36. Kinship Guardianship Assistance Payment Program

[EAS 11-301, WIC Section 366.26, 366.3, 11364, 11369, 11385, 11360]

The Kin-GAP Program serves children exiting the foster care system that enter a guardianship with a relative; the children may have been receiving either Aid to Families with Dependent Children-Foster Care (AFDC-FC) or California Work Opportunity and Responsibility to Kids (CalWORKs) benefits prior to entering the Kin-GAP Program.

36.1 Definitions [EAS 90-101]

Assistance Unit (AU)

Each Kin-GAP child has their own separate AU, even if there is a sibling(s), another Kin-GAP child, or a needy caregiver living in the home.

Exception:

The child of a Kin-GAP child is included in the Kin-GAP child’s AU and is eligible to receive an infant supplement.

County of Payment Responsibility

County of payment responsibility is the county which had the dependency of the Kin-GAP child (placing county) at the time the legal guardianship was established.

Face-to-Face Interview

Guardians of Kin-GAP children are exempt from face-to-face interview requirements. They should always be given the option for a face-to-face interview if that is their preference.

Federal Kin-GAP or IV-E GAP The federally funded Kin-GAP program.

Kin-GAP Eligible Child

Kin-GAP is available to foster care and Juvenile Probation Department (JPD) children exiting the juvenile court dependency system on or after January 1, 2000 and living with a relative or fictive relative legal guardian. The child must have been formally placed by the Department of Family and Children (DFCS) or JPD and lived with the caregiver at least 6 consecutive months. The juvenile court dependency must be dismissed prior to the approval of Kin-GAP.
Legal Guardian

A legal guardian (LG) is a person who is given the legal authority and responsibility to care for a child.

Maximum Aid Payment (MAP)

Rates for Kin-GAP cases where dependency was dismissed before May 1, 2011, are based on the Licensed Foster Family Home (FFH) rates established before May 1, 2011. These payments are age-based.

Rates for Kin-GAP cases where dependency was dismissed on or after May 1, 2011 through December 31, 2016 are identical to the FFH rates established May 1, 2011. These payments are age-based.

Rates for Kin-GAP cases where dependency was dismissed on or after January 1, 2017 are based on the Continuum of Care Reform (CCR) Basic Level rate effective January 1, 2017. These rates are no longer based on age. [Refer to Foster Care Section of the Chart Book].

Beginning Date of Aid (BDOA)

Foster care payments must stop the date dependency is dismissed. Kin-GAP payments may begin in the same month FC payments end and the first Kin-GAP payment will be prorated.

Note:

When a Kin-GAP child has a birthday which puts him/her in a higher age bracket, an automatic increase is granted on the first of the following month except when the youth’s birthday falls on the first day of the month. When the birthday falls on the first day of the month, the payment is pro-rated for the entire month, thus the increase is for the entire month.

Recipients

Kin-GAP children are treated as recipients, as opposed to applicants, when transferring to the Kin-GAP program. Therefore, in regard to the CalWORKs income and property limits, they will be entitled to the higher recipient limits.

Relative (Traditional) [EAS 90-101.1 (r) (1)]

Relatedness must be within the 5th degree of kinship [Refer to “Definition of Relative,” page 13-1].

Relative (Traditional and Fictive) For Federal Kin-GAP

Established in 2012 under Assembly Bill (AB) 1712 and must be established by juvenile court; Effective January 1, 2014, relatives for federal Kin-GAP are defined as:
36. Kinship Guardianship Assistance Payment Program

(1) An adult who is related to the child by blood, adoption, or affinity within the 5th degree (see above).

(2) An adult who meets the definition of an approved, non-related extended family member (NREFM).

(3) An adult who is either a member of the Indian child’s tribe, or an Indian custodian.

(4) An adult who is the current foster parent of a child under the juvenile court’s jurisdiction who has established a significant and family-like relationship with the child, and the child and the county child welfare agency, probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state where that adult is identified as the child’s permanent connection.

Number (1) above is the “traditional” relative or kin; numbers (2), (3), and (4) are “fictive” relative or kin.

Relative Guardian

A relative guardian is a relative who exercises responsibility for the day to day care and control of a related child.

State or (Non-Federal) Kin-GAP

The non-federally funded Kin-GAP Program.

Note:

For the Kin-GAP Program, the guardian must be a court or tribal appointed legal guardian of a Kin-GAP child.

Successor Guardian

A “successor guardian” is identified as the replacement guardian in the event the current relative guardian passes away or is otherwise incapacitated and is no longer able to care for the child. Refer to section 36.15.3.

36.2 Regulation Requirements

The following eligibility requirements are effective as of January 1, 2011. Relative guardianship must be established pursuant to WIC Section 366.26, and juvenile court dependency must be dismissed pursuant to WIC Section 366.3 any time after January 1, 2000.
In addition, under the expansion program effective January 1, 2014; The expanded definition of a relative cannot be applied retroactively to convert guardianship cases that are currently receiving non-federal AFCD-FC payments to the federal Kin-GAP program, regardless of whether the child was federally eligible while a dependent;

In order to qualify for the state or federally funded Kin-GAP, a child must have:

- Been removed from the parental home pursuant to a voluntary placement agreement or as the result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child and, has been adjudged a dependent child of the juvenile court or, effective October 1, 2006, a ward of the juvenile court,

- Been residing for at least six (6) consecutive months in an approved licensed or certified foster caregiver home while under the jurisdiction of the juvenile court or under a voluntary placement agreement, or of a previously approved guardian,

Exception:

A new period of six months in placement with the successor guardian is not required, however, the SW/PO must approve the caregiver/home pursuant to WIC 361.3 and 361.4.

- For Federal Kin-GAP a written binding agreement entered into by the guardian and the county welfare agency or probation department prior to the establishment of the guardianship,

- For State Kin-GAP, if the guardian fails to negotiate a written binding agreement prior to the establishment of the guardianship and the child still meets all other eligibility criteria, the child is only eligible for state funded Kin-GAP,

- Kinship guardianship established and dependency dismissed or wardship terminated concurrently or subsequently to the establishment of the kinship guardianship,

- When dependency is left open by court order and the child meet s all other eligibility criteria when dependency is dismissed, the child may be eligible for Kin-GAP, and

- Guardianship established by the juvenile court with “fictive” relative of a federally eligible dependent or ward on or after May 19, 2014, are eligible to enter the federal Kin-GAP Program assuming all other eligibility conditions are met. Including the execution of the Negotiated Agreement (the signing of the SOC 369 and SOC 369A) prior to the establishment of guardianship.

Additionally, the county Social Worker (SW)/Probation Officer (PO) must document in the guardianship case study, that:

- Being returned home or placed for adoption are not appropriate permanency options for the child.

- The child demonstrates a strong attachment to the prospective guardian.
• The guardian has a strong commitment to caring permanently for the child.

• The child who has attained 12 years of age has been consulted regarding the kinship guardianship arrangement.

Once a child is determined eligible to receive Kin-GAP, the child remains eligible and benefits will continue unless one of the following occurs:

• The child/youth has attained the age of 18; or

• Up to age 19 as long as the youth is attending high school, vocational or technical training school full-time or pursuing a General Equivalency Diploma (GED), is reasonably expected to complete school by their 19th birthday, continues to live with the Kin-GAP guardian, and signs the KG 1 (Mutual Agreement); or

• To age 21 years old if the youth has a qualifying physical or mental disability; or

• Up to the age of 21, if the Kin-GAP payments started on or after the youth’s 16th birthday. At the age of 18 the Non-Minor Former Dependent (NMFD) has signed the Kin-GAP Mutual Agreement for Non-Minor Former Dependent (KG3); or

• The county determines the guardian is no longer providing support to the child. This would apply if the guardianship was terminated; court jurisdiction under W&IC sections 300, 601 or 602 is restored; or, the child becomes legally emancipated, marries, dies, or enlists in the military.

• The child/youth court dependency is reinstated, even if the child/youth remains in the home of the legal guardian. Court dependency under juvenile court or wards of juvenile court are not eligible for Kin-GAP payments.

