

General Kinship Guardianship Assistance Program (KinGAP) FAQ

Relationship Determination

1. In terms of eligibility for KinGAP, does the law recognize fictive kin?

When KinGAP was originally enacted in 2011, persons eligible for KinGAP were restricted to foster parents related by blood, marriage, or adoption to the child. KinGAP was expanded in 2017 (“KinGAP Expansion”) to allow two kinds of fictive kin. They are:

- Person(s) related by blood, marriage, or adoption to a half sibling of a child, who is also the prospective or appointed relative guardian of such half-sibling, and
- Person(s) who have a positive relationship with the child that was established prior to the child’s current placement in foster care. Examples include a godparent, neighbor, family friend or stepparent.

2. Is a birth father of a half sibling considered a relative for the purposes of KinGAP and can he be eligible for this program?

Unless related by blood, marriage or adoption to the child, the birth father of a half sibling would only qualify for KinGAP if he had a positive relationship that was established with the child prior to the child’s current foster care placement. The birth father would not qualify under the provision that allows relatives of half siblings to be eligible for KinGAP. This is because as the parent of the half sibling, he cannot qualify as a kinship foster parent and therefore cannot be the prospective or appointed relative guardian of the half sibling who is his child, as would be required.

3. If the foster parent is unrelated, but has adopted the child’s siblings, would the foster parent qualify as a relative for KinGAP?

Not based on the half-sibling standard for who may be considered as a prospective relative guardian. The adoptive parent of a half sibling, as the half-sibling’s adoptive parent, could not also be the prospective or appointed relative guardian of the adopted half sibling and therefore would not be eligible to become the relative guardian under the half sibling provision.

However, if the adoptive parent had a positive relationship with the unrelated child prior to the child’s current foster care placement with him or her, then the adoptive parent could be eligible.

4. Does the term “related by marriage” in the KinGAP eligibility requirements stipulate it must be a current marriage?

No. The policy in regard to a former marriage is the following: if the foster parent was related to the child by marriage at the time of the foster child’s placement in the home and a divorce occurs subsequent to the foster care placement, then the foster parent could still qualify for kinship guardianship assistance.

Age Limitations

5. Is there an age limit for the prospective relative guardian?

No, there is no specific age limit for a prospective relative guardian in either statute or regulation.

There is a minimum age of 21 years for certification or approval of foster parents.

6. At what age of the child should you start considering KinGAP as an alternative goal?

There is no set age for which a KinGAP plan should be considered. Children of any age that are placed with eligible foster parents may be appropriate for this goal. It depends more on the case circumstances and whether or not the case meets the eligibility criteria.

One group of children that KinGAP can particularly benefit are those youth age 14 or older who are freed for adoption but will not consent to adoption or youth age 16 years of age or older who have a goal of APPLA. In this circumstance, if the family and youth meet the other KinGAP requirements, the foster parent may be able to become a permanent resource for the youth through KinGAP without having to adopt him or her.

KinGAP Process/Agency Responsibility

7. What entity will process KinGAP applications? Will it be New York State Adoption Service (NYSAS), as is the case with adoption subsidies, or another unit at the Office of Children & Family Services (OCFS)?

There is a separate KinGAP application and a separate KinGAP Agreement. They are currently posted as attachments to 11-OCFS-ADM-03 *Kinship Guardianship Assistance Program (KinGAP)* at <http://www.ocfs.state.ny.us/main/policies/external/> (Attachments B & C). Neither of these documents is to be submitted to NYSAS/OCFS or any other office within OCFS for approval.

KinGAP applications will be decided (approved or denied) by the Local Department of Social Services (LDSS)/Administration for Children's Services (ACS) that has care and custody or custody and guardianship of the child. If a voluntary authorized agency is involved in a case, it may be involved in providing information on KinGAP to the foster parent, giving the foster parent the application and making a recommendation to the LDSS/ACS regarding approval or denial of the KinGAP application. Likewise, the LDSS/ACS is responsible for approving the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement, but a voluntary authorized agency responsible for the child may complete the Agreement with the family. The LDSS/ACS with custody or guardianship of the child must sign the Agreement.

