- c. The KinGAP Unit shall notify FCLS of the decision to revoke the KinGAP application;
- d. The FCLS attorney shall notify the Court.

**IV. KinGAP EXPENSES AGREEMENT PROCESS**

A. Finalizing the Prospective Relative Guardian KinGAP and Non-Recurring Guardianship Expenses Agreement

1. The *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement* (Form OCFS-4431 or “Agreement”) must be signed by the prospective relative guardian(s) and the social services official (commissioner or designee) and must always precede the awarding of letters of guardianship by the Court in order for kinship guardianship assistance payments to be made.<sup>7</sup>
2. If the prospective relative guardian signs the Agreement, the case planner shall send the it, along with required documentation, to his or her supervisor for review and then send the Agreement and documentation to the KinGAP reviewer.
3. If the prospective relative guardian does not sign the Agreement:
  - a. If the prospective relative guardian does not sign because he or she does not agree with the terms of the Agreement or the amount of the subsidy, the case planner shall inform the prospective relative guardian of the option to have a fair hearing regarding the dispute (see section VII of Appendix A of the Agreement).
  - b. If the prospective relative guardian does not sign due to other reasons, the case planner shall discuss those reasons with the family and make a decision about whether to withdraw the KinGAP application. The case planner shall notify the

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<sup>6</sup> A KinGAP application may be revoked after it has been approved as a result of an intervening event.

<sup>7</sup> See 11-OCFS-ADM-03.

KinGAP reviewer and the FCLS Legal Compliance Unit. The FCLS Legal Compliance Unit shall then notify the FCLS attorney of the decision.

**B. Withdrawals**

1. Withdrawals can occur at any point from submission of the KinGAP Application to the issuing of letters of guardianship or an order of guardianship. The prospective relative guardian must notify the case planner of his or her decision to withdraw the KinGAP application.
2. The case planner shall contact the prospective relative guardian by phone and mail confirming the withdrawal.
3. The case planner shall notify by email both the FCLS Legal Compliance Unit and the assigned KinGAP reviewer of the request for withdrawal.<sup>8</sup> The FCLS Legal Compliance Unit shall notify the assigned FCLS attorney.

**V. PETITIONING THE COURT FOR GUARDIANSHIP AND INITIATING THE NEW KINGAP CASE**

**A. Signed Agreement and Other Documentation**

After forwarding the signed Agreement and appropriate documentation<sup>9</sup> to the KinGAP reviewer:

1. The KinGAP reviewer shall review the Agreement and other documentation for accuracy;
2. The KinGAP Unit supervisor shall sign the Agreement and send it to the case planner; and
3. The case planner shall inform the prospective relative guardian that he or she can now petition the Family Court for guardianship. The case planner shall provide the prospective relative guardian with a list of attorneys who can assist with filing the petition and appearing at court proceedings at no cost to the prospective relative guardian.

**B. Non-Recurring Kinship Guardianship Expenses Reimbursement Form**

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<sup>8</sup> The prospective relative guardian can change his or her mind about KinGAP at any time before the order of guardianship is issued.

<sup>9</sup> Kinship guardianship petitioners seeking appointment as kinship guardians should use Form 6-1-c, *Petition for Appointment of Kinship Guardian [Subsidized Kinship Guardian Program] and/or Permanent Guardian*, available through the following link: <http://www.nycourts.gov/forms/familycourt/guardianship.shtml>.

The case planner shall give the prospective relative guardian the *OCFS Non-Recurring Kinship Guardianship Expenses Reimbursement Form* (OCFS-4434) to complete.<sup>10</sup>

1. Once guardianship has been awarded and the *Non-Recurring Kinship Guardianship Expenses Reimbursement Form* has been completed, the prospective relative guardian or his or her attorney shall mail it with all supporting invoices to the ACS Division of Financial Services for processing at the address below:

NYC Administration for Children's Services  
Adoption Subsidy Correspondence Unit/KinGAP  
150 William Street, 14th Floor  
New York, NY 10038

**C. Court Approval of Guardianship**

1. The guardianship petition will usually be consolidated with the existing family court neglect or abuse case. If the judge approves the guardianship petition, the neglect or abuse case will end; and the judge will not issue any further orders on the case.
2. If the Court grants guardianship, the following must occur:
  - a. The assigned FCLS attorney shall notify the KinGAP Unit that the petition has been granted and that the letters of guardianship and/or order of guardianship can be accessed from the Unified Case Management System (UCMS).
  - i. Once the judge signs the **order of guardianship**, the child must be final discharged from foster care, and the monthly kinship guardianship assistance payments shall commence. If the judge signs the order of guardianship on a date other than the court date, **the controlling date for the child's final discharge from foster care and termination of foster care payments is the date on which the judge signed the order.**
  - ii. Due to possible delays between the point when the judge signs the order of guardianship and the court clerk issues the letters of guardianship, ACS need not wait for a copy of the letters of guardianship before the child is discharged from

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<sup>10</sup> The amount of the payment shall not exceed two thousand dollars for each foster child for whom the relatives seek guardianship or permanent guardianship and may be available only for expenses that are determined eligible for reimbursement by the social services official. Non-recurring guardianship expenses shall mean reasonable and necessary fees, court costs, attorney fees, and other expenses which are directly related to obtaining legal guardianship of an eligible child and which are not incurred in violation of federal law or the laws of this state or any other state.

foster care.<sup>11</sup> However, ACS must still obtain the letters of guardianship once they have been issued by the court clerk.<sup>12</sup>

- b. The assigned FCLS attorney shall notify the case planner that the order of guardianship has been scanned and can be retrieved from the ACS Legal Tracking System (LTS).
- c. The case planner shall fill out Form FPS 003, *Notice of KinGAP Subsidy Initiation*.
- d. The case planner shall send Form FPS 003 with a copy of the court order or letters of guardianship to the KinGAP reviewer.
- e. The KinGAP reviewer shall review the form, and if the information is accurate, forward it to the Division of Family Permanency Services (FPS) Connections liaison for processing.
- f. The case planner shall close the foster care case.
- g. The KinGAP reviewer shall complete the remaining section (Section VI) on the *KinGAP Eligibility Checklist* (OCFS-4435):
  - i. Question 1 - Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement; and
  - ii. Question 2 - Eligibility and Systems Information: After Issuance of Letters of Guardianship.
- h. The FPS Connections liaison shall:
  - i. Create the KinGAP foster and adoptive home (FAD);
  - ii. Create the facility ID; and
  - iii. Submit the LDSS-2921 form to the ACS System Support Office (SSO), and SSO shall open the KinGAP case in the Welfare Management System (WMS).<sup>13</sup>

## **VI. DIVISION OF FAMILY COURT LEGAL SERVICES**

### **A. Family Court Legal Services Attorney's Role**

In reviewing a foster child's permanency plan, the assigned FCLS attorney shall explore whether a referral for kinship guardianship may be appropriate and counsel the case planner about discussing that plan with the family.