Note:

When a Kin-GAP child/youth returns to dependency under the court’s jurisdiction and legal guardianship is not terminated, the child/youth may return to the Kin-GAP home and resume payments provided all eligibility criteria has been met including the dismissal of dependency. This includes child/youth that remain in the guardian’s home during the period of dependency.

• The responsible agency is unable to verify continued eligibility, such as failure of the guardian to complete and return the “Statement of Facts Supporting Eligibility for Kin-GAP Program” (KG 2) at the two year redetermination. By signing the written agreement, the guardian acknowledges responsibility for reporting changes, including changes in the needs of the child or the circumstances of the guardian that could affect payment.

The Kin-GAP payment will continue as long as the guardian continues to support the child/youth even if the relative moves out of state. However, Kin-GAP payments are not issued outside of the United States:
• Support may include any type of financial contributions, such as: maintaining a room for the youth; covering the costs for clothing, personal incidentals, tuition, or therapy; or, paying for other expenses related to the child’s care.

• The agency may continue payments if the youth is a NMFD and moves to attend post-secondary school or otherwise lives independently of the guardian, as long as the guardian continues to provide support to the child.

• If the child leaves the guardian’s home while still a minor for the above reasons, the payment to the guardian may continue provided that the county agency makes a good cause determination for the child’s absence from the guardian’s home. The SW/PO must make the determination.

The Kin-GAP program is subject to CalWORKs requirements with the following exceptions:

**County of Payment Responsibility:**
County of payment responsibility will be the county which had the dependency of the Kin-GAP child (placing county) at the time the guardianship was established.

**Assistance Unit (AU):**
Each Kin-GAP child will have his or her own case file, even if there is a sibling(s) or a needy caregiver living in the same home.

**CalWORKs Special Needs**
Kin-GAP children are not eligible for CalWORKs Special Needs (i.e. pregnancy, special diet).

**Maximum Aid Payment (MAP):**
Payment rates for the Kin-GAP program are based on three tiers and are identical to the foster care licensed FFH rate payments, including those counties which have different rates.

**Recipients:**
Kin-GAP children will be treated as recipients, as opposed to applicants, when transferring to Kin-GAP. Therefore they will be entitled to the higher CalWORKs income and property limits. This status continues even if the case is discontinued and later reestablished.

**Face-to-Face Interviews:**
Guardians of Kin-GAP children are exempt from the face-to-face interview requirements for the Kin-GAP child. This does not exempt the guardian from any other required interview for aid for themselves or other children living in their home.

**Placement Requirements:**
The placed child must live in the approved home with legal guardianship. The child must have lived with the caretaker for six (6) consecutive months prior to entering the Kin-GAP Program. Foster Care Eligibility Workers (FC EW) must verify that the child has been placed with the caretaker for 6 consecutive months.
Court Requirements:
The child must have been a dependent of the court, and dependency must be dismissed on or after January 1, 2000, and prior to entering Kin-GAP.

Immediate Need:
The Kin-GAP eligible child is NOT eligible to receive immediate need payments.

RISP:
The Kin-GAP child is NOT entitled to Reduced Income Supplemental Payments (RISP) when income stops or starts.

Cal-Learn [EAS 90-110]:
The Kin-GAP child is NOT eligible for CalLearn Services.

Maximum Family Grant (MFG):
The MFG rule DOES NOT apply to the Kin-GAP program.

Deprivation of Parental Care [EAS 41-400]:
Deprivation of parental support or care is a separate and specific eligibility factor for CalWORKs. For Kin-GAP, absent parent deprivation is automatically exists for the Kin-GAP child.

Child Care [EAS 90-110]:
Kin-GAP child(ren) are NOT eligible for CalWORKs Employment Services Stage One child care services. Only needy caretaker guardians who are participating in Welfare-to-Work activities are eligible for child care through the CalWORKs program.

Overpayments:
Effective January 1, 2011, Kin-GAP overpayments no longer follow the same methodology as the CalWORKs program. Overpayments that are exclusively the result of a county administrative error, the guardian did not have knowledge, and did not contribute to the cause of overpayment is not collectable unless the guardian agrees to voluntarily repay the debt.

36.2.1 Reporting Responsibility

The FC EW must inform the guardian of their responsibility to report all facts and to notify the county within five (5) calendar days of all changes which affect the determination of eligibility.

36.2.2 Parent in Home

Under Assembly Bill (AB) 2876, it is no longer required that a Kin-GAP case be discontinued if the child’s parent(s) moves into the home of the Kin-GAP caretaker relative. Eligibility And Assistance Standards Manual (EAS) Section 90-105.2 was repealed in 2011.
36.2.3 Social Security Number (SSN)

A social security number is required for all children in the Kin-GAP Program.

**Client Responsibility**

Each recipient member of the AU must, as a condition of eligibility:

- Provide their Social Security Account Number (SSN) or numbers if more than one, or proof of a “completed” SSN application, within 30 days following the date of application.

**Note:**

Aid may be authorized as soon as the SSN has been provided. The client may be allowed up to six weeks to provide verification of the number.

- Cooperate in obtaining an SSN. Refer to chart below.

- Cooperate in resolving any discrepancies regarding the SSN (such as those arising from a cross-check of agency SSN files with those of the Social Security Administration). This generally will involve the use of the “SSA Referral Notice” (MC 194), but other verification from SSA will also be acceptable.

**Obtaining an SSN**

Cooperation in obtaining an SSN means:

<table>
<thead>
<tr>
<th>STEP</th>
<th>ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Applying directly to the local Social Security Office using the MC 194, OR Applying at the hospital for a newborn’s SSN at the same time information is provided for the birth certificate, and receiving the “Information About When You Will Receive Your Baby’s Social Security Card” (Form SSA-2853).</td>
</tr>
<tr>
<td>2.</td>
<td>Making every effort to obtain required information and submit it to Social Security in cases where additional information or documentation is required by Social Security.</td>
</tr>
</tbody>
</table>
| 3.   | Submitting proof of the “completed” SSN application, i.e.,:  
- For the MC 194 it is within 30 days  
- The SSA-2853, by the last day of the month following release from the hospital, or  
- Any other statement from the Social Security office. |
| 4.   | Furnishing the SSN card to the EW when it is received. The EW must obtain a copy of the card for the case record. |
36.2.4 School Attendance

[EAS 40-105.5, 42-712.421, 42-716.1, 42-719, 45-201.1]

Kin-GAP eligible children 16, 17 or 18 years of age, must be regularly attending high school or vocational/technical training or be registered with Employment Services, unless exempt. Effective January 1, 2011, the Kin-GAP payment is no longer suspended if a child who is 16 years of age or older fails to meet school attendance.

Rule

All children in the AU for whom school attendance is required (ages 6 through 17) must regularly attend school as defined by the school district. While this is a requirement, there is no penalty for youth not attending school.

Definitions

<table>
<thead>
<tr>
<th>Regular School Attendance</th>
<th>Regular school attendance is defined by the local school districts. Generally this means that the child is attending 90% or more of the time.</th>
</tr>
</thead>
<tbody>
<tr>
<td>SARB</td>
<td>The School Attendance Review Board (SARB) is the group of individuals who will determine if a student has failed to attend school regularly and the intervention methods have failed to secure the child’s regular attendance.</td>
</tr>
<tr>
<td>Truancy</td>
<td>A child is considered truant when that child has 3 unexcused absences and 3 tardies of more than 30 minutes. If the child has 6 unexcused absences, that child is considered a habitual truant.</td>
</tr>
</tbody>
</table>

36.2.5 Immunizations

Kin-GAP children under the age of 6 must meet the CalWORKS requirements in regards to immunizations. Refer to Chapter 13, Section 13.2.9 “Immunization Requirement [40-105.4],” page-10] for a complete description.

Note:

There is no penalty applied for lack of Immunizations.
36.2.6 Kin-GAP Child/Youth Has Court Dependency Reinstated

When a Kin-GAP child/youth returns to foster care either through DFCS or JPD and court dependency is reinstated the child/youth is no longer eligible for Kin-GAP payments the month following when court dependency is reinstated, even when when the children remain with the same Kin-GAP caregiver. When the child/youth is removed from the Kin-GAP caregiver, the child/youth may return to the same Kin-GAP guardian as long as that guardianship was not terminated.