8. If an LDSS/ACS contracts with a voluntary agency for foster boarding homes, which agency would be responsible for funding KinGAP? What funding streams are used?

The LDSS/ACS would be responsible for approving/denying the KinGAP application and entering into the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement with the prospective relative guardian. If approved for KinGAP, the court must issue letters of guardianship. Once this occurs, LDSS/ACS is responsible for the kinship guardianship assistance payment.

KinGAP is funded at 50% federal share for those children determined Title IV-E eligible, and any state share comes out of the foster care block grant and the balance with local (county) funds.

9. In order for a relative, relative of a half sibling, or person with a positive relationship to the child to be considered for KinGAP, do they need to file an Article 6 guardianship petition or do they need to be a kinship foster parent first?

The KinGAP process is not started by filing a petition for guardianship.

There are specific eligibility requirements that must be met before a child is considered eligible for KinGAP, including that the foster parent must be fully approved or certified and the child must have been placed with the foster parent for at least six consecutive months before applying to the local district for KinGAP. Once the child and foster parent have satisfied all the eligibility requirements for KinGAP, and have submitted an application that the LDSS/ACS has approved, then the prospective relative guardian and LDSS/ACS with legal custody of the child must enter into the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement.

Only after the Agreement has been entered into may the prospective relative guardian petition the court for letters of guardianship.

The failure to follow this sequence will render the case ineligible for KinGAP.

10. Is there a specific petition that needs to be filed for kinship guardianship assistance?

Yes, there are petitions and orders that are specific to kinship guardianship assistance. The Office of Court Administration website has the kinship guardianship assistance petition and order. These forms can be found at:

<http://www.nycourts.gov/forms/familycourt/guardianship.shtml>

11. What is the process for continuing guardianship at age 18?

Unless extended, a guardianship order granted before the youth is 18 years of age expires when the youth turns age 18. Therefore, it is important that the relative guardian pursue the extension of the guardianship order at the point the youth is going to turn age 18. The youth's consent to the extension is required. It is up to the relative guardian to file for such extension. The LDSS should advise the guardian to do so and monitor the efforts made to continue guardianship past the age of 18 to ensure continuity of payment.

Eligibility

12. A prospective relative guardian must have provided foster care to the child for six consecutive months prior to the application for KinGAP. How is the determination made as to whether this eligibility requirement is met?

Added 6/13/22

The determination as to whether the six consecutive month requirement is met must be made by assessing the most recent foster care placement of the child with the prospective relative guardian as of the time of application for KinGAP. The six months are considered consecutive if:

- there were no absences of the child other than temporary periods of less than 30 days, due to hospitalization, stay(s) in psychiatric facilities, respite, and comparable absences of the child from the foster home (per 11-OCFS-ADM-03),
- the home was fully approved or certified for the full six months (any period of emergency approval does not count toward the six-month timeframe), and
- there were no lapses in certification or approval.

Therefore, if the child's most recent foster care placement as of the time of application was not six months or did not meet any of the above criteria then such placement would not meet the eligibility requirement for KinGAP.

13. The KinGAP ADM (11-OCFS-ADM-03) states that one of the eligibility requirements of KinGAP is that it has been determined that "return home" is not an appropriate option. Does this need to be stated in the permanency hearing order/report? Does the court make this determination at the permanency hearing? Or is this an LDSS/ACS determination?

For the purpose of eligibility for KinGAP, there is no requirement that the permanency order must provide that "return home" is not an appropriate permanency option.

The determination that "return home" is not an appropriate option is made at two stages of the KinGAP process.

It is first made administratively by the LDSS/ACS as part of the eligibility process.