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<sup>11</sup> OCFS has approved the ACS process of initiating KinGAP payments upon issuance of the court order appointing guardianship to the relative.

<sup>12</sup> The assigned FCLS attorney will notify the KinGAP Unit when the letters of guardianship is issued.

<sup>13</sup> More information on this process can be found below in the SSO process in section VII.

1. If the FCLS attorney learns that the case planner has submitted a KinGAP application, the FCLS attorney shall contact the KinGAP Unit to obtain the status of the application.
2. Once the application has been approved and the guardianship petition has been filed in court, the FCLS attorney shall appear on behalf of ACS at the court hearing on the guardianship petition.
3. If the Court approves the guardianship petition, the FCLS attorney must inform the KinGAP Unit that the petition has been granted.
4. Once the guardianship petition has been granted, the pending Article 10 proceeding will end. The FCLS attorney is responsible for noting this information in the court action summary.
5. If the judge denies the kinship guardianship petition, the FCLS attorney must discuss the case with his or her supervisor to determine whether further legal action should be taken. FCLS shall inform the KinGAP Unit of the status of the guardianship petition.
6. If the parent and or relative guardian seeks to revoke the guardianship, the FCLS attorney shall appear on behalf of ACS and shall inform the KinGAP Unit of any change in guardianship.

## **VII. DIVISION OF FINANCIAL SERVICES<sup>14</sup>**

### **A. System Support Office: Approved Requests to Open a KinGAP Case**

When the KinGAP Unit receives an approved request to open a KinGAP case, the FPS Connections liaison must complete and electronically submit an LDSS-2921 KinGAP Type form to SSO. Additional information on recording KinGAP data can be found in the OCFS *KinGAP System Tip Sheet* (available through the following link: [KinGAP System Tip Sheet](#)).

1. In order to avoid overpayment, the FPS Connections liaison shall check the Child Care Review Service (CCRS) to confirm the case has been discharged before KinGAP payments begin.

### **B. System Support Office Initiation of a Case Opening**

Upon receipt of the LDSS-2921 form, SSO will initiate the case opening, which includes data entry into legacy systems. Once a case is fully entered, the whereabouts and legal status of the child(ren) will be documented, and monthly payments to the approved KinGAP relative guardian will be generated.

### **C. Responsibilities of Payment Services**

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<sup>14</sup> See 11-OCFS-ADM-03 for more specific information on Systems Implications.

Payment Services' responsibilities with regard to KinGAP are similar to those in the adoption subsidy process, including providing the relative guardian with a budget subsidy letter upon request, addressing non-receipt of lost and stolen checks, and facilitating a direct deposit request.

**D. Payment of Non-Recurring KinGAP Legal Fees**

1. After the Court signs the order of guardianship and the relative guardian has been appointed guardian, the relative guardian or his or her attorney shall complete the *Non-Recurring Kinship Relative Guardianship Expenses Reimbursement Form* (OCFS-4434). The relative guardian or his or her attorney may submit the completed form and invoices to Payment Services. ACS shall make payment either to the relative guardian directly or to the attorney on behalf of the relative guardian. The address for submission of the form is:

NYC Administration for Children's Services  
Adoption Subsidy Correspondence Unit/KinGAP  
150 William Street, 14th Floor  
New York, NY 10038

2. Payment Services shall:
  - a. Review the invoice for accuracy and completeness and correct child and case identification;
  - b. Email the list of submitted reimbursable legal expenses to SSO for data entry to initiate the payment to the attorney or relative guardian; and
  - c. Initiate the processing of new attorney vendor IDs, which includes forwarding W-9 information to the FPS Connections liaison to be entered into CONNECTIONS (CNNX).<sup>15</sup>

**E. KinGAP Subsidy Budget Letters**

1. The relative guardian may request KinGAP subsidy budget letters, which provide confirmation of the monthly subsidy and the daily subsidy rate, by contacting the ACS Information Line (also known as the Adoption Subsidy Information Line) at (212) 676-2825. Relative guardians should have the following information available when requesting subsidy budget letters:

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<sup>15</sup> This process as outlined is subject to change with the implementation of "IBM Case Manager," which is an IBM-designed automated system to handle payment processing for adoption non-recurring legal payments (i.e., payments to lawyers for adoptions). It is intended to replace a largely manual process. The system will include scanning, calculation, tracking, case validation, and other functions.

- a. KinGAP case name;
- b. Case number;
- c. Name and date of birth of the youngest child in the home;
- d. Current mailing address; and
- e. Current phone number.

F. Non-Receipt of Lost/Stolen KinGAP Checks

1. Submission of a *Statement Non-Receipt of Subsidy Check*

- a. KinGAP subsidy checks are mailed during the first week of each month and represent payment for the prior month. If the KinGAP check is not received by the 15th day of the month, the relative guardian should contact ACS to initiate the lost/stolen/non-receipt check process.

2. The United States Postal Service will not send subsidy checks to a forwarding address (checks will be returned to ACS). Therefore, the relative guardian must notify ACS of any change of address so that checks may be sent directly to the correct address:

- a. The Correspondence Unit in the ACS Division of Administration shall scan the address change request and forward the information to the FPS Connections liaison. Address changes are made using the *Adoption Subsidy and KinGAP Change of Address Request* form (Attachment A).
- b. The FPS Connections liaison shall enter the information in CNNX and then forward the information to SSO for WMS input.

3. Contacting ACS

The relative guardian should contact the ACS Information Line at (212) 676-2825 for information about completing and submitting the *Statement Non-Receipt of Subsidy Check* form. Once the form is submitted and received, Payment Services will review it.

4. Review of the *Statement Non-Receipt of Subsidy Check* Form

Payment Services shall review the *Statement Non-Receipt of Subsidy Check* form that the relative guardian submits and cancel the checks in CashPro<sup>16</sup> and the Benefits Issuance and Control System (BICS).

