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## ORANGE COUNTY SOCIAL SERVICES AGENCY CFS OPERATIONS MANUAL

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**Effective Date:** March 11, 2014

**Number:** J-0106

### **Extended Adoption Assistance Payment (AAP) and Kin-GAP Benefits**

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<b>Purpose</b>	To provide guidelines for Extended AAP and Kin-GAP benefit programs.
<b>Approved</b>	This policy was approved by Gary Taylor, Director of CFS, on March 11, 2014. <i>Signature on file.</i>
<b>Most Recent Revision(s)</b>	This is a new Policy and Procedure (P&P) resulting from the passage of Assembly Bill (AB) 12.
<b>Background</b>	<p>On September 30, 2010, AB 12 was signed into law. This bill allows California to implement provisions of Public Law (P.L.) 110-351, the Federal Fostering Connections to Success and Increasing Adoptions Act of 2008. The provisions of AB 12 allow:</p> <ul style="list-style-type: none"><li>• Kin-GAP eligibility for federal financial participation</li><li>• A phasing in, over three years, of extended Adoption Assistance Payment (AAP) and Kin-GAP benefits programs. Eligibility is restricted to youth age 18 or older who received their initial Kin-GAP or AAP payments at age 16 or older</li></ul> <p>The provision of Kin-GAP and AAP benefits into adulthood support permanency for youth in foster care and ensures caregivers of older youth are financially assisted in their efforts to provide permanency.</p>

While extension of these benefits can be a critical support to youth and their guardian or adoptive parent, delaying permanency to qualify for benefits is contrary to the federal mandate to reduce time that a child remains in foster care.

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**Definitions**

For purposes of this P&P, the following apply:

**Federal Kinship Guardianship Assistance Payments (Kin-GAP):** Aid provided on behalf of children in kinship care eligible for federal financial participation under United States Code (USC), Title 42, Section (§) 671(a)(28).

**State Kinship Guardianship Assistance Payments (Kin-GAP):** State-funded aid provided on behalf of children in kinship care who are not eligible for federally funded Kin-GAP pursuant to Welfare and Institutions Code (WIC) §11385.

Definitions common to both State and Federal Kin-GAP include:

**Host County:** The county in which the majority of an agency's foster family homes or group home facilities are located. If the program has facilities in more than one county, the host county will be the county where the greatest number of children is placed.

**Kinship guardian:** A person who meets both of the following criteria:

- He or she has been appointed the legal guardian of a dependent child pursuant to WIC § 366.26 or § 360 of the Juvenile Court
- He or she is a relative of the child

**Relative:** An adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

**Sibling:** A child related to the identified eligible child by blood, adoption, or affinity through a common legal or biological parent.

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## POLICY

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<b>Effective Date of Program</b>	Effective January 1, 2011, all Kin-GAP applications will comply with the provisions of California Department of Social Services (CDSS) All County Letter (ACL) 11-15 for determining benefits under the new state or federally-funded Kin-GAP Program.
<b>Program Eligibility Requirements</b>	<p>Pursuant to WIC § 16120(d)(3), effective January 1, 2012, extended AAP benefits will be provided to youth meeting age and eligibility requirements.</p> <p>Pursuant to CDSS ACL 11-86, there are two distinct ways AAP and Kin-GAP benefits may be extended beyond age 18:</p> <ol style="list-style-type: none"><li>A. Youth receiving AAP benefits and, effective January 1, 2011, youth receiving Kin-GAP benefits that have a documented mental or physical disability that warrants continuation of assistance are eligible to receive benefits to 21 years of age. <b>Note:</b> The age of youth when the <i>Adoption Assistance Program Agreement (AD 4320)</i> was signed, or when the relative guardianship was established, is not a factor in determining eligibility for this option.</li><li>B. Youth may be eligible for extended Kin-GAP or AAP benefits after 18 years of age if they meet one of the five participation criteria as stated in WIC §11403(b):<ol style="list-style-type: none"><li>1. Attending or completing high school or an equivalency program such as independent study, non-public school, public high school, or home schooling.</li><li>2. Enrolling in post-secondary or vocational school. For example:<ul style="list-style-type: none"><li>• All public post-secondary systems in California</li><li>• Community college</li><li>• All public post-secondary systems outside of California</li><li>• Schools approved by the Bureau for Private Postsecondary Education</li><li>• Courses taken through correspondence or online studies that are affiliated with a licensed institution</li></ul></li></ol></li></ol>

3. Participating in a program or activity that promotes or removes barriers to employment. For example:
  - Job skill classes
  - Volunteering
  - Counseling/therapy
  - Social skills training
  - Anger management classes
  - Teen parent classes
  - Career exploration programs
4. Employed at least 80 hours per month. This includes: Job Corps, Volunteers In Service to America (VISTA), One-Stops, or Ticket to Work.
5. The youth is incapable of participating in one of the four options above, due to a documented physical or mental condition.

