

# Subsidized Guardianship

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	<u>Page</u>
<b>Overview .....</b>	<b>1</b>
Legal Basis .....	1
Definitions.....	1
<b>Guardianship and Guardianship Subsidy .....</b>	<b>3</b>
Best Interest of the Child.....	4
Residual Parental Rights .....	4
<b>Assessing a Potential Guardian .....</b>	<b>4</b>
Transition Planning Services .....	5
Iowa Aftercare Services Program .....	5
Education and Training Vouchers .....	5
Responsibilities of the Guardian.....	5
<b>Recommendation for Guardianship.....</b>	<b>6</b>
<b>Eligibility for Guardianship Subsidy .....</b>	<b>7</b>
<b>Case Plan Requirements.....</b>	<b>7</b>
<b>Setting Up a Subsidy .....</b>	<b>8</b>
Application.....	9
Negotiating the Subsidy Amount.....	9
Receipt of Court Order.....	10
Subsidy Agreement.....	10
Non-Recurring Expenses .....	10
Special Services Subsidy Supports.....	11
Notice of Decision .....	11
Data System Entry .....	11
<b>Maintaining a Subsidy Case .....</b>	<b>12</b>
Placement Outside the Guardian’s Home.....	12
Review of Subsidy .....	12
Review of Eligibility After Age 18 .....	13
Successor Guardian.....	14
Guardian Family Moves Out of Iowa .....	15
Suspension of Subsidy .....	15
Termination of Subsidy.....	16
Reinstatement.....	17
<b>Post-Guardianship Support Services .....</b>	<b>17</b>
<b>Medicaid Eligibility.....</b>	<b>17</b>
<b>Appeals.....</b>	<b>18</b>

## **Overview**

This chapter describes the guardianship subsidy program. The subsidy provides financial assistance to guardians of eligible children. Children who receive a guardianship subsidy are eligible for Medicaid.

The following eligibility criteria must be met for guardianship subsidy:

- The child is either:
  - Ten years of age or older and consents to the guardianship, or
  - Part of a sibling group with a child aged 10 or older.
- The child aged 14 or older consents to the guardianship.
- The child has lived in a licensed family foster care with the proposed guardian for at least six consecutive months.
- The child has a documented permanency goal of
  - Guardianship, or
  - Another Planned Permanent Living Arrangement (APPLA).
- The proposed guardian is a licensed foster family.

Children are eligible to receive a guardianship subsidy if all conditions are met. The Department must do an assessment to ensure that the child and guardian meet all eligibility criteria, as described in this chapter. The proposed guardian need not reside in Iowa.

Children who receive a guardianship subsidy are eligible for Medicaid.

## **Legal Basis**

The legal basis for this chapter includes:

- Iowa Code sections 232.117, 234.6, and 249A.4
- Iowa Code section 232.104(2)“d”(1), 232.104(6), 232D and 633.552
- 1999 Iowa Acts, Chapter 203, section 15, subsection 9
- 2006 Iowa Acts, House File 2734, section 17, subsection 10
- 441 Iowa Administrative Code Chapter 204, “Subsidized Guardianship Program”
- Social Security Act sections 472 and 473(d)(3)

## **Definitions**

Legal reference: 441 IAC 204.1(2)(234)

**“Child”** means either a person less than eighteen years of age or a person eighteen, nineteen or twenty years of age who has qualified for continued guardianship subsidy due to the child’s physical, intellectual, or mental health disability.

**“Department”** means the Iowa Department of Health and Human Services.

**“Guardian”** means a person who is not the parent of a child, but who has been appointed by a court or juvenile court having jurisdiction over the child to:

- Have a permanent self-sustaining relationship with the child, and
- Make important decisions that have a permanent effect on the life and development of that child and to promote the general welfare of that child.

Unless otherwise enlarged or circumscribed by a court having jurisdiction over the child or by operation of law, the right and duties of a guardian with respect to a child are as follows:

- To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.
- To serve as guardian ad litem, unless the interests of the guardian conflict with the interests of the child or unless another person has been appointed guardian ad litem.
- To serve as custodian, unless another person has been appointed custodian.
- To make periodic visitations if the guardian does not have physical possession or custody of the child.
- To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.
- To make other decisions involving protection, education, and care and control of the child.
- Make an annual report to the court.

**“Guardianship subsidy”** means a monthly payment to assist in covering the cost of room, board, clothing, and spending money for the child.

**“Relative”** means, for the purpose of this chapter only, a person to whom a child is related by blood, marriage, or adoption; or a person who has a significant, committed, positive relationship with the child, otherwise known as fictive kin.

**“Residual parental rights and responsibilities”** means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person of the child. These include but are not limited to the right of visitation, the right to consent to adoption, and the responsibility for support.

