Legal Guardians

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PURPOSE

The purpose of this policy statement is to clarify financial eligibility for Foster Care cases when the foster parent becomes a legal guardian.

APPROVED

This policy was approved by Mike Ryan, Director of CFS, on 2/19/2010. *Signature on file.*

POLICY

The following guidelines are developed from the premise that the non-parent caretaker was receiving either federal (42) or state (40) funded Aid to Families with Dependent Children-Foster Care (AFDC-FC) funds and legal guardianship was declared by the Orange County Juvenile Court.

FEDERAL AFDC-FC

Related Legal Guardian
Foster Care
No eligibility to federal AFDC-FC unless dependency and services continue.
• Home Assessment (SOC 815) licensing requirements must continue to be met.
• Adoption and safe Family Act (ASFA) court regulations must continue to be met every 12 months from the date the child entered Foster Care.
• The wording needed on the Permanency Planning minute orders is that the juvenile court must make ongoing findings that the county continues to make reasonable efforts to finalize the permanency plan.
CalWORKs
If dependency is dismissed, a relative caretaker may be eligible for CalWORKs if:
• The child has not resided with the relative legal guardian over 12 months.
• CalWORKs application packet is referred by Foster Care eligibility technician (ET) to the CalWORKs ET.
• No eligibility to State funded AFDC-FC.
Kinship and Guardian Assistance Program (Kin-GAP)
May be eligible to Kin-GAP if:
• The child has resided with the relative caretaker over 12 months.
• If the child was a previous dependent of the Orange County Juvenile Court.
• Kin-GAP application packet is referred by Foster Care eligibility technician (ET) to the in house Kin-GAP ET.
• Refer to Policy 90-100.
Non-Related Legal Guardian
Foster Care
• No eligibility to Federal AFDC-FC unless dependency and services continue.
• If dependency continues, no eligibility to Federal AFDC-FC unless Home Assessment (SOC 815) licensing requirements continue to be met. If the non-related legal guardian is a State licensed foster parent, a copy of the license is sufficient; a home assessment is not required.
• If dependency is dismissed, case will be Inter Program Transferred to State AFDC-FC as long as the non-related legal guardian accepts services from the County of Orange Social Services Agency.
• Legal guardian will complete Reinvestigation process (RV).
CalWORKs
• No eligibility.
Kin-GAP
• No eligibility.

STATE AFDC-FC

Related Legal Guardian Foster Care

• No eligibility to State funded AFDC-FC regardless of dependency status.
• Relative may be eligible to receive CalWORKs or Kin-GAP.
• CalWORKs application packet is referred by Foster Care eligibility technician (ET) to the CalWORKs ET.

Non-Related Legal Guardian Foster Care

• Eligible to State AFDC-FC regardless of dependency status.
• Eligible to State funds if Service requirements continue to be met.
• SOC 158A required to authorize payment.
• Legal guardian will complete Reinvestigation process (RV).
• No eligibility if legal guardian moves out of state.
• Inter County transfer (ICT) initiated if legal guardian moves to another county.

COUNTY FUNDS

County funded Foster Care stops when the foster parent of a child receiving county funds becomes a legal guardian. Child must be a dependent of the Orange County Juvenile Court to receive this funding.

REQUIRED FORMS HYPERLINKS

Form Name	Form Number
Foster Care Funding Evaluation Worksheet For Legal Guardian Placements	F063-29-55
Placement Information Change	F063-28-301
Foster Child’s Data Record and AFDC-FC Certification	SOC 158A

PROCEDURE

REQUIRED ACTION

The following actions must be completed when the Orange County Juvenile Court establishes legal guardianship for a dependent child.

Responsibility	Step	Required Action
Senior Social Worker (SSW)	1.	Determines whether the child will remain a dependent of the juvenile court after the child's current caretaker is made a legal guardian.
	1.	Sends Placement Information Change (PIC F063-28301) via email to the Foster Care Eligibility (FCE) email account, notifying that legal guardianship was granted to the child's current caretaker. The PIC will notate if dependency remains intact or has been dismissed. A hard copy of the SOC 158A with an original signature will also be submitted.
Foster Care Data Entry Technician (DET)	1.	Forwards the PIC to the assigned case Eligibility Technician (ET).
SSW	1.	Sends a copy of the minute order establishing legal guardianship to the assigned case ET. In addition, the SSW will send a copy of the Letters of Guardianship.

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ET

1. If legal guardianship is granted to a relative caretaker and dependency remains intact:
• Federal AFDC-FC will continue as long as the caretaker continues to meet home approval requirements.
• Ongoing Adoptions and Safe Family Act (ASFA) court findings continue to be met at least every 12 months.

1. If legal guardianship is granted to a relative caretaker and dependency is dismissed and child has not resided with the relative over 12 months:
• CalWORKs application packet is referred by Foster Care ET to the in house CalWORKs ET which consists of:
• PIC
• FC 4 Choice Indicator
• Statement of Relationship
• SAWS 1
• SOC 158A
• FC 3
• FC 3A
• FC 3 Supplement
• Birth Certificate/Birth Certificate Request
• Social Security Card/"J" verified
• Case Recording Narrative
• Discontinuance/Denial NOA (CSC 02)

1. If legal guardianship is granted to a relative caretaker and dependency is dismissed and child has resided with the relative over 12 months:
• Kin-GAP application packet is referred by Foster Care ET to the in house Kin-GAP ET which consists of:
• Original SOC 369 with signatures
• PIC
• FC 4 Choice Indicator
• Statement of Relationship
• SAWS 1
• SOC 158A
• FC 3
• FC 3A
• FC 3 Supplement
• Birth Certificate/Birth Certificate Request
• Social Security card or MEDS/IEVS screen prints showing "J" verified
• Case Recording Narrative
• Notice of Action
• Provides relatives a flexible program that provides medical and financial assistance without the involvement of a social worker.
• Must have legal guardianship established when court dependency is dismissed. Juvenile Court dependency must have been dismissed on or after January 1, 2000.
• The county that had juvenile court dependency is responsible for the payment regardless of which California county the child lives in.
• Rates are reflective of Foster Care rates based on the child's age and county of residence.
• Legal guardian must reside in California.

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	1.	If legal guardianship is granted to a Non-related caretaker and dependency remains intact: • Federal AFDC-FC funding will continue as long as the legal guardian continues to meet home approval requirements. • Ongoing ASFA court findings continue to be met at least every 12 months.
	1.	If legal guardianship is granted to a non-related caretaker and dependency is dismissed: • Non-related legal guardian must accept services from the County of Orange Social Services Agency in order for State AFDC- FC funding to be expended. • If only services are to continue, funding is automatically converted to State AFDC-FC. • If caretaker moves out of Orange County, initiates an Inter County Transfer (ICT) to the appropriate California county. Ensures Services case continues through the ICT period. Gives receiving county 30 days to pick up payment, and sends timely notice to caretaker to discontinue payment. • If caretaker moves out of California, no eligibility to State AFDC-FC.
SSW	1.	After non-related legal guardian home assessment expires, must go out to the home to ensure that the legal guardian's home is in adequate and safe condition for the child to reside. Must notify ET via email of the home status.
ET	1.	Approves State AFDC-FC for non- related legal guardian and processes annual Redetermination (RV) in order for AFDC-FC to continue.

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