**Additional AAP and Kin-GAP Requirements** For AAP, initial *Adoption Assistance Program Agreement (AD 4320)* must have been signed when the youth was at least 16 years of age, and the youth must have turned age 18 on or after January 1, 2012.

For federal Kin-GAP, youth must have attained 16 years of age before Kinship Guardianship Assistance Payment Program Agreement Amendment (SOC 369A) negotiated payments commenced.

For state Kin-GAP, youth must have attained 16 years of age before Kin-GAP aid payments commenced.

**Special Circumstances Affecting Eligibility** Pursuant to CDSS ACL 11-15EII, two special situations exist affecting eligibility for the Kin-GAP extended benefits program:

- A. If a relative guardian fails to negotiate *Kinship Guardianship Assistance Payment Program Agreement Amendment (SOC 369A)* prior to establishment of guardianship, and youth still meets all other eligibility criteria, the youth is only eligible for state-funded Kin-GAP.
- B. If dependency is left open by court order and the youth meets all other eligibility criteria when dependency is dismissed, youth may be eligible for extended benefits contingent on youth's age when Kin-GAP payments commenced.

<b>Exclusions to Extended Benefits</b>	Pursuant to CDSS ACL 11-86, youth are excluded from receiving extended Kin-GAP or AAP benefits if any one of the following apply: <ol style="list-style-type: none"> <li>A. Youth whose initial <i>Adoption Assistance Program Agreement (AD 4320)</i> was signed prior to 16 years of age.</li> <li>B. Youth receiving Kin-GAP benefits who turned 19 years of age in calendar year 2011.</li> <li>C. Youth in the federal Kin-GAP Program that have not attained 16 years of age before <i>Kinship Guardianship Assistance Payment Program Agreement Amendment (SOC 369A)</i> payments commenced (see WIC § 11386[h]).</li> <li>D. Youth in the state Kin-GAP Program that did not attain 16 years of age before Kin-GAP aid payments commenced (see WIC § 11363[d]).</li> </ol>
<b>Eligibility to Age 19</b>	Pursuant to WIC § 11403.01, for both federal and state Kin-GAP, a youth may continue to be eligible for Kin-GAP benefits up to 19 years of age under the existing high school completion rule.
	Pursuant to Eligibility and Assistance Standard (EAS) Manual § 45-201, the high school completion rule requires: <ul style="list-style-type: none"> <li>• Attendance, on a full-time basis, either at a high school or a vocational-technical training program. The vocational-technical program cannot result in a college degree</li> <li>• Youth is reasonably expected to complete either program before reaching 19 years of age</li> <li>• Full-time attendance as defined and verified by youth's school</li> <li>• Youth must sign the <i>Kin Gap Mutual Agreement for 18 Year Olds (KG1)</i></li> </ul>
<b>Phase-In of Extended AAP Benefits</b>	Pursuant to WIC § 16120(d)(3), extended AAP benefits are available to youth: <ul style="list-style-type: none"> <li>• Age 20 as of January 1, 2013 (between 18 and 20 years old)</li> <li>• Age 21 as of January 1, 2014 (between 20 and 21 years old)</li> </ul> Age requirements above are contingent on the youth reaching 16 years of age before AAP negotiated agreement payments begin.