5. Replacement of a KinGAP Check

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<sup>16</sup> CashPro is a Bank of America Merrill Lynch online treasury account information accessing/tracking database. Authorized banking staff use the system to access/track the status of adoption subsidy bank account information and activities, including searching the following: status of specific checks, amount of specific deposit, verify bank balance, process cancellation of stale dated checks.



- a. For lost or non-receipt of KinGAP subsidy checks: following receipt of the *Statement Non-Receipt of Subsidy Check* and cancellation as above, Payment Services will issue a replacement check via BICS; and
- a. For checks involving theft and/or fraud: following cancellation and receipt of the *Statement Non-Receipt of Subsidy Check*, Banking Unit staff will refer the theft/fraud case for investigation. As applicable, such cases will also be referred to the ACS Office of the General Counsel. The results of the investigation will determine whether or not a replacement check will be issued.

**G. Direct Deposit**

Banking Unit staff will process direct deposit requests for KinGAP subsidy payments. Relative guardians may call the Interactive Voice Response through the ACS Adoption Subsidy Information line at (212) 676-2825 for additional information.

**VIII. POST-GUARDIANSHIP CERTIFICATION OF KINGAP**

**A. KinGAP Annual Notification Letter and Certification Form**

Each year, the KinGAP Unit sends the *Kinship Guardianship Assistance Program Annual Notification* letter and *Kinship Guardianship Assistance Program Certification Form* (OCFS-4433) to the relative guardian who receives KinGAP payments. The relative guardian must complete the form and send it back within 30 days of receipt.

**B. KinGAP Payments for School-Aged Children**

For families in receipt of KinGAP payments on behalf of a child who is of school age under the laws of the state in which the child resides, the relative guardian must complete the *Kinship Guardianship Assistance Program Certification Form* and provide documentation that the child:

1. Is a full-time elementary or secondary student<sup>17</sup>; or
2. Has completed secondary education; or
3. Is incapable of attending school on a full-time basis due to a medical condition. The relative guardian must provide supporting information annually about the medical condition as part of the certification.<sup>18</sup>

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<sup>17</sup> According to 18 NYCRR § 436.6 (2013), elementary or secondary school student means a child who is (1) enrolled, or in the process of enrolling, in a school which provides elementary or secondary education, in accordance with the laws where the school is located; (2) instructed in elementary or secondary education at home, in accordance with the laws in which the child's home is located; (3) in independent study elementary or secondary education program, in accordance with the laws in which the child's education program is located, which is administered by the local school or school district; or (4) incapable of attending school on a full-time basis due to the child's medical condition, which incapacity is supported by annual information submitted by the relative guardian as part of the certification.

C. KinGAP Payments for Youth 18 and Over

For families in receipt of Kinship Guardianship Assistance payments on behalf of a youth aged 18 or over who entered kinGAP at age 16 or later, payments shall continue until the youth reaches 21. The relative guardian must complete the *Kinship Guardianship Assistance Program Certification Form* (OCFS-4433) and provide supporting documentation that the youth is one of the following:

1. Completing secondary education or a program leading to an equivalent credential; or
2. Enrolled in an institution that provides post-secondary or vocational education; or
3. Employed for at least 80 hours per month; or
4. Participating in a program or activity designed to promote or remove barriers to employment; or
5. Incapable of doing any of the above due to a medical condition, and the incapability is supported by regularly updated information in the youth's case record.<sup>19</sup>

D. Reasons for Discontinuance of KinGAP Payments

1. The relative guardian has not returned required certification and documentation.
  - a. If the relative guardian has not returned the certification form and associated documentation by the due date stated in the Notification Letter, the KinGAP Unit shall send a second request with a specified return date of the form/documentation.
  - b. If the relative guardian does not respond to the second inquiry, the KinGAP Unit shall contact the relative guardian by phone and mail when possible.
  - c. Before suspending payment, the KinGAP Unit must call and send a letter to the relative guardian.
  - d. If the relative guardian fails to return the certification form and documentation within 30 days of the second inquiry, the KinGAP Unit may close the payment case.
  - e. The KinGAP Unit shall send a notification letter to the relative guardian informing him or her of the discontinuance (see Attachment E).

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<sup>18</sup> OCFS requires that the supporting documentation for the youth's condition must be documented by a physician, physician assistant, or nurse practitioner under the supervision of a physician, or a licensed psychologist. See 11-OCFS-ADM-03.

<sup>19</sup> Ibid.

- f. The KinGAP Unit shall notify SSO that payment is to be stopped. The KinGAP Unit shall enter the case on a master list of cases for which payment has stopped.
  - g. SSO shall cut the purchase of service (POS) line and submit a memo in WMS stating why the line is being cut.
- 2. The youth has aged out.
  - a. The youth has turned 18 (and entered KinGAP prior to age 16); or
  - b. The youth has turned 21 (and entered KinGAP at age 16 or older).
    - i. The Central Eligibility Office (CEO) shall stop the KinGAP POS line.
  - c. If no child(ren) under 21 remain on the case, SSO shall close the KinGAP case.
  - d. The KinGAP Unit shall send a notification letter to the relative guardian regarding the discontinuance.
- 3. The relative guardian is no longer providing any financial support<sup>20</sup> to the child or is no longer legally responsible for the support of the child for one of the following reasons:
  - a. The child has been removed from the home of the relative guardian, placed into foster care, and the Family Court has approved a permanency planning goal for the child other than return to the home of the relative guardian;<sup>21</sup> or
  - b. The youth has married or has enlisted in the military;<sup>22</sup> or
  - c. The status of the legal guardian has been revoked, terminated, or surrendered<sup>23</sup>.
    - i. If guardianship is revoked, the FCLS attorney will be notified by the relative guardian or the Court of any petition filed to revoke the guardianship, and the FCLS attorney shall appear in court on the petition.
    - ii. The FCLS attorney shall notify the KinGAP Unit if the guardianship is revoked, terminated, or surrendered.
    - iii. The KinGAP Unit shall notify SSO that payment is to be stopped. FPS shall then enter the case on a master list of cases for which payment has stopped.

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<sup>20</sup> Any support means actual documented use of at least 50 percent of the monthly kinship guardianship assistance payment by the relative guardian for food, clothing, medical, education, and/or shelter needs of the child. See 18 NYCRR § 436.5.

<sup>21</sup> See 11-OCFS-ADM-03.

<sup>22</sup> As per the *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement* (OCFS-4431), the relative guardian is responsible for notifying ACS in writing within 30 days of any changes in the residential or dependency status of the child.

