



DCFS Guardianship Program
A GUIDE FOR CAREGIVERS

Guardianship Purpose



“Child and Family Services supports permanency for children and recognizes that sometimes neither family reunification nor adoption best serve the permanency needs of the child.

Child and Family Services offers this permanency option only if other permanency goals, including a return to the parents or adoption, are determined not to be possible or in the child’s best interest.”

Guardianship Services

- Qualifications
- Rights & Responsibilities
- Funding Options
- Medical Coverage
- Subsidy Agreement
- Financial & Licensing Impacts
- Community Resources
- Adoption



Qualifications



- The child cannot safely return home.
- Adoption has been explored and it is not possible.
- Screening Committee has determined adoption is not an option.
- Permanent guardianship is in the child's best interest.



Residual Parental Rights

The biological parents or legal parents from whom the child was removed retain certain rights, such as:

- Responsibility for financial support (child support payments continue).
- Right to consent to adoption.
- Right to determine child's religion.
- Right to reasonable visitation.

Rights\Duties of Legal Custody & Guardianship

- If the caregiver is granted legal custody they accept the following rights and duties :
 - The right to physical custody of the minor.
 - The right and duty to protect, train, and discipline the minor.
 - The duty to provide the minor with food, clothing, shelter, education, and ordinary medical care.
 - The right to determine where and with whom the minor shall live.
 - The right, in an emergency, to authorize surgery or other extraordinary care [Utah Code Ann. §78-3a-103 (p)].
- Guardianship grants the following additional rights and duties:
 - The legal assumption of authority for another individual to consent to marriage,
 - To enlist in the armed forces, and to
 - Consent and authorize major medical, surgical, or psychiatric treatment; and to legal custody, if legal custody is not vested in another person, agency, or institution [Utah Code 78-3a-103(n)].



Guardianship Funding Options

Guardianship Subsidies

Relative: Specified Relative Grant

Non-Relative: Guardianship Subsidy



Specified Relative Grant

Department Workforce Services (DWS)

Who Qualifies:

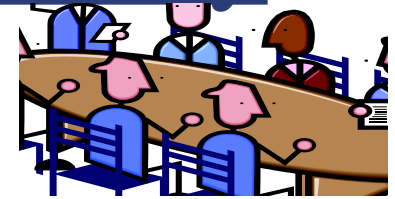
- A specified relative who has a specific relationship to a child in the home may apply for financial assistance for that child when the child is living with the specified relative and the child's parents are absent from the home. (Please see DWS Policy 223 Household Composition Specified Relative Program for relationships that qualify.)
- The Specified Relative Grant is based on the child's assets and income.
- The child may receive Medicaid. The specified relative may also receive medical assistance if eligibility requirements are met.
- The specified relative may be eligible for Child Care. This will be based on the household income.



Requirements for State Funded Guardianship Assistance

- Child not eligible for Specified Relative Grant.
- Child in current non-relative placement for 6 months or longer.
- Licensed placement in good standing.
- The child and caregiver no longer need services from Child and Family Services.
- Parents committed to placement as permanent.

Regional Guardianship Subsidy Screening Committee



- Who? (chairperson, clinical consultant, fiscal rep., family resource consultant, allied agency rep., regional administrator, and adoptive/foster/guardian parent).
- Will determine if child meets criteria for guardianship subsidy.
- Will determine level of need and amount of guardianship subsidy.
- Will coordinate supportive services for guardian.



Social Security

- SSA payments are not impacted by subsidy payments.
- A guardianship subsidy is not recommended for children receiving SSI payments as the subsidy will result in a reduction or loss of the SSI payment.
- Changes in the child's status must be reported to Social Security Administration if child is receiving an SSI payment.
- The Guardianship Subsidy will be adjusted if the child receives other sources of funding (i.e.; SSI/SSA).



Limits

- Guardianship subsidies cannot exceed the current foster care payment amount.
- Guardianship subsidies are broken into two levels:
 - Level I: any amount up to the lowest payment for basic foster care rate.
 - Level II: may range from the lowest basic foster care rate to the lowest specialized foster care payment.
- The Guardianship subsidy will not automatically increase with the foster care rates.



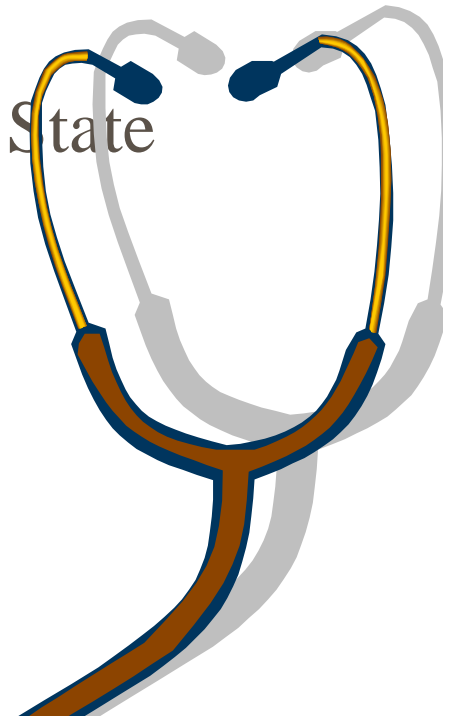
Guardianship Rates & Payment

- The Guardianship Subsidy amount will be based on the child's level of need.
- The guardian can submit requests to review level of need and subsidy amount.
- The guardian will receive monthly payments automatically each month by EFT or check.



Medical Coverage

- Utah Medicaid Card available.
- Mental Health Coverage under Medicaid.
- If the guardian moves out of the State of Utah, loss of Utah Medicaid coverage will result. Interstate Medicaid Eligibility is not guaranteed.





Renewal & Certifications



- The guardianship agreement will be renewed every three years with yearly reviews.
- The Screening Committee will review the contracts.
- New agreements will need to be signed and returned before payments can proceed.



Changes

- The guardian shall inform Child and Family Services of the following changes:
 - When circumstances change and the guardian no longer requires a subsidy.
 - Change of address.
 - When planning to move out of state.





Subsidy Agreement Termination

- Upon the conclusion of the agreement terms.
- Upon guardian request.
- When child reaches age 18 years.
- Upon death of the child.
- Upon death of the guardian.
- Cessation of guardian's legal responsibility for child.
- Agency determines child is no longer receiving financial support from guardian.
- The guardian fails to renew the agreement within 5 working days of renewal date.
- Child no longer in the home (detention, run away...)

Financial & Licensing Impacts



- Child counts as dependent for tax purposes.
- The Guardianship Subsidy is not taxable income.
- Guardianship children do not occupy a foster care slot in a foster care home.

Community Resources

- The guardian can request services through local Child and Family Services office.
- Possible Services include: mental health, youth advocates, parent training, support groups, peer parent, and supplemental funding.





Adoption After Guardianship

- If the guardian decides to adopt the child at a later date the child will lose IV-E status and will not be eligible for federal funding or Medicaid.
- The adoption is considered a private adoption and the guardian is responsible for all costs associated with the adoption. Some examples may include the home study, legal and court fees, etc.
- State-funded adoption assistance is not a guarantee for these cases.