**“Recruitment, Retention, Support and Training (RRTS) Contract”** means the statewide contractor responsible for activities related to licensing foster families and approving adoptive families; providing support services to foster and pre-adoptive families; conducting pre-service and in-service training; and assistance in matching children in need of foster home care as well as identifying adoptive homes for children legally available for adoption. Contractor is also responsible for providing post adoption and guardianship services.

**“Sibling group”** for the purpose of this chapter, means at least two children who are a whole or half-siblings, including adopted children, with a common parent.

## **Guardianship and Guardianship Subsidy**

The Subsidized Guardianship Program provides financial assistance to caregivers who agree to be the legal guardian for a youth who is in foster care. Guardianship is a safe alternative to adoption, providing permanency for the youth without requiring formal termination of parental rights. Guardianship offers the following benefits to children in foster care and their caregivers:

- Family structures remain intact.
- Children have a committed, permanent caregiver.
- Caregivers have an option other than adoption.
- Children do not have to choose adoption over maintaining family connections.
- Guardianship cannot be changed without the consent of the court.
- Guardianship subsidy provides financial assistance to caregivers, removing barriers to permanency.

The Department does not provide ongoing case management, supervision, and oversight.

Placement with a legal guardian may be appropriate if a child is unable to return home in the foreseeable future and adoption is not possible because either:

- The child will not consent to adoption,
- Parental rights cannot be terminated,
- The child continues to benefit from the relationship with the birth family, or
- The prospective guardians are not willing to adopt the child, even though there is a strong and beneficial emotional bond between them.

Before guardianship is recommended, assess the family for the following:

- The prospective guardian's ability to nurture the child.
- The safety and stability of the prospective guardian's home.
- The prospective guardian's understanding of the role expected.
- The prospective guardian's relationship and interactions with the child's biological family and kinship connections.

NOTE: Please refer to [Comm. 653 Process to Successfully Effectuate a Subsidized Guardianship](#) to assist with the specifics of the Court and HHS process.

- The prospective guardian's willingness to make a long-term commitment to the child, beyond termination of the guardianship.
- The child's need for ongoing services.
- The support of the birth parents for the guardianship.

Conduct a Solution-Focused Meeting (SFM) to do a comprehensive evaluation of these issues.

All members of the team need to be prepared for meaningful participation in the meeting by gaining an understanding of the guardianship permanency option and its effects on the child's future and the parents' rights and responsibilities.

Guardianship is established in Juvenile Court for families and children residing both in the State as well as out of State. Ongoing monitoring of the subsidized guardianship case is performed by the Juvenile Court.

### **Best Interest of the Child**

The recommendation of guardianship as the child's permanency goal is appropriate when guardianship will assure the child's safety and is consistent with the well-being and permanency needs of the child. Guardianship may be in the child's best interests if the following factors have been considered:

- The wishes of the child's prospective guardian,
- The wishes of the child age 10 or older,
- The interaction and interrelationship of the child with
  - The birth parents, when applicable, and
  - The prospective guardian;
- The child's adjustment to the present home, school and community,
- The role of the prospective guardian in providing stability and continuity of relationships for the child, **and**
- The mental and physical health of all individuals involved.

A guardianship placement does not receive Departmental supervision. Children who have ongoing needs which require child welfare services through the Department at the time of referral should not be referred for subsidized guardianship.

### **Residual Parental Rights**

Legal reference: Iowa Code Section 232.2(47), 441 IAC 204.5(234)

Parental residual rights and responsibilities are not affected by guardianship unless parental rights have been terminated. It is important to inform the child's parents that the court can define or limit their rights through the guardianship order when their parental rights are intact. Rights that may be affected include visitation, consent to adoption, and payment of support.

Guardianship subsidy payments are considered foster care payments for purposes of child support recovery and, as such, create a support debt for the child's parents.

### **Assessing a Potential Guardian**

A potential guardian for a child may be the child's foster (resource) parent, a relative or a non-related person with whom the child has a relationship. Consider the following factors to determine the appropriateness of a person to be a child's guardian:

- The best interest of the child.
- The potential guardian's ability to nurture the child.
- The degree of the potential guardian's commitment to the long-term care of the child.
- The potential guardian's understanding of the role expected and attitude toward the child's family.
- Record checks.
- Explore with the potential guardian how the guardian's responsibilities will affect the guardian's relationship with the child as well as the child's biological family.

## **Transition Planning Services**

Children who enter guardianship subsidy at age 16 are eligible for some transition services when they reach age 18 if the child is not eligible for continuing subsidized guardianship payments until age 21.