The issue is thereafter addressed by the court after the filing of the petition for guardianship where the court makes a finding that compelling reasons exist for determining that the return home of the child (and adoption) are not in the best interests of the child.

14. A) In the KinGAP ADM (11-OCFS-ADM-03) there is a note regarding other siblings for KinGAP eligibility that states that "the other sibling *must meet the state eligibility requirements on his/her own accord*" then states, but the additional federal Title IV-E requirements "*are considered met by virtue of the*

first sibling having met them.” The way this read is if one sibling is IV-E eligible, they all are. Is this true?

Yes, this is true if all siblings are being placed in the same kinship guardianship home.

B) How can this be true, since this is not true in IV-E foster care eligibility?

It is true because the federal law that enacted the KinGAP program created such authority that does not exist for foster care or adoption assistance (see section 473(d)(3)(B) of the Social Security Act). KinGAP is a separate program with separate eligibility requirements. Although it is true that for Title IV-E foster care eligibility, siblings cannot take on another sibling’s Title IV-E eligibility, the federal rules are different for kinship guardianship assistance.

15. Isn’t it true that a child cannot switch to IV-E retroactively after being another eligibility code, without documentation that they qualify?

In order to be federally eligible for KinGAP, a child must satisfy both federal and state KinGAP eligibility requirements and such eligibility must be supported by documentation. (See Appendix H of the Kinship Guardianship Assistance Practice Guide found at <http://www.ocfs.state.ny.us/kinship/guides.asp> for a discussion of necessary documentation.)

For kinship guardianship assistance, federal Title IV-E eligibility is linked to the child’s IV-E foster care eligibility while in the home of the foster parent (except in the case of siblings).

Also note, some children can be ineligible for Title IV-E in foster care and yet be eligible for Title IV-E adoption assistance. This is referred to as “delinking” and is gradually being implemented by the federal government, based on the child’s age, time in foster care and sibling status.

Subsidy Amount Determinations

16. How are minor parent/infant KinGAP arrangements treated? Would the relative guardian be granted KinGAP payments for the minor parent only?

When a minor parent and his/her infant are in a foster home together, the foster parent receives an expanded rate to cover the minor parent and the infant, **as if** the infant were in foster care him- or herself. If the minor parent in foster care meets the eligibility requirements for KinGAP and a KinGAP is granted in this situation, the expanded rate paid in foster care then becomes the rate upon which the kinship guardianship assistance payment is based.

17. Does the adoption related provision, “When a person adopting is 62 years old or older, or will be subject of mandatory retirement from present employment within five years of the date of adoptive placement, such person’s income shall be disregarded in computing annual income,” apply to KinGAP cases?

Yes. Although the regulation [18 NYCRR section 421.24(c)(10)(iii)] specifically applies to adoption subsidy, the standard reflected in the regulation does apply to

KinGAP. When a person assuming guardianship is 62 years old or older, or will be subject to mandatory retirement from their present employment within five years of the date of the kinship guardianship placement, such person's income must be disregarded in computing the annual income. Please note that the relative guardian's income and family size is only considered when an LDSS has chosen not to pay 100% of the foster boarding home rate in all cases, and instead calculates the kinship guardianship assistance payment based on a percentage (between 75% and 100%) of the foster board rate the child received while in foster care. In such counties, if a relative guardian meets the age or retirement status stated above, his/her kinship guardianship assistance payment must be 100% of the foster board rate. 11-OCFS-ADM-03 was revised on July 6, 2011, to include this information.

18. In regard to foster care payments, Level of Difficulty (LOD) must be assessed and may be reassessed, as needed. Will it be reassessed for guardianship arrangements through KinGAP?

Once the child is discharged from foster care to a kinship guardianship arrangement and receiving kinship guardianship assistance payments, the LOD is not reassessed, unless the relative guardian requests an amendment to the level of their kinship guardianship assistance payment.

