

<b>DCF</b>	<b>COMMONWEALTH OF MASSACHUSETTS ~ DEPARTMENT OF CHILDREN AND FAMILIES</b>	
	<b>Policy Name: Guardianship Subsidy Policy</b>	
	<b>Policy #:</b> 2011-002	<b>Approved by:</b>
	<b>Effective Date:</b> 9/30/2010	
<b>Revision Date(s):</b> NA		

## GUARDIANSHIP SUBSIDY POLICY

A subsidy, consisting of financial assistance and/or medical assistance, may be provided in support of the guardianship of a child who is in the care or custody of the Department of Children and Families (Department) and whose guardianship is sponsored by the Department. (See *Regulations* 110 CMR 7.303)

### Definitions

**Kinship Placement** – The placement of a child who is in Department care or custody, with a person(s) related by either blood, marriage or adoption (i.e., adult sibling, grandparent, aunt, uncle, first cousin) or a significant other adult to whom a child and/or the child’s parent(s) ascribe the role of family based on cultural and affectional ties or individual family values.

**Sibling** – One of 2 or more persons having at least one parent in common by blood, marriage or adoption; full, half, step or adoptive brother or sister.

**Young Adult** – A person between the ages of 18 and 23.

### Policy

The Department has 2 guardianship subsidy programs: (1) a state funded program that provides subsidies to children whose prospective guardian is a kinship, child-specific or unrestricted family resource licensed by Department or by a provider under a Department contract, and (2) a federally supported program under Title IV-E of the Social Security Act that provides subsidies to children whose prospective guardian is a kinship family resource who is licensed by Department or by a provider under a Department contract. Guardianship subsidy is available until the child reaches the age of 18 years, and may be extended to age 22 based on criteria outlined below and in 110 CMR 7.303.

The Department provides guardianship subsidy information to all prospective guardian(s) of children in Department care or custody for whom the goal of achieving permanency through guardianship is established at a Permanency Planning Conference. Kin are the first consideration for guardianship placement, when appropriate. The second consideration is individuals from the child’s network of adults who have been identified as potential child-specific guardianship families. The final is a foster family with whom the child has lived and who is committed to caring for the child.

#### 1. Eligibility

##### **A. State Funded Guardianship Subsidy Eligibility Criteria** [as defined in *Regulations* 110 CMR 7.303]

- Child is in Department care or custody and living in an out-of-home placement.
- Prospective guardian(s) has been identified and licensed by the Department.
- Child has a Service Plan goal of achieving permanency through guardianship.
- Child has been residing with the prospective guardian(s) for at least 6 months prior to the referral for Department-sponsored guardianship subsidy; exceptions to the 6 month residence may be approved by the Director of Areas.
- If the child is age 14 or older, she/he consents to the guardianship.
- Department is sponsoring the guardianship, except as set forth in section 8 below.

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- The guardian must have entered into a guardianship assistance agreement with Department prior to becoming the child's guardian, except as provided in 110 CMR 7.303(11).

### **B. Federally Supported Guardianship Subsidy Eligibility Criteria**

To be eligible for a Title IV-E kinship guardianship subsidy, the following criteria must be met:

#### Child Requirements

- Child is in Department care or custody and is in placement; and
- Child was removed from her/his home pursuant to a Voluntary Placement Agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child and she/he was eligible for Title IV-E foster care maintenance payments during at least a 6 consecutive month period during which the child resided in the home of the prospective kinship guardian who was licensed as a Department foster/pre-adoptive family; or
- Child is a sibling of a Title IV-E eligible child and placed in the home of the same kinship guardian with the eligible child. The sibling's guardianship need not be finalized at the same time as the eligible child's guardianship. The sibling need not meet the agency requirements listed below.

#### Agency Requirements

The Department has made the following determinations:

- Return home has been considered and is not an appropriate option.
- Adoption has been considered and is not an appropriate option.
- The child demonstrates a strong attachment to the guardian.
- If the child is age 14 or older, she/he consents to the guardianship.