## **Iowa Aftercare Services Program**

The Iowa Aftercare Services Program serves youth aged 18-23 who have aged out of foster care. In addition, those who enter Subsidized Guardianship or who are adopted from Iowa foster care at age 16 or older can receive aftercare services when they reach age 18. Aftercare provides a variety of life skills and case management services. Some participants receive financial assistance in the form of “vendor payments” for housing, education, employment, or other needs associated with their goals. Aftercare information should be provided to families entering into Subsidized Guardianship agreements for children aged 16 and older. Youth who exit foster care to Subsidized Guardianship are not eligible for Preparation for Adult Living (PAL) payments. PAL is only available to youth who exit state paid foster care at age 18 or older.

More information is provided at the link below:

<https://www.iowaaftercare.org/Services.html>

## **Education and Training Vouchers**

Children who enter Subsidized Guardianship from Iowa foster care after reaching at age 16 or older are eligible to receive Education and Training Voucher (ETV) funds, which pay for college and training. The ETV program provides up to \$5,000 a year for tuition and housing, when an eligible youth is attending an accredited educational institution. ETV information should be provided to families entering into subsidized guardianship agreements for children aged 16 and older. More information is provided at the link below:

<https://www.iowacollegeaid.gov/ETV>

## **Responsibilities of the Guardian**

A guardian’s general responsibilities are listed under [Definitions](#). By signing a [Guardianship Subsidy Agreement, form 470-3631](#), the guardian also agrees to:

- Report any unearned income of the child to the Department and provide documentation from any source of the child’s unearned income.
- Find and use services available free of charge to meet the needs of the child.
- Complete medical review forms at least yearly or more often if requested.
- Participate in the annual court review by completing the [Guardian’s Annual Report for Protected Person form](#) for the court’s review, and to provide a copy of the report to the Department.
- Name a successor guardian in the event they are unable to continue as guardian due to death or incapacitation.

- Notify the Department in the event of any of the following:
  - The child no longer lives with the guardian.
  - The child marries, enlists in the military or dies.
  - The terms of the [Guardianship Subsidy Agreement, form 470-3631](#) are concluded.
  - The guardian requests ending the guardianship payment.
  - The guardian is incapacitated and can no longer discharge the responsibilities necessary to protect and care for the child, and a successor guardian was not named in the [Guardianship Subsidy Agreement, form 470-3631](#).
  - The guardian fails to abide by the terms of the [Guardianship Subsidy Agreement, form 470-3631](#).
  - The guardianship is terminated by court order.

The guardian should designate a person to notify the Department in the event of the guardian's death.

### **Recommendation for Guardianship**

A recommendation in the Department's case plan for guardianship to the court must include clear and convincing evidence that:

- Services were offered to the child's family to correct the situation that led to the child's removal;
- The child cannot be returned home;
- An adoption would not be a viable permanency option;
- The birth parents support the guardianship recommendation if parental rights have not been terminated; Or the efforts made to discuss guardianship with the youth's parents or the reason efforts were not made;
- The child is not in need of child welfare services;
- The Solution Focused Meeting (SFM) recommendation is for guardianship;
- The child has been living with the prospective guardian for the past six consecutive months in a family foster care placement;
- The prospective guardian has a significant relationship with the child and demonstrates a willingness to make a long-term commitment to the child's care;
- The child has agreed to the guardianship and displays a bonded relationship with the proposed guardian;
- The assessment of the prospective guardian shows that:
  - The guardian can meet the needs of the child and
  - The guardian's home is safe and stable; and
- Guardianship is in the best interest of the child.

It is important for the child and the parents to understand what guardianship means for the child's future and for the parents' right and responsibilities. The parents must understand and should support the plan for guardianship of their child; however, it is ultimately up to the court.

NOTE: Consult with all youth, age 10 and older, and at younger ages when appropriate, regarding entering into a subsidized guardianship living arrangement. Youth should also give legal consent when needed at the time of the entry of the guardianship order to meet Iowa Code requirements. However, if the youth is not able to legally consent to the guardianship due to a cognitive or other impairment, discuss alternatives with the youth's guardian ad litem, including the willingness of the guardian ad litem to legally consent on the youth's behalf.

### **Eligibility for Guardianship Subsidy**

Legal reference: Iowa Code Section 232.104(2)(d)(1), 441 IAC 204.2(234)

The guardian named in a permanency order for a child who was previously in the custody of the Department is eligible for subsidy when all the following conditions exist:

- The Department has determined the option of reunification has been eliminated and termination of parental rights is not appropriate or parental rights have been terminated and adoption has been determined not to be a viable option for the child.
- The child has a documented permanency goal of guardianship, or another planned permanent living arrangement (APPLA).
- The child has lived in continuous family foster care with the prospective guardian for the six consecutive months before initiation of the subsidized guardianship.
- The child is either:
  - Ten years of age or older and consents to the guardianship;
  - Part of a sibling group with a child aged 10 or older
- The prospective guardian is a licensed foster parent who has a significant relationship with the child(ren) and demonstrates a willingness to make a long-term commitment to the child(ren)'s care.
- For the purposes of subsidized guardianship only, a relative is defined as a person to whom a child is related by blood, marriage, or adoption, or a person who has a significant, committed, positive relationship with the child.
  - Placement with that guardian must be in the best interest of the child. The best interest determination must be documented in the case plan.
- A child part of a sibling group with a child 10 years of age or older may be eligible for subsidy if all criteria are met. The following conditions for the younger sibling shall be met:
  - The sibling is placed as a foster child in the same prospective guardian home.
  - The guardian and the Department agree it is appropriate for guardianship to be granted for the sibling.

### **Case Plan Requirements**

When the decision to pursue guardianship subsidy is made, the case plan must be updated to describe the following:

- How the child meets the eligibility requirements;
- The steps taken to determine that return to the home or adoption is not appropriate;

- The efforts made to discuss adoption with the child's prospective guardian and the reasons why adoption is not an option;
- The efforts made to discuss guardianship with the child's parent or parents or the reasons why efforts were not made;
- The reason why a permanent placement with a prospective guardian and receipt of a guardian assistance payments is in the child's best interests; and
- The reasons for any separation of siblings during placement.
- If the child's placement with the prospective relative guardian does not include siblings, the case plan must also include a description of the reasons why the child is separated from siblings during placement.

### **Setting Up a Subsidy**

Legal reference: 441 IAC 204.2(234), 441 IAC 204.3(234)

To set up a guardianship subsidy for a qualified child and guardian, you must:

- [Receive an application from the guardian](#), form 470-3632
- [Negotiate the amount of subsidy payment](#).
- [Complete a subsidy agreement with the guardian](#), form 470-3631
- [Send a notice of decision](#), form 470-5613
- [Make data system entries](#).
- [Receive the court order for guardianship](#).
- Compile a guardianship file to be housed in the local field office and managed by the assigned guardianship subsidy worker.

The following should be included in the subsidized guardianship case file:

- Attorney bill (if applicable)
- Completed *Notice of Decision*, form 470-5613
- Completed and signed *Subsidized Guardianship Application*, form 470-3632
- Completed and signed *Subsidized Guardianship Agreement*, form 470-3631
- *Initial Foster Care Placement Agreement*, form 470-0716
- Court order with guardianship appointments
- Letters of Appointment
- Case Plan completed for the court hearing recommending subsidized guardianship with the following information:
  - Current permanency goal (subsidized guardianship)
  - How the youth meets eligibility for the program, including the requirement of that the child has been placed in the home for foster care with the potential guardian for six consecutive months prior to initiation of the guardianship agreement.
  - The youth is age 10 or older and consents to the guardianship or is a member of a sibling group with a sibling at least age 10 that has consented to the guardianship.
  - Steps taken to determine reunification or adoption is not appropriate.
  - Efforts made to discuss adoption with the relative foster parent and why adoption is not an option.

- Efforts made to discuss guardianship with the youth's parents or reason efforts were not made.
- The reason why guardianship and guardianship subsidy are in the youth's best interest.
- The reasons for any separation of siblings during placement.
- Child's Birth Certificate
- Child's Social History (if one is available)
- Resource Family's Home Study
- Pertinent Psychological information on the child

### **Application**

Legal reference: 441 IAC 204.3(234)

Application for guardianship subsidy can be made any time before the guardianship hearing that names the applicant as guardian. The applicant must submit form 470-3632, *Guardianship Subsidy Application* to any local office of the Department. The applicant may reside outside of Iowa.

The Department determines whether a child meets eligibility requirements.

### **Negotiating the Subsidy Amount**

Legal reference: 441 IAC 204.4(234)

The Department must negotiate the amount of subsidy with the guardian. The subsidy payment is made monthly and is based on a flat rate. Base the amount on the needs of the child and the circumstances of the family.

The subsidy shall not exceed the current daily basic foster care rate plus any daily special needs allowance the child received in foster family care. Clothing allowance, transportation, school fees, and respite care, etc. are not funded services through guardianship subsidy.

Base the decision regarding a special needs allowance on available documentation of the special needs of the child. Use of form 470-4401, *Foster Child Behavioral Assessment* to help establish a special needs rate while the child is in foster care status prior to guardianship is appropriate. Add any pertinent documentation to the child's file. Use the family's medical insurance, Medicaid, or any services available free of cost before expending subsidy funds.

The Department will enter into the agreement based upon available funds. If you cannot reach an agreement with the family on a negotiated amount of subsidy, inform the family of their right to appeal the decision or to request an exception to policy.