<b>Phase-In of Extended Kin-GAP Benefits</b>	<p>Pursuant to WIC §§ 11363(d) and 11386(h), extended Kin-GAP benefits are available to youth:</p> <ul style="list-style-type: none"> <li>• Between 18 and 20 years old as of January 1, 2013</li> <li>• Between 18 and 21 years old as of January 1, 2014</li> </ul> <p>Age requirements above are contingent on the youth reaching 16 years of age before Kin-GAP negotiated agreement payments begin.</p>
<b>CFS Adoption Program Responsibilities</b>	<p>Pursuant to CDSS ACL 11-86, CFS Adoptions Program will:</p>

- A. Notify all affected AAP recipients of a youth's potential eligibility for extended benefits prior to youth's 18<sup>th</sup> birthday.
- B. Document in the AAP case file that youth meets one of the five participation criteria for extended benefits. If appropriate, CFS Adoption Program may broadly define the five participation criteria so that youth and adoptive family may benefit from extension of AAP. Attachment A of CDSS ACL 11-61 provides additional information regarding application of the five participation criteria.
- C. Include supporting documentation in the AAP case file. Refer to [Attachment 2](#) of CFS P&P [Extended Foster Care \(EFC\) \(J-0101\)](#) for examples of appropriate supporting documentation that meet participation criteria.
- D. Determine youth's eligibility for extension of AAP benefits beyond 18 years of age.
- E. Incorporate results of AAP rate negotiations in *Adoption Assistance Program (AAP) Agreement (AD 4320)* signed by a designated representative of CFS Adoption Program and adoptive parent
- F. Ensure the *Adoption Assistance Program (AAP) Agreement (AD 4320)* is signed on or after the youth's 16<sup>th</sup> birthday and that youth meets one of the five participation criteria.

Requirements for case management and subsequent six-month plan updates for non-minor dependents do not apply to extended AAP benefits.

Regulations and statutes specific to AAP for children, including State Hearing procedures, continue to apply to youth participating in Extended AAP Benefits Program.

<b>AAP Recipient Responsibilities</b>	For youth receiving extended AAP benefits, <i>Adoption Assistance Program (AAP) Agreement (AD 4320)</i> creates a contractual obligation for adoptive parent to financially support youth as a condition of continued receipt of extended benefits. Responsibilities of adoptive parent are:
<b>AAP Payment</b>	Pursuant to SSA § 473(a)(1)(B)(ii), CFS Adoption Program must designate youth's adoptive parent as payee despite the fact that the youth is 18 years of age or older.
<b>CFS Kin-GAP Program Responsibilities</b>	<p>Pursuant to CDSS ACL 11-86, CFS Kin-GAP Program will:</p> <ul style="list-style-type: none"><li>A. Notify all affected Kin-GAP recipients of a youth's potential eligibility for extended benefits prior to youth's 18<sup>th</sup> birthday.</li><li>B. Document in Kin-GAP eligibility file that youth meets one of the five participation criteria for extended benefits, and include supporting documentation. Refer to <a href="#">Attachment 2</a> of CFS P&amp;P <a href="#">Extended Foster Care (EFC) (J-0101)</a> for examples of supporting documentation meeting participation criteria.</li><li>C. Ensure both <i>Kinship Guardianship Assistance Payment Program Agreement Amendment (SOC 369A)</i> and <i>Kin-GAP Mutual Agreement for Nonminor Former Dependents (KG 3)</i> are signed and placed in the Kin-GAP eligibility file.</li><li>D. Confirm youth's eligibility for extension of Kin-GAP benefits beyond 18 years of age.</li><li>E. Negotiate a rate agreement to be signed by the designated CFS representative and Kin-GAP guardian. Youth must sign the <i>Kin-GAP Mutual Agreement for Non-Minor Former Dependents (KG 3)</i>.</li></ul>

- F. Inform the Kin-GAP guardian that if they disagree with the CFS determination regarding eligibility or benefits, they have the right to dispute or appeal the decision by requesting a state hearing per CFS P&P [State Hearings \(B-0122\)](#).

<b>Kin-GAP Forms</b>	<p>Both <i>Kinship Guardianship Assistance Payment Program Agreement Amendment (SOC 369A)</i> and <i>Kin-GAP Mutual Agreement for Nonminor Former Dependents (KG 3)</i> will be completed at the time the youth enters the extended Kin-GAP program.</p> <p>Forms above will be used at the two-year reassessment or when needs of youth or circumstances of relative guardian change. Verification that youth meets one of the five participation criteria will occur in both instances.</p> <p>If youth's participation criteria changes, only a notation is required on <i>Kin-GAP Mutual Agreement for Nonminor Former Dependents (KG-3)</i> to record change. A new <i>Kin-GAP Mutual Agreement for Nonminor Former Dependents (KG-3)</i> does not need to be completed.</p> <p>The <i>Kinship Guardianship Assistance Payment Program Agreement Amendment (SOC 369A)</i> and <i>Kin-GAP Mutual Agreement for Nonminor Former Dependents (KG 3)</i> must be retained in Kin-GAP eligibility file.</p>
<b>Other Kin-GAP Information</b>	<p>Between initial determination for extended Kin-GAP and the two-year reassessment, CFS is not required to obtain additional verification or certification that youth continues to meet one of the five participation criteria.</p> <p>If CFS has information suggesting that the youth no longer meets participation criteria, CFS has an obligation to verify whether the youth continues to be eligible for extended benefits.</p> <p>Requirements for case management and subsequent six-month plan updates for non-minor dependents do not apply to extended AAP benefits.</p>
<b>Recipient Responsibilities for Extended Kin-GAP Benefits</b>	<p>For purposes of extended Kin-GAP benefits, relative guardian must agree to continue to provide support for youth.</p>