#### Prospective Kinship Guardian(s) Requirements

- Prospective guardian(s) has been identified and licensed by the Department or by a provider under contract with the Department.
- The prospective guardian(s) is committed to the child and agrees to the plan.
- The prospective guardian(s) must have completed a nationwide, fingerprint based check of the guardian's criminal history and cannot have been convicted of:
  - A felony for child abuse or neglect, spousal abuse, a crime against a child or crime involving violence, such as rape, sexual assault or homicide, but not including simple assault and battery; or
  - A felony committed in the prior 5 years for physical assault, battery or a drug or alcohol related offense.
- A child abuse and neglect registry check must have been completed on all household members age 18 or older in the prospective guardian's home in each state or jurisdiction in which the household member has resided during the previous 5 years.
- The prospective guardian(s) must have entered into a guardianship assistance agreement with Department prior to becoming the child's legal guardian(s).

## **2. Guardianship Subsidy Benefits**

**A. Financial assistance**, when approved, is paid directly to the guardian(s) without regard to family income, and is provided for the child's care and maintenance.

The guardian(s) is not obligated to use her/his personal finances to support the child. However, the guardian(s) must use all funds received from the Department, and any other funds to which the child may be entitled, for the child's care.

The amount of financial assistance is determined by the Department, based on:

- actual current cash payment provided for the child in family-based foster care;
- third-party payments (e.g., SSI) made on child's behalf;

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- child's current specialized treatment and care requirements as outlined in "Guidelines for PACT Services" and "PACT Standards for Reimbursement" directly related to the diagnosed special need. (See *Policy #89-002, Supplemental Reimbursement Policy, Appendix B*)  
(NOTE: The Department may, at its discretion, approve PACT hours that are different from those the child was provided while in foster care.)

If the child is receiving third-party payments, the total amount of financial assistance benefit may not exceed the payment the child received, or would have been eligible to receive, while in family-based foster care.

**B. Medical assistance** (MassHealth), when approved as part of a state funded guardianship subsidy, is provided for coverage of the child's healthcare expenses. MassHealth may not be accepted by all medical providers in all states.

Children who receive federally supported guardianship assistance payments are categorically eligible for Title XIX medical assistance pursuant to 42 USC section 473(b)(3)(C) in the state where the child resides.

### **3. Approval of Guardianship Subsidies**

The Department determines the child's eligibility for either a state funded or federally supported guardianship subsidy and, if all eligibility requirements are met, the guardian(s) and the Social Worker are notified. The Subsidy Staff approves or disapproves the guardianship subsidy based on the information provided in the guardianship subsidy application, information from the Department Title IV-E eligibility system, and applicable federal and state policy. The Department will initiate subsidy benefits on or about the date the guardianship is legalized.

If, prior to the guardianship legalization, a guardian believes the Department failed to inform her/him of the availability of a guardianship subsidy, or the Social Worker failed to apply for such a subsidy, the guardian may submit a written request for a subsidy to the Department prior to the legalization of the guardianship. The Department will immediately process an application for guardianship subsidy and will not proceed to legalize the guardianship until the application process is complete and, if applicable, a signed agreement is executed by both parties.

In extraordinary circumstances, it may be appropriate to make the young adult who has been the subject of a guardianship subsidy the payee of a state funded subsidy. This decision must be approved by the Subsidy Manager and the Assistant Commissioner over adoption, foster care and adolescent services. If approved, a new Guardianship Subsidy Agreement must be completed and signed by the young adult as payee before payments are initiated.

### **4. Guardianship Subsidy Agreement**

In every case in which the Department provides guardianship subsidy, the Department and the prospective guardian must enter into a Guardianship Subsidy Agreement.

***The Guardianship Subsidy Agreement must be signed by the prospective guardian(s) and returned to the Subsidy Unit prior to the date of legalization of the guardianship, or the subsidy will be denied. Under no circumstances can a federally supported guardianship subsidy be approved after the legalization of the guardianship.***

The Guardianship Subsidy Agreement includes the following:

- type of subsidy and benefits (i.e., state funded or federally supported; financial assistance and/or MassHealth);
- amount of financial assistance;
- duration of subsidy;
- schedule for periodic verification of subsidy;
- terms for adjustment, suspension, or termination of subsidy;
- a notice that the Department may check recipients of guardianship subsidy with the Title IV-A and Title IV-D agencies to assist the Commonwealth with its federal reimbursement and to prevent fraud in Commonwealth programs.