<sup>23</sup> Ibid.

- iv. SSO shall cut the POS line and submit a memo in WMS stating why the line is being cut.

## **IX. CORRESPONDENCE UNIT: KINGAP MAIL INTAKE PROCESS**

### **A. Receipt of the KinGAP Documents**

1. The relative guardian shall mail the *Kinship Guardianship Assistance Program Annual Notification* letter to ACS Correspondence Unit [see section V(B)(1)] above for the address].
2. The Correspondence Unit shall categorize, validate, and log the *Kinship Guardianship Assistance Program Annual Notification* letter and other KinGAP documents into a central spreadsheet. These documents include the following:
  - a. *Kinship Guardianship Assistance Program Annual Notification* letter;
  - b. *Kinship Guardianship Assistance Program Certification Form*;
  - c. *Adoption Subsidy/KinGAP Change of Address Request Form*;
  - d. *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Amendment* (for the purpose of a subsidy upgrade);
  - e. *Non-Recurring Kinship Guardianship Expenses Reimbursement Form*; and
  - f. *Suspend or Lift Request*.
3. The Correspondence Unit shall scan the documents listed above in section IX(A)(2) into the Electronic Document Management System (EDMS).
4. Warehouse Inventory Tracking
  - a. After three (3) months, the Correspondence Unit shall enter the documents into the Warehouse Inventory Tracking System (WITS). After boxing the hard copies of the KinGAP documents, the following steps shall be completed:
    - i. The Correspondence Unit shall email the director of the Records Management Unit requesting pick up and transportation of the boxes; and
    - ii. The boxes shall then be picked up and transported to the ACS Brooklyn warehouse for storage.

## **X. KINGAP AND NON-RECURRING GUARDIANSHIP EXPENSES AMENDMENT PROCESS**

### **A. Circumstances for Amending the Original KinGAP Agreement**

Certain circumstances may allow the original *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement* to be amended. Relative guardians may apply for an upgrade to the Agreement or for a change in the type of medical coverage

that is provided to the child. For example, if a relative guardian used his or her own health insurance to cover the child and then loses the medical coverage, the child will consequently receive coverage through Child Health Plus or medical subsidy. The provisions of this section apply when the request for an amendment is made after the order of guardianship has been issued and the relative has been appointed guardian. Prior to this, if changes to the Agreement are necessary and approved, a new Agreement should be executed.

**B. Changes That May Warrant Modification of a KinGAP Agreement**

After the Agreement is in effect, if the child exhibits a condition not known at the time of the signing of the Agreement, or if the child's condition worsens, the relative guardian may apply to the KinGAP Unit for an upgrade or an amendment to the Agreement.

**C. Amendment of the Medical Coverage<sup>24</sup> and Payment Rate**

To amend/upgrade the type of medical coverage provided to the child, an amendment to the original KinGAP Agreement must be submitted. An amendment to the Agreement can be made to change the type of medical coverage that is provided to the child. In addition, the decision to amend/upgrade the KinGAP payments will be based on the circumstances of the child and documentation from a medical provider substantiating the child's condition.

1. An upgrade raises the amount of the payment rate (i.e., from basic to special or from special to exceptional):
  - a. There is no specific form for a relative guardian who is receiving KinGAP payments to apply for an upgrade. However, there is an amendment form (OCFS-4432) which the relative guardian must complete and sign after the KinGAP Unit has approved the request.
2. If a relative guardian wishes to request an upgrade, the guardian must submit a written, dated request to the KinGAP Unit, explaining why an upgrade is needed, or why the medical coverage of the child needs to be changed, along with documentation that is pertinent to the child's condition or behavior, from a physician or other professional who has evaluated, assessed, or treated the child for the condition or behavior which may warrant an upgrade. See section V(B)(1) for the address to submit the request for an upgrade.
3. ACS must use the definitions provided in 18 NYCRR § 427.6(c) and (d) in order to determine whether an upgrade is warranted. (See Attachment F.)

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<sup>24</sup> In situations where the KinGAP family moves out of New York State, staff should follow instructions in Appendix A, section IV (8)-(9) of the *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement*.

4. The ACS KinGAP Unit shall decide whether to approve or deny the request.
  - a. If the KinGAP Unit approves the request, the following steps must be completed:
    - i. The relative guardian shall complete section I and sign section VI of the *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Amendment* form (OCFS-4432)<sup>25</sup>;
    - ii. The KinGAP reviewer must complete sections II, III, IV, and sign section VII of the *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Amendment* form (OCFS-4432);
    - iii. The KinGAP reviewer must advise SSO to change the rate; and
    - iv. The KinGAP reviewer shall notify the Medicaid Unit about changes to the medical insurance coverage.
  - b. If the KinGAP Unit denies the request, the KinGAP reviewer must send a *Denial of Upgrade* form to advise the relative guardian of the denial and the right to a fair hearing before OCFS. If the relative guardian requests a fair hearing because an upgrade request is denied, and the hearing decision is rendered in favor of the relative guardian, an amendment to the original Agreement must be made; and the KinGAP reviewer must advise SSO to change the rate.

## **XI. FAIR HEARING PROCESS**

### **A. Reasons for a Fair Hearing**<sup>26</sup>

New York State law provides that any person who is aggrieved by the decision of a local social services official (i.e., ACS), where he or she has been refused payment or payments for kinship guardianship non-recurring guardianship expenses, the State's medical assistance program or medical subsidy, or such payment or payments are provided in an inadequate or inappropriate amount, or the failure of a social services official to determine an application within 30 days of filing, then this person can request a fair hearing if it pertains to one of the following issues:

1. Whether ACS improperly denied an application for payment under Title 10 of the Social Services Law, Kinship Guardianship Assistance Program;
2. Whether ACS improperly discontinued payments under Title 10 of the Social Services Law;

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<sup>25</sup> The *Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Amendment* (OCFS-4432) form can be accessed by the relative from the OCFS website, or the KinGAP Unit can mail it to the relative guardian, or if preferred the relative guardian can arrange to visit the KinGAP Unit to complete the form.

<sup>26</sup> See 11-OCFS-ADM-03; 18 NYCRR § 436.10; and NY Soc. Serv. Law § 458-f.

3. Whether ACS determined the amount of payments made or to be made in violation of the provisions of Title 10 of the Social Services Law or the regulations of OCFS; or
4. Whether ACS failed to make a decision about a complete KinGAP application within 30 days.