After the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement is in effect, if the child exhibits a condition not known at the time of the signing of the agreement, or the child's condition worsens, the relative guardian(s) may apply to the LDSS/ACS for an upgrade. Relative guardians who make a request will need to submit a written, dated request to the LDSS/ACS, explaining why an upgrade is needed, 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. The LDSS/ACS must use the definitions provided in 18 NYCRR 427.6 (c) and (d) in order to make the determination as to whether an upgrade is warranted.

19. Does the applicable foster boarding rate that KinGAP assistance payments are based on include clothing allowance?

Yes, a portion of the rate includes the clothing allowance.

Interstate Compact on the Placement of Children

20. Does KinGAP apply for cases where the child is placed out-of-state with a foster parent through the Interstate Compact on the Placement of Children (ICPC)?

Yes, if the ICPC placement meets the eligibility requirements for KinGAP, the case may qualify. This is true for both initial ICPC foster care requests and requests for approval of a foster home relocation to another state.

Initial ICPC Foster Care Requests

If the prospective relative guardian resides outside of New York State prior to the foster care placement of the child, the placement with the prospective relative guardian would

have to have been made through ICPC, like any other out-of-state foster care placement. The KinGAP application can only be completed after the child has been in the fully certified or fully approved kinship foster home for at least six consecutive months.

ICPC Foster Home Relocations

If the prospective relative guardian moves to another state after the child is placed in the foster home by the LDSS/ACS, but before the letters of guardianship are issued, the placement must go through ICPC as well because the child is still in foster care at that point.

In both cases, the state of residence of the prospective relative guardian is responsible for the licensure, certification or approval of the foster parent. The LDSS/ACS in New York State is responsible for determining KinGAP eligibility and, if approved, signing the KinGAP agreement and making assistance payments.

Relocations After Guardianship

If the relative guardian moves to another state after the letters of guardianship are issued and the KinGAP payments have begun, the ICPC does not apply. The relative guardian continues to receive kinship guardianship assistance payments and medical coverage as outlined in the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement from the LDSS/ACS. It is the responsibility of the guardian to notify the LDSS/ACS of the relocation so payments and medical coverage can continue without a delay.

21. If a New York State foster parent relocates to another state after placement of the child in his/her foster home, does the KinGAP agreement need to have been completed prior to the move?

Where a foster child is placed out of state or will be placed out of state, there is no requirement for KinGAP eligibility purposes that the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement must be executed before the child is placed out of state.

The Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement can be executed in ICPC cases regardless of whether the agreement was done prior to a move to another state (proposed guardian relocating), or after a child is already residing with that foster parent in the other state. The foster parents (and the child in their care) would be subject to the same KinGAP eligibility standards as foster parents who are caring for a child in the care and custody or custody and guardianship of an LDSS/ACS in New York State.

22. For an ICPC KinGAP case, does the New York State or receiving state court grant the letters of guardianship?

The fact that the child and the prospective relative guardian reside outside of New York State does not mean that New York State loses jurisdiction over the child who is in the care and custody or custody and guardianship of an LDSS/ACS. If a child in foster care is placed outside of New York State with a foster parent, who wishes to pursue guardianship, in another state, New York State retains jurisdiction over issues

of care and custody of the child pursuant to Article V of the ICPC (section 374-a of the Social Services Law).

In addition, for abused, neglected, voluntarily placed or completely freed children, if the permanency goal is referral for legal guardianship, section 661(c) of the Family Court Act states that a petition for guardianship must be filed in the Family Court that has been involved in the foster care proceeding. So, for this group of children in foster care, letters of guardianship would be issued by a New York State court.

23. For foster parents living out of state, will the requests for information made by New York State courts for the purpose of making a KinGAP decision be honored by other states?