Guardianship subsidy payments will be made on the first of the month for the month. The first payment will be prorated if the guardianship order is entered after the first of the month.

Once negotiations are complete with a proposed rate, the family will make application for the subsidized guardianship program by completing and signing form number 470-3632, *Guardianship Subsidy Application* with the SWCM. The application is reviewed and approved by the SWCM supervisor. The application form number 470-3632, *Guardianship Subsidy Application* should be signed by the prospective guardian(s) and approved by the designated department staff prior to the final court order establishing the approval of the subsidized guardianship.

### **Receipt of Court Order**

Only the court has the jurisdiction to award guardianship. The subsidy cannot begin until the court order is issued. Order should be issued according to Iowa Code 232D, Minor Guardianships.

If the court does not award guardianship, reassess the case every six months.

### **Subsidy Agreement**

The *Guardianship Subsidy Agreement*, form 470-3631 establishes the terms of a subsidy for the guardianship placement of the child. Explain the provisions of the agreement to the guardian and child.

When negotiations are completed, and the subsidized guardianship application has been approved the guardian and the Department SWCM shall complete and sign the *Subsidy Agreement*. The *Guardianship Subsidy Agreement* form 470-3631 is signed and approved by the assigned SWCM's supervisor or approved representative of the department. The *Guardianship Subsidy Agreement* form 470-3631 must be signed and approved prior to the Juvenile Court entering an order for subsidized guardianship. Both the approved *Guardianship Subsidy Agreement* form 470-3631 and the *Guardianship Subsidy Application* form 470-3632 should be provided to the Court as part of the recommendation from the Department for Subsidized Guardianship.

The *Guardianship Subsidy Agreement* form 470-3631 must be completed and signed before any subsidy payment can be authorized. The agreement shall be negotiated prior to the order of guardianship. Payments shall not begin until the guardianship order is entered by the Juvenile Court. The agreement is signed by the prospective guardian and a representative of the department.

Each time negotiations are completed, the *Guardianship Subsidy Agreement*, form 470-3631, shall be completed and signed by the guardian and the Department SWCM and the SWCM's supervisor or approved representative of the department

### **Non-Recurring Expenses**

Guardians may be reimbursed expenses related to finalizing the guardianship. This includes reasonable and necessary guardianship fees, court costs, attorney fees, and other expenses incurred by the proposed guardian that are directly related to finalizing the legal guardianship of a child. These expenses shall be limited to attorney fees, court filing fees and other court costs and the total costs cannot exceed \$2,000.00

NOTE: Federal law prohibits setting the maximum reimbursement lower than \$2000.00

## **Special Services Subsidy Supports**

Guardians may be eligible for special services supports paid by guardianship subsidy funds. These supports include:

- Outpatient individual or family services provided from a non-Medicaid provider only with approval from the service area manager or designee and when one of the following applies:
  - The services are not available for a Medicaid provider within a reasonable distance from the family.
  - The child and the family were receiving therapy or counseling from a non-Medicaid provider and it would not be in the child's best interest to disrupt the services.
  - Available Medicaid providers experienced in working with foster, adopted, or blended families.
- Travel-related expenses including transportation, meals and lodging not covered by Medicaid for visitation or family therapy when the child is receiving Medicaid-paid services out of the home.
- Supplies and equipment as required by the child's special needs and unavailable through other resources.
- Funeral benefits at the amount allowed for a foster child in accordance with rule 441—156.8(234).

Any single special service and any special service delivered over a 12-month period costing \$500 or more shall have prior approval from the central office subsidized guardianship program manager prior to expending program funds.

For all Medicaid-covered services, the department shall reimburse at the same rate and duration as Medicaid as set forth in rule 441—79.1(249A).

Any special service payments shall be written into the subsidized guardianship agreement.

## **Notice of Decision**

Notify the guardian and child regarding the guardian's eligibility for the program using form 470-5613, *Notice of Decision*. Complete the *Notice of Decision* following initial determination.

## **Data System Entry**

Complete data system entries to initiate payment of the subsidy. Open the subsidy case when the foster care case is closed at the time of the approval of the subsidized guardianship order by the Juvenile Court to ensure that there is no interruption in medical coverage for the child. Entry directions are found in the [FACS Desk Aid](#). Update the data system as needed to reflect child's and guardian's circumstances correctly.

Service areas will determine who will manage the ongoing guardianship subsidy case. Transfer the case to the identified worker.

NOTE: The Department will continue to collect child and medical support on behalf of a child in a subsidized guardianship placement. Since these children come directly from a foster care placement, make a new referral to Child Support Recovery (ICAR).