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- in federally supported Guardianship Subsidy Agreements, notification that:
  - the Department will reimburse up to \$2000 of the total cost of any nonrecurring expenses associated with obtaining legal guardianship of the child; and
  - if the family moves from Massachusetts to another state, financial assistance and medical assistance benefits continue to be provided; and
  - the additional services and assistance for which the child and relative guardian will be eligible for under the agreement; and
  - the procedure for the relative guardian to apply for the additional services.

A federally supported subsidy cannot be changed without the prior written consent of the kinship guardian unless the Department becomes aware that:

1. *the kinship guardian is no longer legally responsible for the child*
2. *the kinship guardian is no longer providing support to the child; or*
3. *the kinship guardian or child has died.*

In a limited set of extenuating circumstances, a state supported guardianship agreement may be entered into after the guardianship has been legalized. The extenuating circumstances are limited to:

- a. the Department failed to submit or process an application for guardianship subsidy prior to the guardianship legalization;
- b. the Department failed to advise the guardian(s) of the availability of a guardianship subsidy before the child's guardianship is finalized;
- c. The Department failed to advise the guardian(s) of the requirement that the guardianship subsidy agreement must be signed and entered into prior to the allowance of the guardianship petition; or
- d. The Department was in the process of finalizing the guardianship subsidy application and a Court finalized the guardianship before the guardianship agreement could be signed by both parties.

### **5. Denial of Guardianship Subsidy**

If either a state funded or federally supported subsidy is denied, the prospective guardian(s) is notified, in writing, of the denial, including reason(s) for the denial and the right of the prospective guardian to appeal the denial decision through a fair hearing.

### **6. Extenuating Circumstances**

If, after a guardianship has been legalized, a guardian believes the Department failed to inform her/him of the availability of a guardianship subsidy, failed to inform her/him of the requirement that the guardianship subsidy agreement be executed prior to the guardianship legalization, the Department Social Worker (as applicable) failed to apply for such a subsidy prior to the legalization of the guardianship, or a Court finalized a guardianship before the Department completed its process of finalizing the guardianship application process, the guardian may submit a written request for a subsidy through the Department's subsidy unit. The Department's subsidy unit will process the application and if the family meets all the eligibility requirements for a state supported guardianship except the execution of the agreement prior to the legalization, a state supported subsidy will be approved and a subsidy agreement will be executed by both parties. The Department will provide the guardianship subsidy from a date beginning no earlier than the date the guardian notified the Department, in writing, that a subsidy was wrongly denied or withheld.

If the state supported subsidy is denied, the guardian(s) is notified, in writing, of the denial, including reason(s) for the denial and the right of the guardian to appeal the denial decision through a fair hearing.

## **7. Verification**

### **A. State Funded Guardianships**

In accordance with *Regulation* 110 CMR 7.303, the DEPARTMENT will conduct a **periodic verification** of the state funded guardianship subsidy, not less than one year after the subsidy initiation date, as stated in the Guardianship Subsidy Agreement.

The Department sends a Verification of Subsidy form to the guardian(s) at least 30 calendar days prior to the scheduled verification date. The verification requires the guardian(s) to provide updated information regarding the child's:

- current place of residence;
- school grade or level and expected graduation date (if applicable);
- request for an extension of subsidy, if child will soon reach age 18 and is/will be enrolled full-time in a school, vocational, or college program (including proof of enrollment);
- receipt of SSI or other third-party payments;
- request for continuation of PACT services [including written statement(s) from provider(s) of continued need for services].

The guardian(s) must complete and return the Verification of Subsidy form, with accompanying documentation (as required), to the Department within 30 calendar days after the date of receipt. The Department will inform the guardian in the letter that failure of the guardian to return the verification form and required documentation may result in the guardianship subsidy being suspended until such time as the verification form and documentation is received. The guardian will also be notified of their right to appeal via the fair hearing process the suspension of guardianship payments.