	<p>The relative guardian is responsible for requesting benefit extension beyond 18 years of age, and providing documentation to CFS supporting the youth meeting one of the five participation criteria.</p>
	<p>Relative guardian is also responsible for reporting changes to CFS when the youth is no longer meeting one of the five participation criteria.</p>
<b>Kin-GAP Payment</b>	Pursuant to Social Security Act (SSA) § 473(d)(1)(A), CFS is required to designate the relative guardian as payee despite the youth being age 18 or older.
<b>Kin-GAP Overpayment</b>	Pursuant to CDSS ACL 11-86, new state and federally funded Kin-GAP Programs are subject to overpayment recoupment and remittance rules pursuant to WIC § 11466.24 and EAS Manual §§ 45-304–45-306.
<b>Independent Living Program</b>	Pursuant to CDSS ACL 11-86, youth eligible for extended Kin-GAP benefits will remain eligible for ILP. Youth who receive ILP delivered services are subject to National Youth in Transition Database (NYTD) reporting rules detailed in CDSS All County Information Notice (ACIN) I-07-10.
<b>Residency Out of State</b>	Pursuant to WIC §§ 11364(b)(4) and 11387(c), under both state and federally funded programs, extended Kin-GAP payment/benefits continue regardless of state of residency of the relative guardian and youth.
	<p>Pursuant to CDSS ACL 11-86, assigned social worker is to encourage relative guardian and youth to apply for Medicaid on behalf of the youth in new state of residence.</p>
	<p>Families moving out of California are encouraged to research applicable laws of new state to determine impact of move. Potential issues to investigate are ability to enroll youth in school, availability of health coverage, and accessibility to other appropriate services.</p>
<b>Policy Implementation</b>	Suggested guidelines for initial implementation of the Extended Kin-GAP program are detailed in the following:

- [Attachment 1—Suggested Guidelines for Implementing Extended Kin-GAP](#)
  - [Attachment 2—Suggested Guidelines for Implementing Extended AAP](#)
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## REFERENCES

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<b>Attachments and CWS/CMS Data Entry Standards</b>	Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.
	<ul style="list-style-type: none"><li>• <a href="#">CWS/CMS Data Entry Standards—Adoption Assistance Program Changes, Re-Certifications, Terminations</a></li><li>• <a href="#">CWS/CMS Data Entry Standards—Legal Guardianship</a></li><li>• <a href="#">Attachment 1—Suggested Guidelines for Implementing Extended Kin-GAP</a></li><li>• <a href="#">Attachment 2—Suggested Guidelines for Implementing Extended AAP</a></li></ul>

<b>Hyperlinks</b>	Users accessing this document by computer may create a direct connection to the following references by clicking on them.
	<ul style="list-style-type: none"><li>• CFS P&amp;P <a href="#">State Hearings (B-0122)</a></li><li>• CFS P&amp;P <a href="#">Extended Foster Care (EFC) (J-0101)</a></li></ul>

<b>Other Sources</b>	Other printed references include the following:  None.
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## FORMS

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<b>Online Forms</b>	Forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.
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Form Name	Form Number
<a href="#">Kin Gap Mutual Agreement for 18 Year Olds</a>	KG 1
<a href="#">Kin-GAP Mutual Agreement for Nonminor Former Dependents</a>	KG 3
<a href="#">Kinship Guardianship Assistance Payment Program Agreement Amendment</a>	SOC 369A

<a href="#"><u>Adoption Assistance Program (AAP) Agreement</u></a>	AD 4320
<a href="#"><u>Extended Kin-GAP Notification Letter</u></a>	F063-25-741
<a href="#"><u>Extended AAP Notification Letter</u></a>	F063-25-740

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**Hard Copy Forms** Forms that may be completed in hard copy (including multi-copy NCR forms) are listed below. ***For reference purposes only***, links are provided to view these hard copy forms, where available.