## **Maintaining a Subsidy Case**

Legal reference: Iowa Code Section 232.104(6)

The court maintains jurisdiction of guardianship cases established under a permanency order and annually reviews the order to ascertain whether the best interest of the child is being served. The guardianship subsidy worker should request a copy of the Guardian's Annual Report for Protected Person, available from <https://iowacourts.gov/for-the-public/court-forms/>, Rule 8.37 Forms 1-6 under the **Guardianship** heading.

Send a *Notice of Decision*, form 470-5613, to notify the guardian of the eligibility determination.

## **Placement Outside the Guardian's Home**

Legal reference: 441 IAC 204.4(3)

If a child needs to be placed out of the guardian's home for treatment and the plan is for the child to return to the guardian's home, a partial subsidy amount may be negotiated to cover such areas as mileage to attend therapy sessions, meals, and overnights, as necessary. The guardian must agree to any reductions in guardianship subsidy payments.

## **Review of Subsidy**

Legal reference: 441 IAC 204.3(4), 441 IAC 204.3(5)

A child's guardian is required to submit an annual report to the court, documenting the child's living situation. The guardian must provide a copy of the Guardian's Annual Report for Protected Person to the Department guardianship subsidy worker available from <https://iowacourts.gov/for-the-public/court-forms/>, Rule 8.37 Forms 1-6 under the **Guardianship** heading. As of this writing, the Oath is not listed on this page. The Department guardianship subsidy worker will review the child's ongoing eligibility, the needs of the child and the child's unearned income. Reviews may be done more often if needed.

A child's guardian may request a review of subsidy when there has been a substantial change in the child's circumstances. The guardian must submit a request in writing and providing the following information:

- Sufficient detail to describe the change in the child's needs.
- The services and support that are in place, and progress made with services.
- Additional services or supports the child may need.
- How the additional funds will be used to support the child's increased needs.
- Provider reports or independent documentation of the child's needs.

The information is reviewed to determine if an increase in subsidy is warranted. A new form [470-3631, Guardianship Subsidy Agreement](#) must be completed when there is a change to the rate other than an across the board adjustment.

## **Review of Eligibility After Age 18**

Legal reference: 441 IAC 204.3(5)

Determination of eligibility after age 18.

Upon the child's reaching the age of 18, the subsidy may continue until the child completes courses leading to a high school diploma or equivalency or reaches the age of 21.

Documentation of school enrollment and completion shall be provided by the child's guardian. If a youth is determined to be eligible for continued subsidy after age 18 due to working toward courses leading to a high school diploma or equivalency, funds are not IV-E eligible and payments to the family will be all state dollars.

In addition, the department shall review the [Guardianship Subsidy Agreement, form 470-3631](#) when the child reaches the age of 17½ to determine whether the child is eligible to receive subsidy to the age of 21 due to the child's physical, intellectual, or mental health disability.

- A disability shall be diagnosed by a physician, a qualified mental health professional or a qualified intellectual disability professional.
- The diagnosed disability shall be current within one year prior to the child's 18<sup>th</sup> birthday.
- Documentation of the child's diagnosed disability shall be provided by the child's guardians to the department to make the determination of continued eligibility to the age of 21

Definition of qualifying disabilities for continuing subsidized guardianship after age 18:

- A disability requires the youth to have ongoing adult support in one or more areas of their life. Youth may have behaviors or needs that are outside what would be considered typical for their peers, but not be disabled.
- A youth has a diagnosis of major depression. The youth is often withdrawn and minimally socially active, but is able to manage medication on their own, takes care of daily their hygiene, will graduate from high school on time, is planning on attending college and regularly attends therapy. This youth would not be considered disabled.
- Another youth has the same diagnosis but misses school because the youth cannot not get out of bed, has poor grades, needs daily medication monitoring, refuses therapy and has been hospitalized three times in eight months for suicidal ideation. This youth may be considered disabled due to the need for ongoing supervision and monitoring for potential suicidal ideations or attempts.

Send a letter to the family when the youth turns 17½ requesting documentation of the youth's disability. Parents must provide written documentation to the department prior to the youth turning 18.

Review the documentation for the following:

- The youth's diagnosis.
- How the youth's diagnosis impacts their daily living. Give consideration to the following:
  - Education – Is the youth attending school, working at grade level, and expected to graduation high school on time?
  - Employment – Does the youth have a job or employment history?
  - Daily living – Is the youth able to manage living skills such as self-care, and basic household chores without assistance? Is the youth able to manage money?
  - Social skills – Is the youth able to form age-appropriate peer relationships and maintain relationships?
  - Behaviors – Does the youth exhibit behaviors that could be a danger to themselves or to others? Do they exhibit irrational behaviors or impulsive behaviors?
  - Health – Does the youth have serious medical needs that require ongoing monitoring and follow-up care?