The child/youth must meet all other eligibility requirements for the Kin-GAP program. However, when the child/youth was initially eligible for federal Kin-GAP a child/youth returning to the same guardianship home after dependency is terminated a second time or anytime after the initial determination, the child/youth is only eligible for the state funded Kin-GAP.

**Note:**

Kin-GAP payments cannot be made for a child or youth returning to court dependency and remaining in the same home. Federal Kin-GAP cannot be paid to a child/youth returning to the same Kin-GAP, but payments may resume under the non-federal Kin-GAP program.

36.3 Federal Kin-GAP Participation

In order to be eligible under the Federal Kin-GAP Program a child/youth must be either a United States Citizen, or Qualified Alien.

In addition to residency requirements there must exist documentation that the dependent child or ward has resided with the approved caregiver (prospective guardian) for at least six consecutive months. This is evidenced by the SOC 815 and/or any record that verifies the date of placement with the approved caregiver.

**Note:**

A new period of six months in placement with the successor guardian is not required; however, the Kin-GAP payment cannot resume until the successor guardian meets all eligibility requirements.

Documentation for Title IV-E eligibility must be provided to determine if the case will be in the federally-funded Kin-GAP program. To verify a foster child’s eligibility for Title IV-E Kin-GAP benefits, eligibility documentation must include the FC 2, FC 3, FC 3A, and/or SOC 158A. If the child is not Title IV-E eligible, the case must be placed in the new state funded Kin-GAP Program.
The “Agency-Relative Guardianship Disclosure” (SOC 369) form and the “Kin-GAP Program Agreement Amendment” (SOC 369A) forms are completed by the guardian. The guardian is encouraged to identify a successor guardian in the event of death or incapacity on the SOC 369A. These forms are completed when the guardian and the SW/PO meet (either in person or by phone) and must be signed prior to the establishment of guardianship.

**Note:**

When dependency is dismissed and the guardianship is established later this is a problem because the guardianship must be established prior or concurrently with the termination of dependency in order for a case to be eligible for either federal/non-federal Kin-GAP.

If not already provided, determination whether the child should be assessed for additional rates such as the SCI rate or dual agency rate. This will be evident on the FC 2 and the SOC 369A. The Kin-GAP payment cannot exceed the amount the child would have received while in foster care.

The current version of the “Statement of Facts Supporting Eligibility for Kin-GAP Program” (KG 2) form must be signed and completed by the prospective guardian.

When an agreement as to the payment amount cannot be reached between the SW/PO and the guardian, the SW/PO will complete the SOC 369A and have the guardian sign the form indicating the guardian disagrees with its terms and requests a state hearing. When the guardian refuses to sign the SOC 369A, the guardian is ineligible for participation in the Kin-GAP Program.

Upon processing of the application, a valid NOA informing the guardian of the negotiated payment amount and how to request a state hearing if the prospective guardian disagrees.

### 36.3.1 Multiple Placements [W&IC 11388]

As long as one sibling is federally eligible, all other siblings placed under the same guardianship arrangement are automatically deemed federally eligible. There is no requirement that the siblings be placed simultaneously. This includes step-siblings, half-siblings, and adoptive siblings of the eligible child.

### 36.4 State Kin-GAP Participation

In order to receive benefits under the State Kin-GAP program a child must meet all the basic eligibility requirements for under the federal the Kin-GAP program with the following exceptions:

- Children who have Permanently Residing in the United States Under Color of Law (PRUCOL) status, or
• Children that were not Federally Eligible at the time of removal from the home when they entered into dependency except with multiple placements as stated in “Multiple Placements [W&IC 11388],” page 36-11.

• Children/youths returning to court dependency may return to Kin-GAP as long as guardianship was not dismissed, but only under the State Kin-GAP program. A new guardian establishes a new eligibility determination.

36.5 Federal and State Participation for Fictive Relatives

When a federally eligible child/youth enters the Kin-GAP Program with a legal guardian who is a fictive relative established by juvenile court, the child’s eligibility for benefits is similar to that of a child/youth who enters a guardianship with the traditional relative. Specifically:

• If the youth has a medical or mental health condition that warrants continuation of assistance, the youth is eligible to continue federal Kin-GAP benefits up to age 21, regardless of the age of the youth at the time the negotiated agreement became effective.

• If the youth was 16 or older when the negotiated agreement became effective, the youth is eligible for federal Kin-GAP benefits up to age 21, if he/she meets at least one of the continued participation requirements under the Extended Foster Care (EFC) Program for Non-minor Former Dependents (NMFD). Refer to “Kin-GAP Requirements,” page 39-33.

Additionally, when a federal Kin-GAP youth was under the age of 16 when the negotiated agreement was signed and does not have a medical or mental condition, the youth is eligible to receive federal Kin-GAP only until the youth turns 18 years old. Upon turning 18 years old, the youth loses federal Kin-GAP eligibility, but is eligible to received non-federal AFDC-FC benefits up to the age of 21, assuming the legal guardian continues to be responsible for the youth and the youth is participating in the EFC Program for Non-Minor Former Dependents.

In order continue benefits at the age of 18 years old the former foster care case must be reopened to continue benefits until the age of 21. When there was no former foster care case a new non-federal foster care case must be created.

Since these NMFDs are no longer court dependent they are not eligible for former foster care Medi-Cal benefits under the FFCC Medi-cal program. For more information regarding the EFC Program Refer to “Extended Foster Care (EFC) Benefits,” page 39-1.
36.6 Property [EAS 90-110]

The property requirements are the same as for the CalWORKs program.


36.6.1 Property Limit [EAS 42-207]

The maximum allowable nonexempt combined property limit (personal and real property) for Kin-GAP recipients is $2,000.

Note:

The Kin-GAP child is always its own separate AU and is never included in the CalWORKs family AU when determining property limits.

[Refer to CalWORKs Handbook, “Personal Property/Resources,” page 15-1 and “Real Property,” page 16-1 for a complete discussion of the various types of property.]

Exception:

A Kin-GAP youth age 16 years and older participating in the Independent Living Program (ILP) may retain cash assets up to $10,000. [W&IC 11155.5 and ACL 02-29]

36.7 Income [EAS 44-133]

Any income received by or on behalf of a Kin-GAP child is considered income to the Kin-GAP AU only.

The Kin-GAP eligible child is treated as a recipient for income limits. For more information see the following links:

[Refer to CalWORKs Handbook, “Income/General [EAS 44-101],” page 26-1]

[Refer to CalWORKs Handbook, “Exempt/Excluded Income,” page 27-1]

[Refer to CalWORKs Handbook, “Unearned Income,” page 28-1]
36.7.1 Social Security Survivor’s Benefits  
[EAS 44-113.3, 44-133.1, and 44-133.311]

Social Security Survivor’s Benefits paid to a Kin-GAP child are considered income to the child and are counted in their entirety against the Kin-GAP payment.

36.7.2 Social Security Disability Benefits  
[EAS 44-101.6, 444-111.23, and 44-113.214]

Social Security Benefits based on Disability are subject to the $225 disregard. Therefore, Social Security Disability benefits paid to a Kin-GAP child are considered income to the child and must be allowed the $225 disregard.

The 50% disregard on the remaining income does not apply to Social Security Benefits based on Disability. It would apply to any remaining earned income from the child.

36.7.3 SSI/SSP Benefits [W&IC 11008.15]

Person(s) who receive SSI/SSP are eligible for Kin-GAP. The federal or state eligibility determination for the Kin-GAP program will determine how the SSI/SSP is used and/or budgeted in the Kin-GAP case. The only time a Kin-GAP case should be opened for an SSI/SSP child is when the Kin-GAP benefit would be greater than the SSI/SSP award. The manner in which the SSI/SSP is affected must be explained to the guardian. If it is determined that a Kin-GAP case is advantageous to the child the income will be budgeted as follows:

<table>
<thead>
<tr>
<th>If the child is eligible for...</th>
<th>Then...</th>
</tr>
</thead>
</table>
| Federal Kin-GAP               | • This income is not budgeted.  
                               | • Report the income to Social Security via the SSI/SSP Social Work Coordinator.  
                               | • Social Security should stop issuing benefits.  
                               | • Advise the guardian that an overpayment to Social Security may occur while there is an overlap of payments. |
36.7.4 Child Support [EAS 82-520.44]

Child Support is subject to the $50 child support disregard. In situations where there are sibling cases the $50 disregard is applied to each separate AU.