A KinGAP case through the ICPC would be treated the same as other non-KinGAP ICPC cases in that the receiving state is responsible for supervising the placement until the child is discharged from foster care to guardianship, including making casework contacts, and is responsible for communicating any requested information to the sending state (New York State) through the ICPC. Any specific information that is needed to make a KinGAP eligibility determination can be requested through the New York State ICPC office. This is somewhat similar to requests for information that are required by the courts for an adoption finalization. If an agency in New York State is having difficulty obtaining the required information to make a KinGAP eligibility determination, or information is requested by a New York State court, the agency can solicit the assistance of the New York State ICPC office on its behalf.

Other states implementing subsidized guardianship programs may make similar requests of New York State. New York State agencies should also be prepared to provide requested information to other states on behalf of children living in New York State to assist with making their own eligibility determination as to whether a child qualifies for their subsidized guardianship program.

Note: New York State confidentiality standards and secondary dissemination rules prohibit the release of the actual criminal history record issued by OCFS, but agencies can disclose information that a criminal check was performed and can provide information on any crimes, dates of arrest, or convictions and the court involved in the case that the criminal history record summary shows. For more information, please see 16-OCFS-ADM-20.

After Guardianship is Transferred

24. Is there a KinGAP recertification process?

There is not a recertification process for KinGAP.

However, the relative guardian will receive an annual notice from the LDSS/ACS. This notice is a reminder to relative guardians in receipt of kinship guardianship assistance payments of their continued obligation to support the child, and to notify the social services official if they are no longer providing any support or are no longer legally responsible for the support of the child. In addition, the notice requests that the relative guardian(s) provide a certification and documentation of the education status of the school-age child, and requests that the relative guardian(s) provide a certification and

documentation of the status of children over the age of 18, if the child had attained 16 years of age before the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement became effective. Failure to provide the requested information could result in discontinuance of their kinship guardianship assistance payment.

25. Will it be clear to the prospective relative guardian that the birth parent can petition for custody of the child to be returned?

The prospective relative guardian is provided with information regarding the kinship guardianship assistance program. In part, this information includes that birth parents whose rights have not been terminated can petition the court for a return of custody of the child and that the court may grant the petition if it is determined that there has been a substantial change in circumstances and that awarding custody back to the parent is in the child's best interests.

The booklet entitled *Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)* provides important information for proposed relative guardians, including the ability of the parent to petition for custody to be returned to him/her. It can be found at <https://ocfs.ny.gov/main/publications/pub5108.pdf>. This booklet is a tool that is recommended to be used in conjunction with the caseworker's discussions with the prospective relative guardian about the KinGAP program.

Please note also that the LDSS/ACS and the child's attorney will be advised and made a party to any future matters regarding the child's custody or guardianship, including a petition brought by the child's birth parent to regain custody, and a petition brought by the relative guardian(s) to have the guardianship revoked, terminated or surrendered.

26. Is the prospective relative guardian made aware of the change in agency support after the transfer of guardianship?

Yes. The booklet entitled *Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)* provides important information for proposed relative guardians regarding the role of LDSS/ACS, as well as the responsibilities of the guardian, after the child is in his/her guardianship. In particular, there is a comparison chart that compares many of the similarities and differences between kinship guardianship assistance, adoption subsidy, and foster care. The chart is an attachment to the relative booklet, as well as appendix D in the *Kinship Guardianship Assistance Practice Guide* available to workers, and is to be used when presenting information to the foster parent. Both the relative booklet and KinGAP practice guide can be found at <https://ocfs.ny.gov/kinship/guides.asp>.

27. As relative guardians, can they allow the child to live with the birth parents for a short time, and who will guide them with those decisions after guardianship is transferred?

After the issuance of the letters of guardianship, the relative guardian, by statute, is granted broad authority over the child, including the decision to allow the child to have contact with the child's birth parents. The relative guardian will determine the extent of the contact with the birth parent, unless a court order exists that otherwise limits or

specifies the amount and level of contact between the child and birth parent. In addition, if the child receives counseling, the therapist could be consulted by the relative guardian when making decisions related to contact with the birth parent.