### **B. Federally Supported Guardianship Subsidies**

The Department will periodically verify the status of children receiving federally supported guardianship subsidies. The Department sends a Verification of Subsidy form to the guardian(s) at least 30 calendar days prior to the scheduled verification date. The verification requires the guardian(s) to provide updated information regarding:

- the child's and guardian's current place of residence;
- the child's school grade or level and expected graduation date (if applicable);
- confirmation that the guardianship has not been terminated;
- confirmation that the guardian continues to support the child;
- request for an extension of subsidy, if child will soon reach age 18 and meets the eligibility criteria set forth in 110 CMR 7.303(13).

The guardian(s) must complete and return the Verification of Subsidy form, with accompanying documentation (as required), to the Department within 30 calendar days after the date of receipt.

### **C. Suspension of Subsidy**

If the guardian(s) fails to return the Verification form to the Department within the stated timeframe, payment of the guardianship subsidy financial assistance benefits may be suspended until such time as the form is completed and all required information and documentation is received by the Department. If the Verification has not been responded to, and financial assistance benefits have been suspended for more than one year after the scheduled Verification date, the Department may terminate the subsidy.

Suspended guardianship subsidy financial assistance payments are resumed retroactively for up to one year if the guardian(s):

- contacts the Department within one year after the scheduled verification date; and
- provides the required verification information to the Subsidy Unit.

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The Department determines, on a case by case basis, the amount of financial assistance to be paid retroactively on a guardianship subsidy that has been suspended for more than one year after the scheduled verification date. Any retroactive payments over one year require the written approval of the Assistant Commissioner over foster care, adoption, and adolescent services.

The guardian has the right, and shall be informed of the right, to appeal the suspension of guardianship subsidy payments.

### **D. Reduction of Subsidy**

If the Department receives information that indicates a guardianship subsidy is no longer needed, or there has been a change in third-party payments received on behalf of the child, the amount of financial assistance may be adjusted accordingly. If third-party payments equal or exceed the amount of financial assistance, payment of financial assistance benefits is discontinued (although MassHealth coverage continues).

If the Department becomes aware of changes in the child's circumstances which would affect the financial assistance amount, and which the guardian(s) fails to report, the Department may adjust any future guardianship subsidy payments and/or take action to recover past subsidy payments incorrectly paid.

The Department notifies the guardian(s), in writing, of her/his right to appeal through a fair hearing the reduction or discontinuation of financial assistance as the result of information the Department has received.

## **8. Extension or Termination of Guardianship Subsidies**

### **A. STATE FUNDED**

**1. Extension** of state funded guardianship subsidy benefits may be requested by the guardian(s) for a young adult. The Department approves a request for subsidy benefits extension up to age 22, if the young adult is enrolled in a school, vocational, or college program.

The Department, at its option, may convert a federally supported subsidy to a state funded subsidy when a federally supported subsidy ends.

**2. Termination** of state funded guardianship subsidy benefits occurs when the child reaches age 18 (unless an extension has been approved).

A state funded guardianship subsidy may be terminated *before* the child reaches age 18, if the:

- guardian(s) fails to respond to a Verification of Subsidy notice for more than one year after the scheduled subsidy verification date;
- guardianship is revoked by a court ruling [guardian(s) no longer legally responsible for child]; or
- child or guardian(s) dies.

### **B. FEDERALLY SUPPORTED**

**1. Extension.** The DCF may extend federally supported guardianship subsidy benefits to young adults up to age 21 when the following criteria are met:

a) the young adult has a mental or physical handicap which warrants the continuation of assistance; or

b) the state has adopted the expanded definition of child pursuant to 42 USC 465 (8)(B) and

1. the guardianship subsidy agreement was entered into after the child turned age 16, and

2. after age 18 the young adult will be:

- completing secondary school (or equivalent); or
- enrolled in post-secondary or vocational school; or
- participating in a program or activity that promotes or removes barriers to employment; or
- employed 80 hours a month; or

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- determined incapable of any of the above due to a documented medical condition that meets federal requirements.