Excess child support payments occur when the absent parent(s) has repaid all the arrears monies owed to the county. The entire amount counts against the grant received.

### 36.8 Clothing Allowance

Kin-GAP children are eligible for County Annual Clothing Allowance. They are not eligible for an initial clothing allowance.

**Annual State Supplemental Clothing Allowance**
This supplement has been terminated by the State.

**County Annual Clothing Allowance**
The annual clothing allowance is paid based on the policy of the county with payment responsibility. The annual clothing allowance may be paid to Kin-GAP guardians with children out of the state. Unlike foster care, this payment is always paid at the county of payment responsibility rate or the SCC rate.

### 36.9 Budgeting [EAS 44-313]

CalWORKs budgeting rules apply to the Kin-GAP Program. Prospective budgeting in the first two months, and retrospective budgeting thereafter. Kin-GAP recipients are subject ONLY to the RECIPIENT test.

Budgeting is the activity used to compute the aid payment for a month when eligibility exists (known as the payment month) using the net nonexempt income received in a corresponding month (known as the budget month). The two budgeting methods are prospective and retrospective.
• With prospective budgeting, the budget month and the payment month are the same month.

• With retrospective budgeting, the budget month is the second month prior to the payment month.

Budgeting is an activity separate from the determination of eligibility. The eligibility determination is always made using the anticipated (or prospective) income expected to be received in the month in question.

All eligibility factors, including income eligibility are considered on a prospective basis.

CalWIN will calculate the Kin-GAP payment.

### 36.9.1 Amount of Aid

The FC EW is responsible for determining the correct amount of aid payment when:

• Aid is granted or restored.

• There is a change in need, income, or other factors affecting the amount of aid to which the AU is eligible.

### 36.10 Payment Rates [EAS 11-301, W&IC 11364]

The following are the rates which apply to the Kin-GAP Program. Kin-GAP children are paid based on the rate and policy of the county with the payment responsibility regardless of the host county they reside in. Kin-GAP children are eligible for:

• The Foster Care Licensed Foster Family Home (FFH) rate, based on age,

**Note:**

When the child/youth is living out of state, the rate is based on the host state’s FFH. A new SOC 369A is required to change the rate.

• The rate is based on three tiers. For rate information refer to the Charts Handbook Chapter 3.1.

**Note:**

When a Kin-GAP child has a birthday which puts them in a higher age bracket, an automatic increase is granted on the first of the following month.

• A Specialized Care Increment,
36. Foster Care

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- A County Annual Clothing Allowance (will always be the SCC rate),
- The Dual Agency Rate (refer to Foster Care Handbook Chapter 20.5 for details to this rate policy),
- An infant supplement (The infant cannot receive CalWORKs or Foster Care if the minor mom is receiving Kin-GAP), and/or

Note:
When an Infant Supplement is added to the case a new SOC 369A must be completed to update the negotiated rate.

- A burial allowance, when appropriate.

36.10.1 Kin-GAP Special Care Increments (SCI)

Effective October 1, 2006, Special Care Increments (SCI) are Payable on Kin-GAP Cases based on what the child was receiving while in Foster Care. Effective January 1, 2011, SCI must be reviewed and reauthorized during the SW/PO reassessment no less than once every 2 years or whenever the needs of the child or guardian change.

Note:
The County Special Care Increment plan requires a reassessment of an SCI every 6 months. This still applies for Foster Care. The state has granted permission for all counties to extend the Kin-GAP SCI up to 2 years regardless of their county plan.

If the guardian resides outside the county with payment responsibility, the county with payment responsibility pays the host county’s specialized care rate or its own specialized care rate if the host county has no specialized care system. “Host county/state” means the California County or state other than California, where the child resides.

[Refer to Foster Care Handbook Chapter 20.5 for additional information on SCI payments]

36.11 Kin-GAP Non-recurring Cost for Legal Guardians

AB 212 was signed into law on October 4, 2011, clarifying non-recurring costs issues pertaining to the Kin-GAP Program. On and after January 1, 2012, reimbursement shall be made for reasonable and verified nonrecurring expenses associated with obtaining legal guardianship not to exceed $2000.
Examples of reasonable and verified expenses that may be eligible for reimbursement include, but are not limited to:

- Transportation cost for attending the hearing(s) associated with obtaining the legal guardianship, including mileage and parking.

Note:
Transportation cost to bring the dependent child to the hearing(s) that are already part of the foster care maintenance payment and must not be included.

- Cost of lodging and food for the prospective legal guardian to attend the hearing.

- Documented out-of-pocket attorney’s fees associated with obtaining legal guardianship.

Counties have some flexibility in determining what constitutes reasonable cost in each case.

Documentation

The “Kinship Guardianship Assistance Payment (Kin-GAP) Program Nonrecurring Legal Guardianship Expense Agreement” (KG4) must be signed by the prospective legal guardian and a representative of the responsible public agency before the submission of the “Kinship Guardianship Assistance Payment (Kin-GAP) Program Nonrecurring Legal Guardianship Expenses” (KG5) form, to submit a claim for payment. It is recommended that all parties sign the KG 4 form at the same time the SOC 369 and SOC 369A forms are signed.

The KG 5 is to be used by the legal guardian as a claim for payment. The appropriate documentation should be attached to the fully executed KG 5. If necessary, more than one KG 5 form may be used.

Reimbursement shall not be made for cost otherwise reimbursed from other sources, including foster care maintenance payments. The legal guardian must attach receipts or other documentation for the expenses to the KG 5. Copies of executed forms may be provided to the legal guardian.

Note:
Currently DFCS is working on a process to implement the Non-recurring Kin-GAP cost.
36.12 Rate Charts

All necessary rates are available in the Charts Handbook Chapter 3.

36.13 Aid Payment Principles [EAS 44-301 - 44-309]

36.13.1 Aid Payments

The payee of Kin-GAP payments is the guardian. Kin-GAP aid payments are payments delivered to the guardian on behalf of the Kin-GAP child. Aid payments are for the recipient only, and are not income to any other person.

The guardian is responsible for managing and administering the Kin-GAP grant and is therefore the liable individual for any overpayment which occurs in this AU.

36.13.2 Delivery of Warrants

Kin-GAP warrants can be mailed outside of California but not out of the country. In the current payment cycle benefits are authorized at the end of the current month and issued on the first day of the following month for the current month.

Example:

Kin-GAP for June is authorized on May 26, but sent on June 1st unless benefits are issue through electronic funds transfer (EFT). EFT benefits are issued a fiscal month end (FME) and available the following day.

36.14 Social Worker and Probation Officer Responsibilities [CWS 31-201]

Prior to dismissing court dependency the SW/PO will request payment information from the IDM file. This will occur using the “Kin-GAP Information Sheet” form (SCD 21). Continuing eligibility will provide the required information to the SW/PO.
Note:
Currently, JPD is not administering the Kin-GAP, but may implement at a later date.

36.14.1 Appointment of a Legal Guardian

Once the caregiver is appointed as the legal guardian and the child’s court dependency case is dismissed, the SW/PO will complete the required documentation and immediately forward it to the FC bureau.

Note:
Court dependency may be reinstated at time as long as the child is under 18 years old.

Required Documents to Initiate a New Case

The SW/PO of a potentially eligible Kin-GAP child is responsible for the following documents (one for each child):

- The “Agency-Relative Guardianship Disclosure” (SOC 369),
- The “Kin-GAP Program Agreement Amendment” (SOC 369A),
- The Kin-GAP Information Sheet (SCD 21),
- A copy of the guardianship papers (Letter of Guardianship), and
- A copy of the minute order reflecting the dismissal of the child’s court dependency status.

The SW/PO must fully review the SOC 369 with the guardian and assist them in completing the form. The guardian must make the appropriate selection for either Kin-GAP or CalWORKs based on the eligibility criteria.

Reminder:

The guardian must initial in the appropriate spaces, and sign and date page 2 of the SOC 369.