After consideration of all the available information, determine if the youth meets criteria for having a diagnosed disability that will allow subsidy to continue after age 18. Issue a [Notice of Decision, form 470-5613](#) to inform the family of the decision.

If the family fails to respond or provide documentation, issue a *Notice of Decision* terminating the guardianship subsidy.

If the family submits documentation after the youth turns 18, inform the family they will need to submit a request for an exception to policy. Provide information on the process for submitting the request.

### **Successor Guardian**

Legal reference: 441 IAC 204.4(2)“c”

A guardian may name a successor guardian should the guardian become incapacitated or if the guardian dies. If a successor is named, the successor must be named on the [Guardianship Subsidy Agreement, form 470-3631](#). The successor must obtain guardianship from the court for payments to continue. The child is not required to have lived with the successor prior to the guardianship order. The successor does not have to be a licensed foster parent or be a relative as defined in this chapter.

The successor guardian must complete background checks prior to payments being approved.

The successor guardian should be referred to the local RRTS provider responsible for foster care and adoption approval to complete the following background checks:

- Background checks required by Iowa Code, the Adam Walsh Child Protection and Safety Act of 2006 (PL 109-248) and the Child Abuse Prevention and Treatment Reauthorization Act of 2010 (P.L. 111-320).
- Iowa criminal, child abuse, and sex offender registry checks for the prospective guardian as well as each adult and child age 14 years and older residing in the home.

- Fingerprint-based checks of the National Crime Information Database for each adult applicant. The RRTS provider shall conduct fingerprint-based checks of any other adults residing in the home of the prospective guardian family home for initial applications.
- Out-of-state child abuse checks for all prospective guardian parents and any other adult living in the home in any state where the person lived during the previous five years.

A new [Guardianship Subsidy Agreement, form 470-3631](#) must be negotiated with the successor guardian. Payments will begin effective the later of the date the [Guardianship Subsidy Agreement, form 470-3631](#) is signed by the successor guardian and a representative of the Department.

### **Guardian Family Moves Out of Iowa**

The [Guardianship Subsidy Agreement, form 470-3631](#) remains in effect if the family moves out of the state of Iowa.

### **Suspension of Subsidy**

Legal reference: 441 IAC 204.6(234)

Eligibility for continuation of guardianship subsidy shall be evaluated when the department has good cause to suspect the guardian is not providing financial support, or is no longer legally responsible for the child.

Good cause includes, but is not limited to, the following circumstances:

- The child is placed in out-of-home care under Iowa Code chapter 232.
- A person alleges the guardian is not providing financial support to the child.
- A person other than the guardian is awarded legal custody of the child.
- A person other than the guardian is appointed as the guardian of the child.
- The child has applied for food assistance or other benefits.
- The child has not resided with the guardian for the past 30 consecutive days.
- The guardian is incarcerated.
- The guardian is awaiting trial for criminal charges related to harm caused to a child in the home.

The department shall contact the child's guardian via letter, telephone, electronic, or other means and document such efforts if an evaluation is determined to be necessary.

If such an evaluation occurs, the child's guardian shall provide documentation of support, including receipts, to the department upon request.

Upon completion of the department's evaluation of the child's continued eligibility for guardianship subsidy, the department shall issue [Notice of Decision, form 470-5613](#) to the guardian documenting required ongoing actions by the guardian, including an expectation of continued cooperation by the guardian to provide documentation of ongoing support to the child at the request of the department.

The department shall suspend guardianship subsidy payments if the guardian refuses to cooperate with any department evaluation designed to determine legal responsibility for the child or to determine whether the guardian is providing financial support for the child.

In the event the evaluation has determined the guardianship subsidy payment will be suspended, modified, or terminated, the department shall notify the guardian with proper notice, using [Notice of Decision, form 470-5613](#). When the child has resided out of the guardian's home for 30 consecutive days, the department shall request a renegotiation of the [Guardianship Subsidy Agreement, form 470-3631](#) with the guardian to reduce or suspend payments as agreed to by the guardian.

If the guardian is not cooperative, or it cannot be determined that the guardian is providing financial support, or it cannot be determined the guardian is legally responsible for the child, suspend payments until the guardian becomes cooperative or a determination can be made. A [Notice of Decision, form 470-5613](#) must be sent to the guardian stating the guardianship subsidy payments are suspended, the reason for the suspension, and what the guardian must do in order to reinstate payments.