**2. Termination** of federally supported guardianship subsidy benefits occurs when the child reaches age 18 (unless an extension has been approved).

A federally supported guardianship subsidy may be terminated *before* the child reaches age 18, if the:

- guardian(s) fails to respond to a verification of Subsidy notice for more than one year after the scheduled subsidy review date;
- guardianship is revoked by a court ruling [the guardian(s) no longer legally responsible for child]; or
- child or guardian(s) dies.

### C. DOCUMENTAION

The Department will require documentation from the guardian to support a request for an extension of a guardianship subsidy over age 18 and may periodically require the guardian to provide documentation that the young adult over 18 continues to meet the criteria for an extended guardianship subsidy.

1. For an extension based on a mental or physical handicap, or based on the young adult being incapable of doing any of the activities outlined in 110 CMR 303(13)(2)(b)(i – iv), the Department will require documentation of the young adult's mental or physical handicap or condition by a licensed professional qualified to make the diagnosis.
2. For an extension based on the criteria set forth in 110 CMR 303 (13)(2)(b)(i-iv), the Department will require documentation from the school, program or employer verifying the young adult's enrollment, participation or employment including the amount of time the young adult is involved.

### D. NOTICE and APPEAL

The guardian(s) is informed, in writing, of the effective date of suspension, reduction or termination and the right to appeal the Department's decision to terminate the guardianship subsidy through a fair hearing. The Department will notify the guardian if its decision whether to grant or deny a request for an extension and if the extension is denied, the right to appeal the decision via the fair hearing. The guardian(s) does not have a right to appeal termination of subsidy if the guardianship has been revoked or if the child/young adult has reached age 18 (or age 21/22, for an extended subsidy).

### 9. Special Circumstance Regarding State Funded Guardianship Subsidies

If a party other than the Department sponsors the guardianship petition of an individual whom the DCF had identified as the intended guardian, the Department supports the goal of the petition, the child is in Department care or custody and the intended guardian is licensed by the Department, then Department must submit the required subsidy application prior to the guardianship being granted by the court.

In situations where the court did not allow time for the Social Worker to submit the guardianship application for an identified prospective guardian that Department intended to sponsor, the Director of Areas or Area Clinical Manager may submit a written request to the manager of the Subsidy Unit for a state supported subsidy application to be considered after the petition has been granted. Approval of such a subsidy requires the written approval of the Assistant Commissioner over foster care, adoption and adolescent services.

## **Procedures: Social Worker**

1. **Initiating a Guardianship Subsidy.** After a determination that guardianship is an appropriate permanency plan for the child, the Social Worker:
  - informs the prospective guardian(s) of availability of a state funded or federally supported guardianship subsidy;
  - completes a Subsidy Application on FamilyNet (a separate Application is completed on each child in a sibling group to be placed under guardianship in the same home); and
  - If the child is placed through an interstate compact authorization, the Social Worker submits a request through the Interstate Compact on the Placement of Children (ICPC) Unit to obtain the consent of the receiving state to finalize the guardianship.
2. **Referral of Application to Subsidy Unit.** The Social Worker forwards a “hard copy” of the completed Application to the Subsidy Office , along with the following attachments (as applicable):
  - copy of the Guardianship Petition and the Guardianship Plan to be filed in court. If these documents are not available when the application is initially sent, they should be forwarded to the subsidy office as soon as available;
  - if the child was first placed in care under a voluntary placement agreement, a copy of the first voluntary placement agreement;
  - “Quarterly Clothing Request” if quarterly clothing allowance is requested;
  - copy of current PACT Documentation Form, when continuation of PACT services is requested; and
  - copy of child’s birth certificate.
3. **Post-Approval Task.** After notification of approval of guardianship subsidy by the Subsidy Staff (see “Procedures: Subsidy Staff,” Procedure 1, below), the Social Worker documents the approval of a state funded or federally supported subsidy in dictation and reflects the decision in the Guardianship Plan filed with the court. Prior to the legalization of the guardianship, the Social Worker will verify that the guardianship agreement has been signed by DCF and the guardian.
4. **Notification that a Subsidy Application was not initiated.** If a guardian submits a written request for a subsidy to the Department prior to the legalization of the guardianship under section 3 of this policy, the social worker/supervisor will immediately process an application for guardianship subsidy and will not proceed to legalize the guardianship until the application process is complete and a signed agreement is executed by both parties.
5. **Legalization of Guardianship**