It is the SW/PO’s responsibility to also sign and date the SOC 369 and to make sure the SOC 369A is signed prior to the establishment of legal guardianship. If legal guardianship is established prior to the signing of the SOC 369 the federal Kin-GAP program cannot be used, however, the youth may be eligible for the state Kin-GAP program.

The SW/PO will retain the original SOC 369 for the service case file and provide a copy to the guardian. The guardian must sign a separate SOC 369 for each child making the transition.
If Kin-GAP is chosen on the SOC 369, then the SW/PO must negotiate the rate and complete the SOC 369A.

The SW/PO will dismiss the child’s court dependency case after completion of this process. Once the court dependency case is dismissed, all the applicable documents must be forwarded to the FC eligibility for processing.

36.14.2 Reassessment Requirements [W&IC 11364(b)(1) and 11387(b)(1)]

A reassessment or redetermination is the SW review of the needs of the Kin-GAP recipient child or circumstances of the guardian. It is performed initially and no less frequently than every two years. If the needs of the child or circumstances of the guardian change, the agency and guardian may negotiate to adjust benefits more frequently than every two years. Refer to “Redetermination (RRR) [EAS 40-181.1],” page 36-29.

36.15 Guardians

36.15.1 Traditional Relative Guardians [EAS 90-105]

The Traditional Relative Guardian for Kin-GAP purposes is the individual who:

- Has the appropriate fifth degree of kinship relatedness to the child, and
- Lives 6 consecutive months with the child, and
- Has court appointed Legal Guardianship under WIC 366.26, and
- Must have juvenile court dependency dismissed on or after January 1, 2000.

Fifth Degree of Kinship [EAS 90-101]

The Relative Guardian may be related by blood, marriage, or adoption who is within the fifth degree of kinship to the child. An acceptable Relative Guardian is the:

- Parent (1st degree),
- Grandparent or sibling (2nd degree),
- Great grandparent, uncle or aunt, niece or nephew (3rd degree),
- Great-great grandparent, great uncle or aunt, or first cousin (4th degree), and
- Great-great-great grandparent, great-great uncle or aunt, or first cousin, once removed (5th degree).
Refer to Foster Care Handbook Chapter 1.1.89 for information.

The “Foster Care Relative Caregiver Documentation Chart” (SC 1383-FC) is required in the Kin-GAP case record to clearly establish the relationship between the child and the relative caregiver. Document the case record with the relationship between the child and the relative guardian.

For Kin-GAP purposes, relinquishment of parental rights has no effect on relatedness. A relative, which falls within the fifth degree of relatedness remains a relative for Kin-GAP, even after parental rights have been terminated and the child is now FREED for Adoption.

**Lives 6 consecutive months with the Kin-GAP Child**
The child must have been formally placed by child welfare services with the caretaker/guardian for 6 consecutive months via a voluntary placement agreement or dependency.

**Legal Guardianship Under WIC 366.26**
Legal Guardianship must have been established by the court under WIC 366.26.

**Dependency dismissed after January 1, 2000**
Relative Legal Guardians who have a guardianship prior to the implementation of Kin-GAP, but had court dependency dismissed after January 1, 2000, are eligible to Kin-GAP payments, provided all other eligibility criteria is met and a NEW legal guardian assessment is completed by the child’s SW. WIC Code 11363(a) (4), states legal guardianship must be established concurrently or before the dismissal of dependency.

**Example:**
A relative legal guardian is currently receiving foster care payments for a child with court dependency. The guardianship was established December 1999. Court dependency was dismissed December 2001. The child is entitled to the Kin-GAP program.

**Note:**
In the above example the Kin-GAP child/youth is only eligible for the State Kin-GAP Program (refer to section 36.4).
36.15.2 Fictive Relative Guardians

Relatives for the purpose of federal Kin-GAP have been expanded by the state to include “Fictive Relatives”. Effective May 19, 2014, SW/PO can approved fictive relatives are under same requirements as traditional relatives except providing proof of Kinship. It is the SW/PO responsibility to determine eligibility and it must be documented in the Child Welfare Services/Case Management System (CWS/CMS) and the child’s case file.

Fictive Relatives For Federal Kin-GAP:

- An adult who meets the definition of an approved non-related extended family member (NREFM).
- An adult who is either a member of the Indian child’s tribe or an Indian custodian.
- An adult who is the current foster parent of a child under the juvenile court’s jurisdiction:
  - Who has established a significant and family-like relationship with the child, and
  - The child and DFCS/JPD, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state where that adult is identified as the child’s permanent connection.

Losing Federal Eligibility

Upon turning 18 years old, the fictive federal Kin-GAP youth loses their federal eligibility, but are eligible to receive non-federal AFDC-FC benefits under the EFC program as a Non-Minor Former Dependent (NMFD).

In order to remain eligible for benefits the youth must complete a “Mutual Agreement for Extended Foster Care” (SOC 162) in the month of turning 18 years old. When the SOC 162 is received, the continuing FC EW must forward the SOC 162 to the appropriate FCE staff for a new intake assignment.

The Kin-GAP program is discontinued and the closed foster care in is re-opened or a new EFC case must be established. This is an intra-program status change, therefore benefits discontinue at the end of the month and EFC benefits are effective the first day of the following month after the youth has turned 18 years old.
36.15.3  Alternate, Co-Guardian or Guardian Successor

In the event an alternate guardian or co-guardian needs to be appointed a new 6-month placement period is not required.

Note:

The alternate guardianship or co-guardianship must be approved by the court and meet the criteria for guardianship pursuant to WIC 361.3.

36.16 Income and Property of the Legal Guardian

Income and property of the Legal Guardian is not a factor for Kin-GAP eligibility. A SW’s determination that the caregiver is a suitable and stable provider for the child is part of the initial assessment.

36.16.1  Resources for Guardians

It is the intent and philosophy of the Department of Family and Children Services (DFCS) that children who enter the Kin-GAP Program with a legal guardian and terminate court dependency is:

• In the child’s best interest, and
• That the child will not return to a court dependency situation.

Kin-GAP children and legal guardians will have an assigned social worker once dependency is dismissed. Kin-GAP eligible children and guardians are entitled to access resources when needed. Both the Kin-GAP child or legal guardian may be referred to any supportive services which are available.

36.16.2  Needy Legal Guardians

If a Legal Guardian applies for or receives CalWORKs for themselves, the needy guardians are exempt from self-sufficiency activities, if needed to care for a Kin-GAP child.

36.17 Application for Kin-GAP [EAS 40-181]

The following are application (intake) requirements for all Kin-GAP cases. Since dependency was recently dismissed on these children there is typically an existing Foster Care or CalWORKs case where the child is/was active.
36.17.1 Intra-Program Status Change [EAS 40-183 and 44-317.651]

If the child is already receiving Foster Care or CalWORKs, no new application is required. The FC EW must contact the district office EW to discontinue the child from the Foster Care or CalWORKs case. Foster care payments must stop the date dependency is dismissed. Kin-GAP payments may begin in the same month FC payments end however, the first Kin-GAP payment will be prorated. The current SAWS 2 or FC 2 may be used to establish an intra-program status change to the Kin-GAP Program. A copy of the SAWS 1 must be obtained for the Kin-GAP case file prior to completing the Intra-Program transfer. Use current “Statement of Facts Supporting Eligibility for AFDC-FC (FC 2), as appropriate, and complete the Intra-Program Status Change to the Kin-GAP Program.

Child in Receipt of Foster Care

If the child is currently in receipt of Foster Care payments, and court dependency is dismissed anytime in the month, Foster Care payments would continue until month-end. The Kin-GAP payment would then be paid the first of the following month, once Kin-GAP is established. Use current “Statement of Facts Supporting Eligibility for AFDC-FC (FC 2), as appropriate, and complete the Intra-Program Status Change to the Kin-GAP Program.

Child in Receipt of CalWORKs

If the child is currently in receipt of CalWORKs, contact the EW of record to notify of Kin-GAP eligibility and request a copy of the current SAWS 1, SAWS 2 and/or SAWS 2 Plus. The EW must give an adequate, timely (ten-day) notice prior to discontinuance of CalWORKs. The Kin-GAP payment would begin the first of the following month. Use the current SAWS 2 or SAWS 2 Plus, as appropriate, and complete the Intra-Program Status Change to the Kin-GAP Program.