### **Termination of Subsidy**

Legal reference: 441 IAC 204.7(234)

Terminate subsidy when any of the following occur:

- The child reaches the age of 18, unless the department determines that the subsidy may continue until the child reaches the age of 21 to facilitate the child's completion of high school or a high school equivalency diploma; or the Department determines the child is eligible to receive subsidy to the age of 21 due to the child's physical, intellectual, or mental health disability.
- The child marries or enlists in the military.
- The child no longer lives with the guardian, except for placement outside of the guardian's for treatment and the plan is for the child to return to the guardian's home.
- The relationship ends due to the death of the child or the death of the guardian of the child (one in a single-parent family or both in a two-parent family).
- The death of the guardian when a successor guardian is not named in the [Guardianship Subsidy Agreement, form 470-3631](#).
- The terms of the [Guardianship Subsidy Agreement, form 470-3631](#) are concluded.
- The guardian requests that the guardianship payment cease.
- Due to incapacity, the guardian can no longer discharge the responsibilities necessary to protect and care for the child, the guardianship has been or will be vacated, and a successor guardian was not named in the [Guardianship Subsidy Agreement, form 470-3631](#).
- The guardian fails to abide by the terms of [Guardianship Subsidy Agreement, form 470-3631](#).
- The guardianship case is terminated by court order.
- Guardianship subsidy payments have been suspended and it has been determined the guardian is no longer legally responsible for the child or has not been providing financial support to the child.
- The Department funds for subsidized guardianship are no longer available.

Close the case effective the day the subsidy is terminated. Send a [Notice of Decision, form 470-5613](#), stating the reason for the termination of subsidy to both the guardian and the child.

## **Reinstatement**

Legal reference: 441 IAC 204.7(234)

Reinstatement of the subsidy shall be made when the subsidy was suspended or terminated because the guardian requested that the guardianship payment cease. Upon the request of the guardian to reinstate the guardianship subsidy, the guardian shall submit a new application.

Redetermine eligibility, issue a [Notice of Decision, form 470-5613](#) and complete a new [Guardianship Subsidy Agreement, form 470-3631](#).

## **Post-Guardianship Support Services**

The RRTS contractor will provide pre-Guardianship and post-Guardianship support services to guardianship families. Guardians may contact the RRTS contractor directly for services, or the Department's guardianship subsidy worker can make a referral to the RRTS contractor.

The RRTS contractor shall provide direct support and assistance to any family who is eligible for guardianship subsidy from Iowa. Services may include:

- Crisis intervention and intensive case management services
- Information and referral
- Advocacy
- Support groups
- Training
- Identification of resources which includes local supports and services including the eligibility and how to access Medicaid and Waiver services for families needing mental health, emotional and behavioral support for children in the home.
- Subsidized guardianship families are eligible for 10 days of paid respite per calendar year.
- \$100 stability grant per calendar year for subsidized guardianship families.

Before guardianship finalization, children in prospective families continue to be eligible to receive Family-Centered Services. After guardianship finalization, families are not eligible for Family-Centered Services unless the case meets criteria for HHS service eligibility.

## **Medicaid Eligibility**

Legal reference: 441 IAC 204.9(234)

Medical benefits are available to the child in accordance with the procedures and benefits of the state in which the child resides. Children receiving subsidy in Iowa are entitled to Medicaid. The income maintenance worker is responsible for:

- Determining Medicaid eligibility.
- Acting on reported changes.

- Completing Medicaid eligibility reviews as required by the child's coverage group. (See [8-H, Case Maintenance: Reviews](#).)
- Completing an automatic redetermination when subsidized guardianship terminates or eligibility no longer exists.

The guardian is required to complete medical eligibility forms as requested by the income maintenance worker.

Children who are not IV-E eligible will be provided Medicaid under the Medically Needy coverage group. This coverage group does not require a financial test (income and resources) when determining eligibility for children in subsidized guardianship. Children in this coverage group are not enrolled with a managed care provider.

A child who is covered under the Medically Needy coverage group and enters a Medicaid paid facility, such as a PMIC, will need to qualify under another coverage group. If another coverage group is not an option, an exception to policy may be requested.

If the guardian moves out of Iowa, Medicaid may still be provided. If the child is Title IV-E eligible, the state where the child lives is responsible for the child's Medicaid in accordance with the Interstate Compact for Adoption Medical Assistance.

Provide a copy of the [Guardianship Subsidy Agreement, form 470-3631](#) to the Interstate Compact for Adoption Medical Assistance administrator in Central Office. A referral will be made to the state where the child resides.

If the child is not IV-E eligible, the guardian should apply for Medicaid in the state where they reside. If Medicaid is not provided by the state where the family resides, Iowa Medicaid will continue to be provided.

## **Appeals**

Legal reference: 441 IAC 204.8(234), 441 IAC 7

The guardian may appeal the Department's decision to reduce, change, or terminate assistance in accordance with rules and procedures of the Department's appeal process. The [Notice of Decision, form 470-5613](#) sent to the guardian and child includes the appeal rights.

For instructions on appeals, see [I-E, Appeals and Hearings](#). More information on the appeal process may be obtained from the Department's Appeals Section.