28. Is there a system in place to monitor if the relative guardians return a child to the birth parents?

Once the letters of guardianship are issued, the child is no longer in foster care and there are no supervision or casework contact requirements that expressly apply to the KinGAP program.

In order to receive a kinship guardianship assistance payment, the relative guardian signed a Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement. This agreement is the contract between the LDSS/ACS and the relative guardian. The OCFS Summary of New York State Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement (Appendix A of the Agreement) specifies under the *obligations of the guardian* section that the relative guardian “must notify the social services district named in the Agreement in writing within 30 days of any changes in the residential or dependency status of the child.” In addition, relative guardians will receive from the LDSS/ACS named in the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement a yearly certification request that they must complete. This request has them certify that the child still resides with them, they are still supporting the child, and there are no significant changes that would change their kinship guardianship assistance payment. In addition, the relative guardians must provide documentation to the LDSS/ACS regarding education or employment of the child.

Good casework practice is essential when making kinship guardianship decisions. One of the steps prior to a kinship guardianship arrangement is that a careful assessment is made of the placement and prospective relative guardian’s ability to meet the child’s needs and keep the child safe. Part of this assessment should be the birth parent’s relationship with both the child and the prospective relative guardian and potential future involvement in the child’s life. In addition, the caseworker must make a best interests determination in regard to the foster parent becoming the child’s legal guardian. The OCFS *Kinship Guardianship Assistance Practice Guide* is available to assist caseworkers in making these assessments and determinations. This guide is posted under the “Guides to Assist You” page of the KinGAP section on the OCFS website at <http://www.ocfs.state.ny.us/kinship/kingap.asp>

29. If the child is in a kinship guardianship assistance arrangement, what happens if he or she physically returns to the birth home permanently?

Payments must terminate if the relative guardian is no longer providing any support or is no longer legally responsible for the support of the child. See 18 NYCRR 436.5(f)(2)(ii) for a definition of any support. Payments must also terminate if the relative’s guardianship is revoked, terminated, suspended or surrendered.

If the LDSS/ACS is informed that the child is no longer residing with the kinship guardian, is living with the birth parent, and there is a question regarding the legal status of the guardianship or whether the relative guardian is providing any support for

the child, the LDSS/ACS may require the relative guardian to meet with the LDSS/ACS. In addition, the LDSS/ACS may require the relative guardian to submit documentation that addresses and verifies the continued responsibility to support and/or the provision of support for the child. See 18 NYCRR 436.5(f) on this subject. Failure to provide the requested documentation within the period requested by the LDSS/ACS or to meet with district staff may be a ground for the termination of kinship guardianship assistance payments.

The Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement lays out the relative guardian's responsibility to notify the LDSS/ACS of this event, or any other event where the relative guardian is no longer providing support and/or is no longer legally responsible for the child.

If the relative guardian seeks to transfer legal custody or guardianship to the birth parent, by statute the LDSS/ACS and the child's attorney must be advised and made a party to such proceedings.

30. What happens with the kinship guardianship assistance if a child returns to foster care from a kinship guardianship arrangement?

The kinship guardianship assistance would end if the child is removed from the home, returns to foster care and the court approved permanency plan is for the child not to return to the home of the relative guardian [18 NYCRR 436.5(f)(ii)]. However, if the permanency plan is to return the child to the relative guardian, kinship guardianship assistance continues if the relative guardian is using at least 50% of the KinGAP payment toward support of the child.

31. Is there a trial discharge or trial period for the kinship guardianship?

No. Neither the law nor regulations that created and implemented the KinGAP program address either a trial discharge or trial period in relation to KinGAP. However, it is important to remember that the child has already been in foster care with the prospective relative guardian for a period of time (at least 6 consecutive months) before guardianship could be applied for, so there is no need for a trial period after guardianship.