B. Fair Hearing Request

1. The fair hearing request must be made to OCFS in writing within 60 days of ACS' decision or failure to make a timely determination to:

New York State Office of Children and Family Services  
Bureau of Special Fair Hearings, Room 322 North Building  
52 Washington Street  
Rensselaer, New York 12144-2796

2. OCFS will schedule the fair hearing. Within 30 days of its completion, OCFS will render its decision, which is binding; and ACS must comply with the decision.
3. OCFS will send a decision letter by certified mail to the person who requested the fair hearing. The letter will explain the reason(s) for the decision and will also provide information about legal assistance, interpreters, and the right to access documents. Fair hearing information is also included in the KinGAP application.

C. Medical Assistance

If a person believes that ACS has wrongly made a decision to deny his or her child medical assistance through New York State's medical assistance program, he or she may appeal the decision through the New York State Office of Temporary and Disability Assistance (OTDA). OTDA processes these special hearings for the New York State Department of Health. If the hearing decision is rendered in favor of the relative guardian, an amendment to the original Agreement must be made; and the KinGAP reviewer must notify the Medicaid Unit to change the coverage.

D. Documentary and/or Testimonial Evidence

ACS shall determine on a case-by-case basis what documentary and/or testimonial evidence to present at a fair hearing. All documents that ACS plans to introduce at a fair hearing must be made available to the person who requested the hearing; and ACS shall make efforts to make such documents available before the date of the hearing in order to reduce the number of adjournments that may be requested.

## **XII. DIVISION OF FINANCIAL SERVICES: THE CENTRAL ELIGIBILITY OFFICE<sup>27</sup>**

### **A. Annual Reauthorization - WMS Purchase of Service Line for KinGAP Children**

1. On a monthly basis the Financial Services Claiming Office shall provide the Central Eligibility Office with a spreadsheet of all KinGAP children active in WMS.<sup>28</sup> The spreadsheet shall include the usual child and case identifiers, as well as:
  - a. The date on which the KinGAP Agreement was signed (CCRS legal activity L600, CCRS mod A, 25-KinGAP Agreement); and
  - b. Authorization from and to dates and POS from and to dates.
2. After sorting by “Authorization to date,” CEO shall identify all children due for reauthorization the following month.
3. Of the children due for reauthorization, CEO will identify those children whose POS lines should be stopped.
  - a. By sorting the spreadsheet, CEO shall identify children who will reach their 18th birthday before the end date of the authorization period (authorization to date plus one year); and
  - b. Of those youth who will reach their 18th birthday, CEO shall compare the date on which the KinGAP Agreement was signed.
    - i. If the Agreement was signed after the youth turned 16,<sup>29</sup> the POS line can be reauthorized for the full year; and
    - ii. If the Agreement was signed before the youth turned 16, the POS should be stopped the day before the youth turns 18.
4. For children other than those turning 18, CEO will reauthorize the case and the POS line for one year. If the youth turns 21 within the year, the case/POS line will be reauthorized through the day before the youth’s 21st birthday.

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<sup>27</sup> See 11-OCFS-ADM-03 for more information on WMS and CCRS.

<sup>28</sup> The ACS Office of Information Technology is working on developing a program to run this data. In the interim, Financial Services provides a list (spreadsheet) of children who have reached their 18<sup>th</sup> or 21<sup>st</sup> birthday. CEO uses this list to recertify cases and for ending the POS lines.

<sup>29</sup> Children who enter a kinship guardianship arrangement at age 16 or older remain eligible for some independent living services, such as vocational training, independent living skills training, and academic support. These same youth aged 16 and older may apply for the Educational and Training Voucher (ETV), which provides up to \$5,000 towards post-secondary education or vocational training. Applications for the ETV Program can be obtained at [www.fc2success.org](http://www.fc2success.org).





ATTACHMENT A

THE CITY OF NEW YORK  
ADMINISTRATION FOR CHILDREN'S SERVICES  
**ADOPTION/KinGAP SUBSIDY CHANGE OF ADDRESS REQUEST FORM**

(PLEASE READ THE INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING THIS FORM)

**SECTION 1**

CASE NUMBER: _____ <small>Enter your 5 digit case number</small>	Check <input checked="" type="checkbox"/> box below if this case # applies to Adoption or KinGAP <input type="checkbox"/> Adoption <input type="checkbox"/> KinGAP
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**SECTION 2**

**NAME OF ADOPTIVE PARENT/LEGAL GUARDIAN/RELATIVE GUARDIAN/REPRESENTATIVE PAYEE/ADOPTED YOUTH (OWN PAYEE):**

\_\_\_\_\_  
(PRINT FIRST AND LAST NAME CLEARLY)

**NAME OF ADOPTIVE PARENT/LEGAL GUARDIAN/RELATIVE GUARDIAN/REPRESENTATIVE PAYEE:**

\_\_\_\_\_  
(PRINT FIRST AND LAST NAME CLEARLY)

**NAME(S) OF  
ADOPTED/RELATIVE  
CHILD(REN) UNDER  
21 YEARS OF AGE:**

(To list additional adopted/relative children, attach a separate piece of paper with your case number at the right hand corner of your sheet.)

_____	DOB ____/____/____
_____	DOB ____/____/____
_____	DOB ____/____/____

**SECTION 3**

**NEW ADDRESS:** \_\_\_\_\_ **APT NO.:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP CODE:** \_\_\_\_\_

**PHONE #:** (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ **CELL#:** (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

**OLD ADDRESS:** \_\_\_\_\_ **APT NO.:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP CODE:** \_\_\_\_\_

**PHONE #:** (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ **CELL#:** (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

**SECTION 4**

**X** \_\_\_\_\_ /\_\_\_\_/\_\_\_\_  
SIGNATURE OF ADOPTIVE PARENT/LEGAL GUARDIAN/RELATIVE GUARDIAN/  
REPRESENTATIVE PAYEE/ADOPTED YOUTH (OWN PAYEE) DATE

**X** \_\_\_\_\_ /\_\_\_\_/\_\_\_\_  
SIGNATURE OF ADOPTIVE PARENT/LEGAL GUARDIAN/RELATIVE GUARDIAN/  
REPRESENTATIVE PAYEE DATE

I certify that the above information is correct. I understand that I must report any changes to ACS.