Youth in Receipt of Fictive Federal Kin-GAP

If the child is currently in receipt of federal Kin-GAP and loses their eligibility federal upon turning 18 years old, a SOC 162 must be signed in the month the youth turns 18 years old and the youth must be approved for the EFC as a NMFD. Kin-GAP payments would continue until month-end. The non-federal AFDC-FC payment would then be paid the first of the following month, once FC is established or re-established. Use current “KG2” as appropriate, and complete the Intra-Program Status Change to the FC Program. “Juvenile Court NRLGs,” page 39-26”.

36.17.2 Face-to-Face Interview

Guardians of Kin-GAP children are exempt from face-to-face interview requirements. This does not exempt the guardian from any other required interview for aid for themselves or other children living in their home.

Use the “Kin-GAP Application Notice” (SCD 22) to mail the application packet and allow the guardian to schedule an appointment or return the forms by the appropriate due date by mail.
Note:
A 10 day due date for returning the complete application is suggested but this period should be extended in order to allow the guardian every opportunity to complete the application.

### 36.18 Documents and Forms

In addition to all the basic demographic documents, the following completed forms and documents must be processed and filed in the FC case file by the intake worker. Many of the forms or documents may be retrieved from the prior Foster Care or CalWORKs case.

The following are required for the FC Eligibility Case file:

- SAWS 1/SAWS 2 Plus,
- KG 1 (based on age),
- KG 2,
- KG 3 (based on age),
- SOC 369,
- SOC 369A,
- Legal Guardianship Letter,
- 366.26 Court Order,
- SCD 441 (based on age),
- Immunization Record (based on age),
- CW 2.1 and CW 2.1Q or CW 51,
- SCD 1383 FC (Except Fictive Relatives),
- SOC 158A,
- Supporting Title IV-E Findings, and
- SCD 1264.

**SAWS 1/SAWS 2 Plus**

All Kin-GAP applicants must have completed an "Application for Cash Aid, Food Stamps, and/or Medi-Cal/State CMSP" (SAWS 1), while in Foster Care or CalWORKs.

A SAWS 1 is required for all Kin-GAP applications, inter-county program transfers, restorations, and inter-program transfers from the existing cash programs (FC or CalWORKs). Request a copy of the SAWS 1 from the Foster Care or CalWORKs case. If there is a more than one calendar month break-in-aid a new SAWS 1 will be required.

The SAWS 2 Plus replaces the SAWS 2 and combines the program rules, many of the rights and responsibilities, the SAWS 1, the Statement of Facts, and appendices to collect additional ACA-required information where applicable.
Statement of Facts Supporting Eligibility for Kinship Guardianship Assistance Payment Program (KG 2)

The “Statement of Facts Supporting Eligibility for Kinship Guardianship Assistance Payment Program (KG 2) must be completed by the legal guardian when applying for a Kin-GAP child. The KG 2 is required for all:

- Applications,
- Restorations,
- Redetermination, and
- Initial Intra-Program Transfer.

Agency-Relative Guardianship Disclosure (SOC 369)

The SOC 369 form is used to inform foster parents of the funding options available if legal guardianship is established. This form is completed by the SW/PO. A copy of the SOC 369 is required in the eligibility case file.

Kin-GAP Program Agreement Amendment (SOC 369A)

The SOC 369A is used to negotiate the payment with the guardian. This form is completed by the SW/PO during their assessment and it is forwarded to the FC eligibility for the case file.

Legal Guardianship Letter

The court document assigning guardianship to the caregiver.

366.26 Court Order

Minute order reflecting the dismissal of the child’s dependency status.

Kin-GAP Information Sheet (SCD 21)

County created form used to assist in the communication between DFCS and the FC bureau for new Kin-GAP cases. This form is not required and should be considered optional.

School Attendance Verification (SCD 441)

Required for Kin-GAP children ages 6-18 for school attendance verification. There is no penalty applied to children or youth under the age of 18.
Immunization Record

Required for all children under the age of 6. Proof of immunization must be in the eligibility case file. The “Immunization Assessment Form” (SCD 832) must be used to verify the immunizations are up to date. There is no penalty applied for lack of immunizations.

Foster Care Caretaker Relative Documentation Chart (SCD 1383 FC)

The sworn statement to establish the caretaker guardian’s relationship to the eligible child.

Note:

This document is not required for fictive relatives.

Supporting Title IV-E Documents

To verify a foster child’s eligibility for Title IV-E foster care benefits, eligibility documentation must include the FC 2, FC 3, FC 3A, and/or SOC 158A. The documents may come from the FC case file and findings must be documented in CalWIN case comments.

Language Survey (SCD 1264)

County language survey form.

36.18.1 Optional Form

The “Kin-GAP Eligibility Checklist” (SCD 23) is optional but was developed to assist in gathering necessary documents during application and to serve as a reminder for other necessary actions in CalWIN and MEDS.

36.18.2 Child Support Referrals [EAS 44-111.47]

For Kin-GAP, it is required that a child support referral be made on the child’s parent(s) and the absent parent(s) of an infant in receipt of an infant supplement.

The guardian is responsible to complete the CW 2.1 and CW 2.1Q Questionnaire unless the SW/PO has submitted a Child Support-Good Cause Claim For Noncooperation (CW 51).

36.18.3 Social Security Number (SSN)

A social security number is required for all children in the Kin-GAP Program. [See section 36.2.2 above]
36.19 First Date of Aid [W&IC 11374(b) and 11390(e)]

When a child is receiving benefits under the Foster Care program and becomes eligible for Kin-GAP, the FC payment must stop the date dependency is dismissed. Kin-GAP payments may begin in the same month FC payment ends however, the first Kin-GAP payment will be prorated.

36.20 Redetermination (RRR) [EAS 40-181.1]

A redetermination (RRR) of all circumstances affecting the eligibility of the Kin-GAP child must be made every 2 years. For an RRR, the caregiver is required to complete the following documents:

- KG 2,
- SOC 369A (only if the rates are changing), and
- Any other applicable forms (i.e. KG 1, KG 3, CSF 37, Immunization Records, etc).

No face-to-face interview is required with the guardian. RRR forms are forwarded to the assigned SW, the “Kin-GAP Redetermination Notice” (SCD 25) is completed and attached to the RRR packets and forwarded to the assigned SW. Under the direction of the assigned SW, the guardian must complete, then return the forms to the FC EW to complete the RRR process.

Reminder:

A Medi-Cal RRR is still a yearly requirement. There is no need for a Medi-Cal RRR packet as long as there are no reported changes to the case. The Medi-Cal RRR can be run and updated in CalWIN.

36.20.1 Redetermination Process

All attempts to align the SW reassessment and the FC EW redetermination will be made. The RRR process is initiated 45 days prior to the month it is due. The following is an overview of the process:

<table>
<thead>
<tr>
<th>Who</th>
<th>What</th>
</tr>
</thead>
</table>
| FC EW        | • Prepares the RRR packet using the “Kin-GAP Redetermination Notice” (SCD 25).  
• Completes introductory and financial section of the SOC 369A to be included in packet.  
• Forwards packet to the Kin-GAP basket. |
| FC Clerical  | • Date stamps and forwards document to DFCS Clerical                 |
### Optional Form

The “Kin-GAP Eligibility Checklist” (SCD 23) is optional but was developed to assist in gathering necessary documents during redetermination and to serve as a reminder for other necessary actions in CalWIN and MEDS.

### Completion of All Actions and Forms

The Redetermination is considered complete when:

1. The KG 2 has been completed, signed by legal guardian, reviewed by FC EW, appropriate verifications received and documented, and a decision made as to continued eligibility. This is the date the FC EW signs the KG 2, and

2. The SOC 369A is received from either the SW/PO or the legal guardian. A new SOC 369A is only necessary when the rates are changing. This includes infant supplements and SCIs.

All required entries must be made in CalWIN including the following:

1. Document in the **Maintain Case Comments** window in CalWIN that all appropriate RRR forms and verifications were reviewed, completed, all eligibility factors cleared, and that verifications are in the case record.
2. Enter a Case Alert in CalWIN for any known future changes for follow-up; i.e., Marries graduates in June; birth certificate and social security number due etc...