	<b>Form Name</b>	<b>Form Number</b>
	None.	

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**CWS/CMS Forms** Forms that may **only** be obtained in CWS/CMS are listed below. ***For reference purposes only***, links are provided to view these CWS/CMS forms, where available.

	<b>Form Name</b>	<b>Form Number</b>
	None.	

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**Brochures** Brochures to distribute in conjunction with this procedure include:

	<b>Brochure Name</b>	<b>Brochure Number</b>
	None.	

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## **LEGAL MANDATES**

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[Public Law \(P.L.\) 110-351](#), the Federal Fostering Connections to Success and Increasing Adoptions Act of 2008, provides a state the option to extend eligibility for Title IV-E foster care, adoption assistance and kinship guardianship payments to 21 years of age.

[United States Code, Title 42, Section \(§\) 671\(a\)\(28\)](#) provides for the state to enter into kinship guardianship assistance agreements to provide kinship guardianship assistance payments on behalf of children to grandparents and other relatives who have assumed legal guardianship of children.

[Social Security Act \(SSA\) § 473\(a\) \(1\) \(B\) \(ii\)](#) states that Public Agency will make AAP payments directly to the adoptive parent.

[SSA § 473\(d\) \(1\) \(A\)](#) describes the requirements that the guardian must meet in order to receive Kin-GAP payments.

[Assembly Bill \(AB\) 12 \(2010\)](#) extends to youth, 18 years of age and older, financial and other support to facilitate transition to independent living.

[California Department of Social Services \(CDSS\) All County Letter \(ACL\) 11-15](#) provides guidance on the conversion and/or establishment of new Kin-GAP cases in accordance with AB 12.

[CDSS ACL 11-15EII](#) clarifies instructions provided in ACL 11-15 regarding the Kin-GAP negotiated agreement, dismissing dependency, and eligibility for extended Kin-GAP benefits.

[CDSS ACL 11-61](#), Attachment A, provides expanded definitions regarding the five participation criteria for extended Kin-GAP benefits.

[CDSS ACL 11-86](#) details the basic responsibilities of each party (i.e. county, guardian) in implementing the extension of benefits for Kin-GAP or AAP.

[CDSS All County Information Notice \(ACIN\) I-07-10](#) discusses the collection of information concerning ILP usage by Kin-GAP youth who were former foster youth.

[Eligibility and Assistance Standards \(EAS\) Manual § 45-201](#) describes the general AFDC-FC requirements as to Kin-GAP youth completing high school prior to their 19<sup>th</sup> Birthday.

[EAS Manual §§ 45-304–306](#) provides guidance for collection of AFDC-FC overpayments from foster care providers.

[Welfare and Institutions Code \(WIC\) § 16120\(d\)\(3\)](#) provides effective date for Extended AAP Benefits program.

[WIC § 11466.24](#) describes collection of overpayments as they relate to Kin-GAP recipients.

[WIC § 11403.01](#) states a child who begins receiving Kin-GAP prior to their 16<sup>th</sup> birthday is not eligible for extended Kin-GAP benefits.

[WIC §11403\(b\)](#) provides statutory basis for extended Kin-GAP payments.

[WIC § 11387\(c\)](#) states Kin-GAP payment will not exceed foster care maintenance payment plus special care increment as described in WIC § 11461.

[WIC § 11386\(h\)](#) states extended Kin-GAP requires that payments begin on or after age 16 and continue to age 21 as long as all other eligibility requirements are met.

[WIC § 11385](#) describes legislative intent and option available for youth to enter extended Kin-GAP program.

[WIC § 11364\(b\)\(4\)](#) states Kin-GAP guardian may maintain residency in a state other than California.

[WIC § 11363\(d\)](#) provides state extended Kin-GAP to youth meeting the age requirements based on signing and execution of a negotiated payment agreement.

[WIC § 366.26](#) describes Court Hearing where permanent plan of relative guardianship for child is agreed to and relative guardianship is established.

[WIC § 360](#) states a relative guardianship may be established for a child who has been in voluntary placement.