**\*ATTACH A COPY (FOR EACH PAYEE) OF YOUR PHOTO IDENTIFICATION CARD.**

**THE CITY OF NEW YORK  
ADMINISTRATION FOR CHILDREN'S SERVICES  
INSTRUCTIONS FOR COMPLETING THE ADOPTION/KinGAP SUBSIDY CHANGE OF ADDRESS  
REQUEST FORM.**

**SPECIAL NOTE:**

If one adoptive parent/legal guardian/relative guardian/representative payee is no longer in the household due to separation/divorce, death, or domestic violence:

**Please contact the Adoption/KinGAP Subsidy Information Line at (212) 676-2825.**

Please make sure to complete **ALL** sections of the form using **BLACK** or **BLUE** ink.

**SECTION 1:**

Write your 5-digit case number and indicate with a check mark ☒ if this case number applies to Adoption or KinGAP.

**SECTION 2:**

Print your name(s) clearly. **NOTE:** Each payee on the Adoption/KinGAP Subsidy Agreement must sign the change of address request form (i.e., if there are two adoptive parents/legal guardians/relative guardians/representative payees, then both names and signatures are required).

List the name(s) and date of birth of your adopted/relative child(ren) under age 21.

**SECTION 3:**

Print your new address and your old address.

**SECTION 4:**

Sign your name(s) and date form. **NOTE:** Signature(s) must be legible. **Each payee on the Adoption/KinGAP Subsidy Agreement must sign the change of address request, and each payee must attach a copy of their photo ID (such as a Medicaid Card, SNAP\* Card, U.S. Passport, or a valid Driver's/Non-Driver's State ID).**

RETURN THIS FORM WITH A **COPY OF YOUR PHOTO ID** CARD (FOR EACH PAYEE) TO:

NYC Administration for Children's Services  
Attn: Correspondence Unit – Adoption/KinGAP Subsidy  
150 William Street, 14th Floor  
New York, NY 10038

Or you can fax your change of address request form to: **(212) 676-9032 Attn: Correspondence Unit.**

If we receive your request before the 10th of any given month, you will receive your subsidy check the following month at the new address.

**NOTE:** INCOMPLETE CHANGE OF ADDRESS FORMS WILL NOT BE PROCESSED.

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
**APPLICATION FOR THE KINSHIP GUARDIANSHIP ASSISTANCE  
AND NON-RECURRING GUARDIANSHIP  
EXPENSES PROGRAMS (KINGAP)**

KinGAP is a New York State benefit program to help support a child after final discharge from foster care to a relative guardian.

**An application cannot be submitted until:**

- the relative has been the foster child's fully certified or fully approved foster parent(s) for at least six consecutive months; **AND**
- the fact finding of abuse or neglect has been completed, **AND** the child's initial permanency hearing has been completed for a child who was placed into foster care as an abused or neglected child (pursuant to Article 10 of the Family Court Act) ; **OR** the child's initial permanency hearing has been completed for any other child in foster care.

In addition, this program is available where the child's permanency goal is not return to parent(s) or adoption; and the social services district with custody or guardianship of the foster child has determined that the kinship guardianship arrangement is in the best interests of the child.

This is only an application\*. **If your application is approved, you must enter into a signed agreement** with the social services district that currently has custody or guardianship of the child in order to receive kinship guardianship assistance payments.\*\*

\*Please review the booklet: "**Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGap).**" Pay special attention to the Comparison Chart included at the end of the booklet. Consult your caseworker with any question you may have.

\*\* The social services district must make a decision on a completed application within 30 days of your submission of a completed application. If no decision is made in that time frame, you are entitled to a fair hearing. Attached to this application is information on how to request a fair hearing.

**PART 1: [To be completed by the relative(s)]**

1. I am (We are) applying for the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs for \_\_\_\_\_ / /  
(foster child's name) (child's date of birth).
2. I am (We are) related to the child by blood, marriage or adoption, as the child's \_\_\_\_\_  
(relationship).
3. I (We) agree to permanently care \_\_\_\_\_ until he/she is grown to adulthood.  
(foster child's name)
4. I (We) understand that the child will be consulted about this arrangement if the child is age 14 or over and may be consulted if the child is younger than 14. I (We) understand a youth age 18 or over must consent to this arrangement.
5. I am (We are) interested in applying for KinGAP for the following siblings of \_\_\_\_\_ who are also in foster care:  
(foster child's name)

Name: _____	DOB: _____ / _____ / _____
Name: _____	DOB: _____ / _____ / _____
Name: _____	DOB: _____ / _____ / _____
Name: _____	DOB: _____ / _____ / _____

**Make a separate application for each sibling.****Signature(s):****Relative Applicant 1.** \_\_\_\_\_**Relative Applicant 2.** \_\_\_\_\_**Youth** (if age 18 or over) \_\_\_\_\_

(By signing this application, I consent to a kinship guardianship arrangement with the prospective relative guardian(s) who signed above.)

**Date of Application:** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**PART 2: [To be completed by the social services district that has custody or guardianship of the foster child, OR when authorized by the social services district that has custody or guardianship of the foster child, the voluntary agency that certified or approved the foster parent(s) making application].**

### 1. Approval / Certification Status

<input type="checkbox"/>	The most recent approval letter was issued for _____	(name of relative(s))
	on ____ / ____ / ____ by _____	(date) (agency name)

**OR**

<input type="checkbox"/>	The most recent certificate to board was issued for _____	(name of relative(s))
	on ____ / ____ / ____ by _____	(date) (agency name)

**AND**

if the above date is less than six months from the date of this application,

<input type="checkbox"/>	The approval letter prior to the most recent approval was issued for _____	(name of relative(s))
	on ____ / ____ / ____ by _____	(date) (agency name)

**OR**

<input type="checkbox"/>	The certificate to board prior to the most recent certification was issued for _____	(name of relative(s))
	on ____ / ____ / ____ by _____	(date) (agency name)

**[Do not record dates of emergency approval or emergency certification.]**

<input type="checkbox"/>	The approval or certification has <b>not</b> lapsed, been revoked, surrendered, or not renewed during the most recent six months of foster care provided to the foster child by the foster parent(s).
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### 2. Time Period Child Placed With Relative

<input type="checkbox"/>	_____ has been in foster care with _____	
	(name of child)	
	_____ for at least six consecutive months	
	(name of relative(s))	
	prior to the date of this application, during which time the relative was fully approved or certified during that entire period. Date of placement with relative ____ / ____ / ____	
		(date)

### 3. First Permanency Hearing

<input type="checkbox"/>	The foster child's first permanency hearing has been completed. Date of completion ____ / ____ / ____	
		(date)