36.21 CHDP

The FC EW must inform the caregiver of the purpose, provision and availability of Child Health and Disability Prevention (CHDP). Brochures must be given which describe the support services (scheduling transportation) available under CHDP as well as how and where the services are provided.

36.22 Family Planning

The EW must inform the caregiver of Family Planning Services. The “Important Notice to All Recipients (SCD 1255) includes a list of agencies providing these services.

36.23 Kin-GAP Minor Parent [EAS 90-115]

The following rules apply to a Kin-GAP Minor Parent:

- A minor parent who is receiving Kin-GAP is excluded by law from receipt of CalWORKs cash aid.
- The child of a Kin-GAP Minor Parent shall be excluded by law from the CalWORKs Cash Aid Program.
- A Kin-GAP minor parent’s child is eligible for an infant supplement.
- If a Kin-GAP child has a child of his or her own who lives with the legal guardian, the legal guardian is entitled to receive an infant supplement on behalf of the Kin-GAP minor parent’s child.

36.23.1 Payment Guidelines

If both a Kin-GAP minor parent and the Kin-GAP minor parent’s infant were both under dependency and dependency was dismissed for both, then both receive Kin-GAP payments. If only the minor mother was under dependency and the baby was a dependent (no court dependency) of the minor child, then pay Kin-GAP for the minor, and an infant supplement for the baby. Both the Kin-GAP and infant supplement are sent to the legal guardian.
The SW must send a request to make the infant supplement payment to the FC EW with the following:

- SAWS 1,
- KG 2,
- Birth Certificate,
- CW 2.1, and
- SOC 369A (is only required when rates are changed).

### 36.23.2 Absent Parent of an Infant Returns Home

If a Kin-GAP minor parent is receiving an infant supplement and the infant’s other parent moves into the home, this DOES NOT impact the infant supplement payment.

The State has clarified that an infant supplement is a payment on behalf of the Kin-GAP minor parent because of the existence of an infant. Therefore, there is no separate eligibility determination for an infant supplement, and the infant is not in receipt of aid.

**Note:**
A District Attorney child support referral must be completed on both minor parents unless a CW 51 is completed.

### 36.24 Other Kin-GAP Requirements

The following are additional requirements that may occur while the child is in the Kin-GAP program.

#### 36.24.1 Period of Ineligibility (POI)

[AAS 42-221.1, 42-221.2, and 42-221.4]

A period of ineligibility applies if a Kin-GAP child gives away or transfers, for less than fair market value, non-excluded income or property that would cause the AU to exceed its eligibility for benefits. The child/guardian does have the option to put the excess property in a restricted account.

**Real Property**

The following applies when determining a period of ineligibility for real property:

- Establish the Fair Market Value (FMV) of the property transferred,
- Add other countable property,
• Subtract the amount of the property limit,

• Subtract the amount actually received from the property from the FMV amount,

• Compare the difference between the FMV and the amount received for the property,

• Divide the lesser of the two amounts, and

• Round the resulting figure down to the nearest whole number to determine the number of month in the period of ineligibility (POI).

**Example of POI Computation for Real Property**

While on aid, a Kin-GAP recipient, age 15, inherits a parcel of real property with a FMV of $13,000. The value of this inherited property, when added to other ($1,400) countable property held by the Kin-GAP child, causes the AU to exceed the allowable property limit ($2,000). The AU sells the parcel for $10,000, which is less than its $13,000 fair market value.

The POI computations is as follows:

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Determine the amount in excess of the property limit: $13,000 - FMV of the parcel of real property +1,400 - Other countable property held by Kin-GAP recipient 14,400 - Subtotal of total property limit -2,000 - Kin-GAP recipient property limit $12,400 - Amount in Excess of the property limit</td>
</tr>
<tr>
<td>2.</td>
<td>Determine the difference between the FMV and the amount received for the property: $13,000 - FMV of the parcel of real property 10,000 - Amount received by Kin-GAP recipient for the real property $3,000 - Difference between FMV and amount received for property</td>
</tr>
<tr>
<td>3.</td>
<td>Compare the amount in excess of the property limit with the difference between the FMV and the amount received for the property $3,000 is less than the $4,400 difference between the FMV and the amount received for the transferred property.</td>
</tr>
<tr>
<td>4.</td>
<td>Divide the lesser of the two amounts calculated by the Kin-GAP payment $3,000 divided by $820 (Use the Kin-GAP current rate for child or youth) = 3.7 months</td>
</tr>
<tr>
<td>5.</td>
<td>Round the resulting figure down to the nearest whole number to determine the POI. The POI = 4 months (rounded up from 3.7 months).</td>
</tr>
</tbody>
</table>
**Income**

A POI results when, in the month of receipt, a Kin-GAP recipient gives away or transfers, for less than FMV, nonexempt, nonrecurring income that would cause the Kin-GAP AU to be ineligible for a cash aid payment.

The POI is computed based on the amount of Net Nonexempt Income (NNI) given away or transferred for less than the FMV that would have made the Kin-GAP AU ineligible for a cash aid payment. The POI is determined as follows:

- The amount of the nonexempt income given away or transferred is combined with all other nonexempt income to determine the net nonexempt income. Subtract the Kin-GAP payment from the net nonexempt income.

- Take the amount transferred, and subtract from it the value of anything received from the transfer.

- Compare the amount of income TRANSFERRED and the amount RECEIVED from the transfer with the DIFFERENCE between the amount transferred and the value of anything received from the transfer. Determine the lesser of the two amounts.

- Divide the lesser of the two amounts by the Kin-GAP payment.

- Round the resulting figure down to the nearest whole number to determine the number of months in the period of ineligibility.

**Example of POI Computation for Income**

While on aid, a recipient of Kin-GAP, age 15, receives disability-based social security benefits in the amount of $3,005. The recipient gives $2,000 to a guardian. The Kin-GAP recipient will receive $500 per month in disability-based social security benefits.

The POI Computation is as follows:

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Determine The Amount Of Net Nonexempt Income Received:</td>
</tr>
<tr>
<td></td>
<td>$3,005 - Disability-Based Social Security benefits received</td>
</tr>
<tr>
<td></td>
<td>- 225 - Income Disregard</td>
</tr>
<tr>
<td></td>
<td>$2,780 - Net Disability-Based Income</td>
</tr>
<tr>
<td>2.</td>
<td>Determine the amount of net nonexempt income combined with other net nonexempt income:</td>
</tr>
<tr>
<td></td>
<td>$2,780 - Net Disability-Based Income</td>
</tr>
<tr>
<td></td>
<td>+ 500 - Nonexempt Unearned Disability-Based Income</td>
</tr>
<tr>
<td></td>
<td>$3,280 - Net Nonexempt Income</td>
</tr>
</tbody>
</table>

(Chart page 1 of 2)
36. Kinship Guardianship Assistance Payment Program

<table>
<thead>
<tr>
<th>Step</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>Determine the difference between the amount of income transferred and the amount received from the transfer: $2,000 - Amount of income transferred - 0 - Amount received from transfer = $2,000 - Difference</td>
</tr>
<tr>
<td>5.</td>
<td>Determine the difference between the adjusted net nonexempt income and the difference of the amount of income transferred and the amount received from the transfer: $2,683 - Adjusted Net Nonexempt Income $2,000 - Difference between the amount transferred and the value of anything received from the transfer (Lesser of the Two)</td>
</tr>
<tr>
<td>6.</td>
<td>Divide the lesser of the two amounts by the Kin-GAP payment rate: $2,000 divided by 597 = 3.35 months</td>
</tr>
<tr>
<td>7.</td>
<td>Round the resulting figure to the nearest whole number to determine the number of months in the period of ineligibility (POI): POI = 3 months (rounded down from 3.35 months).</td>
</tr>
</tbody>
</table>

(Chart page 2 of 2)

Applying the Period of Ineligibility (POI)

<table>
<thead>
<tr>
<th>If the POI is:</th>
<th>Then...</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 month,</td>
<td>The POI begins in the payment month and the Kin-GAP payment will be a zero basic grant.</td>
</tr>
</tbody>
</table>
| 2 months or more,         | The Kin-GAP payment must be discontinued and the POI begins in the payment month.  
                           | **Note:** When a transfer is discovered too late to discontinue, the POI begins in the corresponding payment month and any aid payments received during the POI are overpayments. |
36.24.2  Restricted Account [EAS 90-130 and 89-130 (i)]

A Kin-GAP AU is allowed to retain cash reserves in one or more restricted accounts at a financial institution. These accounts can be utilized to save money for the purchase of a home, to pay for education or training, or to start a new business.