32. What if the relative guardian wishes to adopt after guardianship is transferred?

Adoption must be fully ruled out before kinship guardianship is considered as an option. However, if circumstances change and adoption becomes an appropriate option after guardianship is transferred, then so long as the child is freed for adoption, the relative guardian could adopt the child. The guardianship relationship would end, as would kinship guardianship assistance payments. The child, who by the kinship guardianship arrangement is no longer in foster care, would not be eligible for adoption subsidy. If the child is not freed for adoption, the relative guardian could not adopt until the issue of birth parent consent is resolved.

33. If a Kinship Guardianship Assistance Agreement is terminated and the kinship assistance payment is stopped, what happens to the guardianship arrangement?

Terminating kinship guardianship assistance payments does not change the fact that the foster parent was granted guardianship of the child by the court and does not, in and of itself, revoke or otherwise terminate legal guardianship. The guardianship of the child remains with the relative guardian regardless of the ending of kinship guardianship assistance payments. If the relative guardian no longer wishes to have guardianship of the child, the relative guardian needs to petition the court to request that guardianship be revoked, terminated or surrendered.

Other Benefits

- 34. Currently foster parents are provided with daycare if they work, yearly camp expenses, mileage reimbursements for transporting children in foster care, school pictures expenses, cap and gown for high school graduation, and other various minor expenses on a case-by-case basis. Will relative guardians receiving kinship guardianship assistance be able to receive any of these allowances or reimbursements in addition to their monthly assistance payment?**

No. Additional special payments available in accordance with 18 NYCRR 427.3(c) will not be made for items such as school-related expenses, activity fees, lessons, camp fees, day care and transportation.

- 35. Will families that receive guardianship assistance through KinGAP be eligible for public assistance on behalf of the child as a Non-Parent Caregiver case?**

No, they will not. For more information, please see administrative directive 11-ADM-05 *Temporary Assistance Budgeting: Treatment of Kinship Guardianship Assistance Program (KinGAP) Payments* on the Office of Temporary Disability and Assistance (OTDA) website at <http://otda.ny.gov/policy/directives/2011/ADM/11-ADM-05.pdf>

- 36. While receiving KinGAP assistance, can the relative guardian add the child to their public assistance case, food stamps case or Section 8 lease?**

The family may be eligible for social services programs such as food stamps, HEAP and temporary assistance. Each of these programs has specific eligibility qualifications, including how to count the relative child for purposes of determining eligibility. If a relative guardian applies for assistance from another agency, the relative guardian needs to make that agency aware that they receive a kinship guardianship assistance payment on behalf of the child. In some circumstances, the kinship guardianship assistance payment will be factored in to the need for assistance and may impact the benefit they may receive. For more information on this, please see page 37 of 11-OCFS-ADM-03 *Kinship Guardianship Assistance Program (KinGAP)* found at <http://www.ocfs.state.ny.us/main/policies/external/>. This information is also presented in Appendix D *New York State's Permanency Comparison Chart*, which is a part of the *Kinship Guardianship Assistance Practice Guide* found at <http://www.ocfs.state.ny.us/kinship/guides.asp>. In addition, more information can be found in OTDA's ADM 11-ADM-05 *Temporary Assistance Budgeting: Treatment of Kinship Guardianship Assistance Program (KinGAP) Payment*, which is located at <http://otda.ny.gov/policy/directives/2011/ADM/11-ADM-05.pdf>

37. Are KinGAP assistance payments counted as part of the family's gross income for the purposes of determining eligibility for the child care subsidy program?

No. Similar to adoption subsidies and foster care payments, LDSSs must exclude the amount of kinship guardianship assistance payments from the determination of financial eligibility for the child care subsidy program and the calculation of the family share. See 12-OCFS-LCM-03 *Kinship Guardianship Assistance Program Payments – Excludable Income for Child Care Subsidy Program Eligibility*.

38. The KinGAP ADM (11-OCFS-ADM-03) states that a child that leaves foster care for kinship guardianship at age 16 or older will be eligible for independent living services and education and training vouchers (ETV). Is there any documentation as to what kind of training/education qualifies? For example, would a tractor trailer driving school or college expenses be eligible? If a child wants to attend a computer summer camp for education, does that qualify?