**4. Fact Finding / Other Status**

- ☐ Child removed from home due to abuse or neglect (Article 10 of the Family Court Act) and fact finding hearing has been completed. Date of completion \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
(date)

**OR****Child was**

- ☐ voluntarily placed in foster care  
☐ surrendered for adoption and placed in foster care  
☐ placed as a Person in Need of Supervision (PINS)  
☐ placed as a juvenile delinquent (JD)

**For Agency Use Only:****Date of Receipt of Application:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_**If applicable, Voluntary Agency Recommendation**

- ☐ Recommend Approval      ☐ Recommend Denial

**Reason for Recommendation:** \_\_\_\_\_**Social Services District Determination:**

- ☐ Approved

**Date of Approval:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_**Authorized signature of social services official:**

X

- ☐ Denied

**Date of Denial:** \_\_\_\_ / \_\_\_\_ / \_\_\_\_**Reason for denial:** \_\_\_\_\_**Authorized signature of social services official:**

X

## **Information Regarding Fair Hearings**

If the social services district has not made a decision within 30 days of the submission of a complete application, you have a right to request a fair hearing. If you request a fair hearing, the state will send you a notice informing you of the time and place of the hearing. If you choose to pursue a fair hearing, you have the right to be represented by counsel or a relative, a friend or other person, or to represent yourself, to produce witnesses and other evidence on your behalf, to cross-examine all witnesses against you, and to examine all evidence against you.

**LEGAL ASSISTANCE:** If you choose to be represented by counsel at the hearing, it is your responsibility to obtain an attorney. An attorney will not be appointed for you for the purpose of the fair hearing. If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers."

At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to have access to the documentation the social services district intends to present at the fair hearing. To ask for documents, call or write to the social services district to which you applied.

**Please send your written request for a fair hearing to the following address:**

New York State Office of Children and Family Services  
Bureau of Special Hearings  
52 Washington Street North Building, Room 322 North  
Rensselaer, New York 12144-2796  
Attention: Beth Mancini

**In your written request, you must state the reason for requesting a fair hearing.**

If you will require a language interpreter at the fair hearing, state in your letter requesting a fair hearing that you need a language interpreter, and identify the language needed to be interpreted.

ATTACHMENT C

KINGAP FAIR HEARING NOTICE DENIAL

CERTIFIED MAIL

Date:

Dear:

This letter is official notice that your application for kinship guardianship assistance and non-recurring guardianship assistance expenses payments for \_\_\_\_\_  
(child's name and date of birth) has been denied. You application is being denied because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (reason for denial)

You have the right to appeal this decision by requesting a fair hearing within 60 days of the receipt of this letter. That is a deadline. Failure to make a timely request will result in your loss of the right to a fair hearing. If you request a fair hearing, the state will send you a notice informing you of the time and place of the hearing. If you choose to pursue a fair hearing, you have the right to be represented by counsel or a relative, a friend or other person, or to represent yourself, to produce witnesses and other evidence on your behalf, to cross-examine all witnesses against you, and to examine all evidence against you.

**LEGAL ASSISTANCE:** If you choose to be represented by counsel at the hearing, it is your responsibility to obtain an attorney. An attorney will not be appointed for you for the purpose of the fair hearing. If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers."

At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring



witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to access to the documents that the social services district will present at the fair hearing. To ask for these documents, call or write to the social services district at the telephone number and address below. If you want copies of documents, you should ask for them within a reasonable time before the date of the fair hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, or how to get copies of documents, call or write the social services district at the telephone number and address listed below.

I want a fair hearing. The decision is wrong because

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Please send your written request for a fair hearing to the following address:

New York State Office of Children and Family Services  
Bureau of Special Hearings  
North Building, Room 322  
52 Washington Street  
Rensselaer, New York 12144-2796  
Attention: Beth Mancini

Please attach a copy of this denial letter to your request for a fair hearing.

If you will require a language interpreter at the administrative hearing, state in your letter requesting a hearing that you need a language interpreter and identify the language needed to be interpreted.

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Signature: X \_\_\_\_\_

Date: \_\_\_\_\_

If you have any questions concerning this letter, please call this office at (    ) -    .

Sincerely,

\_\_\_\_\_ County Department of Social Services/New York City Administration for  
Children's Services

Address: \_\_\_\_\_

\_\_\_\_\_

ATTACHMENT D

KINGAP FAIR HEARING NOTICE REVOCATION

CERTIFIED MAIL

Date:

Dear:

This letter is an official notice that your application for the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses program and Non-Recurring Expenses Agreement for \_\_\_\_\_ (child's name and date of birth) has been revoked. Your application and expenses agreement are being revoked because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (reason for revocation)

You have the right to appeal this decision by requesting a fair hearing within 60 days of the receipt of this letter. That is a deadline. Failure to make a timely request will result in your loss of the right to a fair hearing. If you request a fair hearing, the state will send you a notice informing you of the time and place of the hearing. If you choose to pursue a fair hearing, you have the right to be represented by counsel or a relative, a friend or other person, or to represent yourself, to produce witnesses and other evidence on your behalf, to cross-examine all witnesses against you, and to examine all evidence against you.

**LEGAL ASSISTANCE:** If you choose to be represented by counsel at the hearing, it is your responsibility to obtain an attorney. An attorney will not be appointed for you for the purpose of the fair hearing. If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers."

At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to access to the documents that the social services district will present at the fair hearing. To ask for these documents, call or write to the social services district at the telephone number and address below. If you want copies of documents, you should ask for them within a reasonable time before the date of the fair hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, or how to get copies of documents, call or write the social services district at the telephone number and address listed below.

I want a fair hearing. The decision is wrong because

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Please send your written request for a fair hearing to the following address:

New York State Office of Children and Family Services  
Bureau of Special Hearings  
North Building, Room 322  
52 Washington Street  
Rensselaer, New York 12144-2796  
Attention: Beth Mancini

Please attach a copy of this revocation letter to your request for a fair hearing.

If you will require a language interpreter at the administrative hearing, state in your letter requesting a hearing that you need a language interpreter and identify the language needed to be interpreted.