These funds are in addition to the $2,000 property limit for the Kin-GAP AU.

The AU must establish and maintain any restricted account separately from other accounts.

Any type of account which is maintained at a financial institution can be identified as a restricted account; it does not have to be a “savings” account.

The caregiver must state that this account is the Kin-GAP child's restricted account and is not required to declare the purpose of the restricted account until the first withdrawal is made.

Withdrawals of Restricted Accounts [EAS 89-130]

Any non-qualifying withdrawals that are not redeposited within 30 calendar days from the date of the withdrawal are subject to a period of ineligibility (POI). A non-qualifying withdrawal must not be treated as an overpayment. [Refer to “Period of Ineligibility (POI) [EAS 42-221.1, 42-221.2, and 42-221.4],” page 36-32]

[Refer to CalWORKs Handbook, “Restricted Accounts,” page 17-1 for more detailed information on Restricted Accounts.]

36.25 Kin-GAP Case Returns to Foster Care

In order to be eligible again for Federal Foster Care, the following criteria must be met:

• The child must have a valid authority for placement,
  • Court Dependency, or
  • Voluntary Placement Agreement

• A petition must be filed and dependency reinstated, and/or

• A Voluntary Placement agreement must be signed,

• All other foster care eligibility requirements.
Court Reinstates Dependency for a Kin-GAP Child

**Question.** A child is receiving Kin-GAP. The court reinstates dependency for one month. Is the child still eligible for Kin-GAP when dependency is dismissed?

**Answer.** The child is not eligible for Kin-GAP during the time that dependency is in existence, but the child may be eligible for a foster care payment. Once the court dismissed the dependency, the child can resume Kin-GAP eligibility provided all other eligibility conditions are met.

- The youth is no longer eligible for federal Kin-GAP but is eligible for state Kin-GAP provided all other eligibility conditions are met.

### 36.26 Kin-GAP Child is Placed by Probation Into Group Home

A Kin-GAP child is placed by Probation into a group home for a month; the wardship remains intact. Can the child return to Kin-GAP?

If the child returns home with or without the wardship intact, Kin-GAP may be paid provided the legal guardianship is still in existence and all other eligibility criteria are met. The same applies to an incarcerated child that returns to the home of the guardian.

**Note:**

Kin-GAP children or youths currently residing with guardians are not eligible for out of home placements.

### 36.27 Kin-GAP Youth Marries

Once a Kin-GAP youth marries, the child is automatically emancipated and the legal guardianship is terminated. Accordingly, the child is no longer eligible for Kin-GAP. The Kin-GAP case must be discontinued and a ten-day Notice Of Action (NOA) is sent.

### 36.28 Burial Allowance [OPP Section 11-420.2] [Adopt 11-301]

Kin-GAP children are eligible for a burial allowance special need payment, when appropriate.
36.29 Independent Living Program (ILP) [EAS 44-111.25]

Income and incentive payments earned by a Kin-GAP child 16 years of age or older are exempt as income for the purposes of eligibility and grant determination, when received as part of the ILP written transitional independent living plan. There is no limit to the amount exempted under this.

If a Kin-GAP youth has an ILP plan, the ILP income exemption continues in the Kin-GAP Program.

Property

$10,000 in accumulated property is allowable, as long as there is an approved ILP plan.

Informing of ILP Services [W&IC 11375]

Youths in receipt of Kin-GAP benefits are eligible for ILP services. The FC EW must inform the Kin-GAP child when they turn age 16 that ILP services are available to them. Once informed, use “Kin-GAP Independent Living Program (ILP) Referral” (SCD 19) to refer the child to ILP Coordinator.

36.30 Self-Sufficiency Program

Needy guardians are exempt from self-sufficiency activities, if needed to care for a Kin-GAP child.

Child-only cases are exempt from self-sufficiency activities. However, 16-year old children who don’t go to school will be referred to the self-sufficiency program which will require the child to go back to school.

Time Limits do NOT apply to Kin-GAP cases.

36.31 The Extension of the Kin-GAP Program Under The AB 12 Program

Kin-GAP youths who turned 18 years of age in 2012 and are eligible for extended benefits up to the age of 21. When the youth wants to continue benefits beyond 18 years of age he/she must be evaluated for extended benefits and must meet one of the five conditions of eligibility. The youth must be supported by the established guardian. The SW/PO will identify this population and refer them to foster care for processing. Refer to “[Kin-GAP Requirements,” page 39-33].
36. Kinship Guardianship Assistance Payment Program

Note:

Fictive relatives are not eligible for federal Kin-GAP funding at age 18 and up to age 21.

36.32 Overpayments

An Overpayment is any amount of aid an AU has received to which it is not eligible. This may be all or a portion of the aid payment. It includes but is not limited to, an immediate need payment, a special need payment or aid paid pending state hearing.

Effective January 1, 2011, Overpayments in the Kin-GAP Program no longer follow the CalWORKs rules. Overpayments that are exclusively the result of a county administrative error, the provider did not have knowledge, and did not contribute to the cause of overpayment is not collectable unless the provider agrees to voluntary repay the debt.

36.32.1 Administrative Overpayment

An Administrative Overpayment is an overpayment caused by the agency when all the information necessary to determine the correct grant was in the possession of the county.

Kin-GAP payments are based on three rate structures. An example of an administrative overpayment is paying the incorrect rate increase based on when Kin-GAP was established. Refer to Charts Handbook Chapter 3.

36.32.2 Non Administrative Overpayment

An Non Administrative overpayment is an overpayment which does not meet the criteria to be considered an administrative overpayment, a fraudulent overpayment, an IPV, or a technical overpayment.

A Non-Administrative overpayment occurs when it is discovered the guardian is no longer supporting Kin-GAP child/youth and the guardian fails to report the change.

36.32.3 Demand for Repayment

Non Administrative Kin-GAP overpayments are collectible. [Refer to CalWORKs Handbook, for complete description of overpayment procedures.]
36.33 Medi-Cal

The Kin-GAP child is eligible for full-scope zero share-of-cost Medi-Cal benefits. Managed care or fee-for-service Medical is an option for the guardian of a Kin-GAP child.

Policy

Children who receive Kin-GAP payments (4F, 4G, 4T, 4S or 4W) are NOT REQUIRED to participate in a managed care plan, nor should they be automatically defaulted into managed care. Kin-GAP children may be voluntarily enrolled in a managed care plan. If the child is to be enrolled in managed care, he/she should be in a permanent and stable placement with the legal guardian. The decision to enroll is the responsibility of the Kin-GAP child’s Legal Guardian.

Preventing Erroneous Enrollment

If legal guardian receives a health plan packet and does NOT wish to enroll the Kin-GAP child in a managed care plan, they must:

- Complete the “Medi-Cal Health Plan Choice Form” (MC 901), entering “Foster care, Kin-GAP, (or adopted) child, fee-for-service Medi-Cal” in Box 1.
- Sign and date the form, and
- Send it back immediately.

If they fail to make a choice, the child(ren) will be assigned to a managed care plan.

Emergency Disenrollments

Refer to Medi-Cal Handbook Chapter 13.2.2.

ICAMA for Kin-GAP

Effective January 1, 2011, the state made significant changes to the Kin-GAP program in order to comply with the federal Kin-GAP Program requirements. The Kin-GAP Program now provides for continued eligibility regardless of the state of residence of the relative guardian and child. With this enhancement, federally funded Kin-GAP children or youth are entitled to Medicaid under the Interstate Compact on Adoption and Medical Assistance (ICAMA) program. This option is only available for federally funded Kin-GAP children or youth. Non-federally funded Kin-GAP children or youth must apply for the host state approved medical program.
The ICAMA program has updated their documents to include federally eligible Kin-GAP. For ICAMA program requirements refer to Foster Care Handbook Chapter 37.26.2.