For a youth who leaves foster care at age 16 or older for a kinship guardianship arrangement with a relative guardian who is receiving kinship guardianship assistance payments, the youth remains eligible for the following independent living services: vocational training, independent living skills training, and academic support services. On pages 3 of 17-OCFS-LCM-09, there is an explanation of the use of Chafee funds and the Education and Training Voucher (ETV) funds. Chafee funds may be used for non-higher educational learning activities such as attendance at a computer summer camp program, for example, for a high school student. However, Chafee funds may not be used for expenses associated with institutions of higher education that are eligible for reimbursement under the Education and Training voucher program. If the youth was accepted and enrolled in a college or university, the youth would be eligible to apply for an Education and Training Voucher (ETV). Youth attending a vocational training program may also be eligible for an ETV award. Generally, the vocational training program must be a year-long program and be affiliated with a community college. A child receiving kinship guardianship assistance is not eligible for independent living stipends, aftercare services, or Chafee room and board services. 17-OCFS-LCM-09 can be found at https://ocfs.ny.gov/main/policies/external/OCFS_2017.

39. If a birth parent receives social security disability payments due to his/her disability, can a child in a KinGAP arrangement also receive the child benefit portion of that disability payment in addition to their kinship assistance?

Yes, if the child meets the qualifications for the benefit then he/she would be eligible to receive this benefit. Information regarding those qualifications can be found at <http://ssa.gov/pubs/10085.html>. If there are any questions, the Social Security Administration should be contacted.

In addition, we recommend that anyone applying for Social Security disability benefits, or any other benefit program, should inform that benefit agency of the KinGAP payment they receive.

40. What services are available for guardians after KinGAP is achieved?

The relative guardian may reach out to the LDSS/ACS with which the relative guardian entered into the Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement.

Additionally, guardians may contact programs in their county that provide post-guardianship services. It is important to make known to these programs that the relative guardian is in receipt of kinship guardianship assistance because receipt of kinship guardianship assistance payments may affect eligibility for certain programs or benefits.

- Guardians can find contact information for programs in their county by visiting:

<https://ocfs.ny.gov/kinship/map.asp>

- The Kinship Navigator is a statewide program that provides an information and referral network for kinship caregivers, including guardians. The Kinship Navigator assists caregivers with accessing programs that provide financial assistance, legal information and other supports.

Information on the Kinship Navigator can be found at:

<http://www.nysnavigator.org/>

Contact information for the Kinship Navigator:

Phone: 877-454-6463

TTY: New York Relay 711 or 800-673-3777, 800-676-4290 (Espanol)

Fax: 585-456-1676

Mailing Address:

87 N. Clinton Ave

Rochester, NY 14604

Email: navigator@nysnavigator.org

- Regional Permanency Resource Centers serve post-adoptive families and post-guardianship families. Post-adoptive families are families who have finalized the adoption of their child. They include any adoptive family member, whether the adoption was an agency (public or authorized voluntary agency) adoption; a private placement adoption; or an international adoption. Post-guardianship families include families with legal guardianship of the child and an approved KinGAP agreement or families with legal guardianship without a KinGAP agreement.

Children with a Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Agreement will have some form of medical assistance or coverage. Services such as counseling and mental health treatment often are covered by the medical assistance or coverage. In addition, the relative guardian could apply for other assistance programs in the relative guardian's community. If otherwise

eligible, the family may be eligible for preventive services in the county in which they reside.

In addition, if the youth was age 16 or older at the time that he/she left foster care for guardianship, he/ she may be eligible for independent living services and eligible to apply for the Education and Training Voucher (ETV) program. See question 38 (in “Other Benefits” section) for more information on this.

If the family is located outside of New York State, the relative guardian should consult with the local social services agency in the state of residence of the relative guardian to see what services are offered in their area.