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

If you have any questions concerning this letter, please call this office at (     ) -

Sincerely,

New York City Administration for Children's Services

Address: \_\_\_\_\_

\_\_\_\_\_

ATTACHMENT E

KINGAP FAIR HEARING NOTICE DISCONTINUANCE

CERTIFIED MAIL

Date:

Dear:

This letter is official notice that your kinship guardianship assistance payments for \_\_\_\_\_ (child's name and date of birth) has been discontinued and your kinship guardianship assistance agreement terminated. Your payments are being discontinued because

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (reason for discontinuance)

You have the right to appeal this decision by requesting a fair hearing within 60 days of the receipt of this letter. That is a deadline. Failure to make a timely request will result in your loss of the right to a fair hearing. If you request a fair hearing, the state will send you a notice informing you of the time and place of the hearing. If you choose to pursue a fair hearing, you have the right to be represented by counsel or a relative, a friend or other person, or to represent yourself, to produce witnesses and other evidence on your behalf, to cross-examine all witnesses against you, and to examine all evidence against you.

**LEGAL ASSISTANCE:** If you choose to be represented by counsel at the hearing, it is your responsibility to obtain an attorney. An attorney will not be appointed for you for the purpose of the fair hearing. If you need free legal assistance, you may be able to obtain such assistance by contacting your local Legal Aid Society or other legal advocate group. You may locate the nearest Legal Aid Society or advocate group by checking your Yellow Pages under "Lawyers."

At the hearing you, your attorney or other representative will have the opportunity to present written and oral evidence to demonstrate why the action should not be taken, as well as an opportunity to question any persons who appear at the hearing. Also, you have a right to bring

witnesses to speak in your favor. You should bring to the hearing any documents that may be helpful in presenting your case.

**ACCESS TO YOUR FILE AND COPIES OF DOCUMENTS:** To help you get ready for the hearing, you have a right to access to the documents that the social services district will present at the fair hearing. To ask for these documents, call or write to the social services district at the telephone number and address below. If you want copies of documents, you should ask for them within a reasonable time before the date of the fair hearing.

**INFORMATION:** If you want more information about your case, how to ask for a fair hearing, or how to get copies of documents, call or write the social services district at the telephone number and address listed below.

I want a fair hearing. The decision is wrong because

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Please send your written request for a fair hearing to the following address:

New York State Office of Children and Family Services  
Bureau of Special Hearings  
North Building, Room 322  
52 Washington Street  
Rensselaer, New York 12144-2796  
Attention: Beth Mancini

Please attach a copy of this denial letter to your request for a fair hearing.

If you will require a language interpreter at the administrative hearing, state in your letter requesting a hearing that you need a language interpreter and identify the language needed to be interpreted.

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Signature: X \_\_\_\_\_

Date: \_\_\_\_\_

If you have any questions concerning this letter, please call this office at (    ) -    .

Sincerely,

\_\_\_\_\_ County Department of Social Services/New York City Administration for  
Children's Services

Address: \_\_\_\_\_

\_\_\_\_\_



ATTACHMENT F

KinGAP Business Process

18 NYCRR § 427.6

Foster Family Boarding Home Program Payments and State Reimbursement

- I. If approved by the department, social services districts are eligible to receive State reimbursement for payments for special foster care services made on behalf of children who:
  - A. Are boarded out with foster parents who meet the criteria of subdivision (e) of this section; and
  - B. Suffer from pronounced physical conditions as a result of which a physician certifies that the child requires a high degree of physical care; or
  - C. Are awaiting family court hearings on PINS or juvenile delinquency petitions, or have been adjudicated as PINS or juvenile delinquents; or
  - D. Have been diagnosed by a qualified psychiatrist or psychologist as being moderately developmentally disabled, emotionally disturbed or having a behavioral disorder to the extent that they require a high degree of supervision; or
  - E. Are refugees or Cuban/Haitian entrants, as defined in section 427.2(p) and (q) of this Part and are unable to function successfully in their communities because of factors related to their status as refugees or entrants. Such factors include but are not limited to, the inability to communicate effectively in English, the lack of effective daily living skills and the inability of the child to relate to others in the child's community; or
  - F. Enter foster care directly from inpatient hospital care. Such children are eligible for special foster care services for a period of one year. Eligibility after one year will continue only if the child meets one of the conditions described in paragraph (2), (3), (4), (5) or (7) of this subdivision; or
  - G. In the judgment of the local social services commissioner, have a condition equivalent to those in paragraph (2), (3), (4) or (5) of this subdivision. Special payments for foster children who have the equivalent conditions described in this paragraph are approved if:
    - 1. A list of equivalent conditions has been developed by the local social services commissioner and approved by the department as eligible for special foster care services; or
    - 2. Individual, child specific requests for special foster care services have been approved by the local social services commissioner. Such child specific requests must be approved by the department within 60 days after approval by the local social services commissioner.

## ATTACHMENT F

### KinGAP Business Process

- II. If approved by the department, social services districts are eligible to receive State reimbursement for payments for exceptional foster care services made on behalf of foster children who:
  - A. Are boarded out with the foster parents who meet the criteria of subdivision (e) of this section; and
  - B. Require, as certified by a physician, 24-hour-a-day care provided by qualified nurses, or persons closely supervised by qualified nurses or physicians; or
  - C. Have severe behavior problems characterized by the infliction of violence on themselves, other persons or their physical surroundings, and who have been certified by a qualified psychiatrist or psychologist as requiring high levels of individual supervision in the home; or
  - D. Have been diagnosed by a qualified physician as having severe mental illnesses, such as child schizophrenia, severe developmental disabilities, brain damage or autism; or
  - E. Have been diagnosed by a physician as having acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) - related illness, as defined by the AIDS Institute of the State Department of Health. Such definitions are contained in directives issued by the department from time to time. Foster children who have tested positive for HIV infection and subsequently tested negative for HIV infection due to seroconversion remain eligible for exceptional services for a period of one-year from the date of the test which indicated seroconversion. Upon expiration of such one-year period, the child's condition must be evaluated and the local social services commissioner must determine the child's continued need for exceptional services in accordance with paragraph (2), (3), (4) or (6) of this subdivision; or
  - F. In the judgment of the local social services commissioner, have a condition equivalent to those in paragraph (2), (3), (4) or (5) of this subdivision. Exceptional payments for foster children who have the equivalent conditions described in this paragraph are approved if:
    - 1. A list of equivalent conditions has been developed by the local social services commissioner and approved by the department as eligible for exceptional foster care services; or
    - 2. Individual, child specific requests for exceptional foster care services have been approved by the local social services commissioner. Such child specific requests must be approved by the department within 60 days after approval by the local social services commissioner.