On or about the date the guardianship is legalized, the Social Worker:

  - closes the clinical/adoption case for the child named in the guardianship petition and for any other family members who will no longer receive Department services;
  - opens a new “guardianship legalized with subsidy” case on FamilyNet; and
  - transfers the new subsidy case, via FamilyNet, to the Subsidy Administrator. (See *Policy #85-001, Case Transfer Policy*)

## **Procedures: Subsidy Staff**

1. **Guardianship Subsidy Decision.** Upon receipt of a completed Subsidy Application from the Social Worker, the Subsidy Staff:
  - reviews the “Subsidy Application” and related documentation;
  - determines the child’s eligibility for a state funded or federally supported guardianship subsidy with the support of the Department revenue unit/provider; and

If guardianship subsidy is approved, the Subsidy Staff:



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- determines and documents the financial and/or medical assistance subsidy benefits, subject to the following provisions:
    - For a state funded subsidy, the assistance will not exceed the foster care benefits the child is receiving and may be less than requested.
    - For a federally supported subsidy, the type and amount will be negotiated with the prospective guardian(s) and the process will be documented on the Application.
  - establishes the verification date;
  - sends Notification of Subsidy Approval (with verification date) and 2 copies of the Guardianship Subsidy Agreement to the prospective guardian(s), within 45 working days after the Subsidy Application was received by the Subsidy Unit; and
  - notifies the Social Worker of guardianship subsidy approval, via electronic mail.
2. **Initiation of Guardianship Subsidy Benefits.** After the Social Worker transfers the new “legalized guardianship with subsidy” case to the Subsidy Unit, via FamilyNet, the Subsidy Administrator:
- accepts the case transfer;
  - initiates subsidy financial assistance payments, when approved, on or about the date of legalization of guardianship; and
  - arranges for MassHealth benefits to be initiated, if not provided to the child prior to guardianship.
3. **Guardianship Subsidy Denial.** When the child is determined to be ineligible for a state funded or federally supported guardianship subsidy, the Subsidy Staff informs the guardian(s) of guardianship subsidy denial, using Notification of Subsidy Denial, which includes:
- a statement of the reason(s) for subsidy denial; and
  - the right of the prospective guardian(s) to appeal the denial decision through a fair hearing.
4. **Notification that a Subsidy Application was not initiated.** If a guardian submits a written request for a subsidy to the Department after the legalization of the guardianship under section 6 of this policy, the Subsidy Administrator/designee will immediately process an application for guardianship subsidy, notify the guardian of the decision in writing. If the subsidy is approved the subsidy staff will execute a state funded guardianship subsidy agreement, arrange for MassHealth benefits to be initiated and arrange for initiation of subsidy financial payments back to the date the request for the subsidy was submitted to the Department.
5. **State Funded and Federally Supported Guardianship Subsidy Verification.** The Subsidy Staff provides for a Verification of Subsidy form to be sent to the guardian(s) at least 30 days prior to the verification date included in the Guardianship Subsidy Agreement. This will include notification that after the young adult reaches age 18 years, she/he may continue to receive a state funded or federally supported guardianship subsidy if she/he meets the criteria for such extensions established by the Department.

Upon receipt of a completed Verification of Subsidy form, the Subsidy Administrator follows the procedures for subsidy verification.

### **Procedures: Extension or Termination**

1. **Guardianship Subsidy Extension.**
- a. **State Funded:** Upon request by the guardian(s), the Subsidy Administrator/designee will review the request and the documentation provided by the guardian and may approve a state funded guardianship subsidy for a young adult who reaches age 18 years until age 22, provided the young adult meets the criteria established by the Department for such an extension of assistance to young adults receiving foster care.
  - b. **Federally Supported:** Upon request by the guardian(s), the Subsidy Administrator/designee will review the request and the documentation provided by the guardian and may approve a federally supported subsidy for a young adult who reaches age 18 years until age 21, provided the criteria for an extension are met.

**c. Notice:** The Subsidy Administrator/designee:

- verbally notifies the guardian(s) if subsidy extension is approved, sends a written notification and documents the extension on FamilyNet, including arranging for the guardianship subsidy to be changed from federally supported to state funded, as applicable, before any further payments are issued, or
- follows procedures for termination of the subsidy, if the request for extension of the subsidy is denied.

**2. Documentation**

On a periodic basis, the Subsidy Administrator/designee will request updated documentation to confirm the youth's continued enrollment in an approved educational, vocational or employment program or that she/he otherwise meets the required criteria for continued guardianship subsidy.

**3. Guardianship Subsidy Termination.** When the youth reaches age 18 (unless an extension has been approved) or other conditions for termination exist requiring termination of subsidy prior to age 18 (as stated in policy), the Subsidy Administrator/designee:

- notifies the guardian(s) of the effective date of termination of guardianship subsidy, using Notice to Guardian(s): Subsidy Reduction/Termination, which includes a statement of reason(s) for termination, in accordance with Department policy and regulations, and the right of the guardian(s) to appeal the termination decision through a fair hearing (unless the child has reached age 18 or the subsidy extension age limit); and
- documents the subsidy termination, in dictation, on the effective date.

## **Successor Guardians**

(a) When a guardian dies, or is no longer capable of caring for the child who is the subject of a guardianship subsidy, and a successor guardian is appointed by a court of competent jurisdiction, the Department may authorize a guardianship subsidy to be transferred to a successor guardian who lives within the state of Massachusetts. The subsidy provided will be a state guardianship subsidy and not a Title IV-E guardianship subsidy. A successor guardian should make the request to the Department's subsidy unit. The subsidy unit will notify the family resource unit of the area office covering the successor guardian's home.

Prior to the subsidy being transferred the Department will:

1. Conduct a background check of the successor guardian, which includes both a check of the Criminal Offender Record Information system and the Department's statewide automated child welfare information system to determine whether the successor guardian has any background which might impair his/her ability to assume and carry out the responsibilities of being the child's guardian; and
2. Conduct a home visit with the successor guardian and complete a physical standards review of the home.

(b) The determination of whether to transfer the subsidy to a successor guardian is solely with the discretion of the Department is subject to appropriation and it not the subject for a fair hearing.

## **Non-Recurring Guardianship Expenses**

The DCF will make a one time payment to the proposed kinship guardian of a child in the Department's care or custody who is eligible for a Title IV-E guardianship subsidy, to reimburse the family for expenses directly related to the child's guardianship. The child's guardianship must be sponsored through a placement made by the Department, or an agency under contract with the Department.

Non recurring guardianship expenses may include reasonable and necessary guardianship fees, court costs, attorney fees and other costs directly related to the guardianship and which are not incurred in violation of law, but shall not include out of pocket expenses for which the family may be or has been

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reimbursed by other sources. The Department will pay up to \$2000 of nonrecurring guardianship expenses for a Title IV-E kinship guardianship and up to \$400 for nonrecurring guardianship expenses for a state guardianship.

The prospective guardian will be required to submit the request for nonrecurring guardianship expenses following the child's guardianship being finalized.

### **Procedures for Request for Nonrecurring Guardianship Expenses**

1. The prospective guardian submits a request to the Department Subsidy Office on a form established by the Department, which will outline the anticipated expenses along with receipts of the expenses.
2. The Subsidy Administrator will review the request to determine if it falls within the criteria for a reimbursable expense.
3. The Subsidy Administrator will notify the prospective guardian of its decision.
4. The Department will process the payment for those expenses agreed upon not to exceed \$2000 for Title IV-E guardianship and \$400 for state guardianship for which adequate documentation has been submitted.