

Title IV-E Guardianship Assistance Program - Montana State Plan

Federal Regulatory/ Statutory References	Requirement	State Regulatory, Statutory, and Policy References and Citations for Each
	SECTION 6. GUARDIANSHIP ASSISTANCE PROGRAM OPTION	
473(d)(3)(A)	<p>A. ELIGIBILITY</p> <p>1. A child is eligible for a kinship guardianship assistance payment if the State/Tribal agency determines that:</p> <p>a. the child has been--</p> <p style="padding-left: 40px;">i. removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and</p> <p style="padding-left: 40px;">ii. eligible for foster care maintenance payments under section 472 while residing for at least 6 consecutive months in the home of the prospective relative guardian;</p> <p>b. being returned home or adopted are not appropriate permanency options for the child;</p> <p>c. the child demonstrates a strong attachment to</p>	<p>CFSD Policy: 302-4; 407-2, 407-3, 407-4</p> <p>http://www.dphhs.mt.gov/cfsd/cfsdmanual/index.shtml http://data.opi.mt.gov/bills/mca_toc/index.htm</p> <p>** The above hyperlinks will take you to a webpage from which you can access the <u>State of Montana's Child and Family Services Policy Manual and Montana Code Annotated.</u></p> <p>MCA 41-3-444</p> <p>CFSD Policy 405-1; 407-2, 407-4</p> <p>MCA 41-3-444</p>

	<p>the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and</p> <p>d. with respect to a child who has attained 14 years of age, the child has been consulted regarding the kinship guardianship arrangement.</p>	<p>CFSD Policy 407-2, 407-3, 407-4</p> <p>CFSD Policy 407-2</p>
473(d)(3)(B)	<p>2. Siblings.</p> <p>a. The child and any sibling of the eligible child may be placed in the same kinship guardianship arrangement, in accordance with section 471(a)(31), if the State/Tribal agency and the relative agree on the appropriateness of the arrangement for the siblings; and</p> <p>b. Kinship guardianship assistance payments may be paid on behalf of each sibling so placed.</p>	<p>CFSD Policy 407-4</p>
471(a)(28)	<p>B. PAYMENTS</p> <p>1. The State/Tribal agency provides kinship guardianship assistance payments on behalf of children to grandparents and other relatives who assume legal guardianship of the child for whom they have cared as foster parents and for whom they have committed to care on a permanent basis, as provided in 473(d).</p>	<p>MCA 41-3-444</p> <p>CFSD Policy 407-2,407-3, 407-4</p>
473(d)(2)	<p>2. A kinship guardianship assistance payment on behalf of a child shall not exceed the foster care</p>	<p>CFSD Policy 407-3, 407-4</p>

	<p>maintenance payment which would have been paid on behalf of the child if the child had remained in a foster family home.</p>	
473(a)(4)(A)	<p>3. Payments are terminated when the State/Tribal agency determines that:</p> <ul style="list-style-type: none"> a. the child has attained the age of 18, or such greater age as the State/Tribal agency may elect under section 475(8)(B)(iii); or b. the child has attained 21 years of age, and the child has a mental or physical disability which warrants the continuation of assistance to age 21; or c. the child has not attained 18 year of age, and the relative guardians are no longer legally responsible for the support of the child; or d. the child is no longer receiving any support from the relative guardians. 	<p>Attachment 15: Subsidized Guardianship Agreement (contact DPHHS/CFSD for this document at: PO Box 8005, Helena MT, 59604-8005) CFSD Policy 407-3, 407-4 (the subsidy is not extended past age 18)</p>
473(a)(4)(B)	<p>4. The relative guardians are required to inform the State/Tribal agency of circumstances that would make them ineligible for guardianship assistance payments or eligible for guardianship assistance payments in a different amount.</p>	<p>Attachment 15: Subsidized Guardianship Agreement</p>

<p>473(d)(1)(B) & 473(d)(1)(C)</p>	<p>5. The agreement must specify, at a minimum-</p> <ul style="list-style-type: none"> a. the amount of, and manner in which, each kinship guardianship assistance payment will be provided under the agreement, and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child; b. the additional services and assistance that the child and relative guardian will be eligible for under the agreement; c. the procedure by which the relative guardian may apply for additional services as needed; d. that the State/Tribal agency will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, to the extent the total cost does not exceed \$2,000; and e. that the agreement shall remain in effect without regard to the State/Tribal service area residency of the relative guardian. 	<p>CFSD Policy 407-3, 407-4 Attachment 15: Subsidized Guardianship Agreement</p>
<p>471(a)(20)(C)</p>	<p>D. SAFETY</p> <p>State/Tribal agency provides procedures for criminal records checks, including fingerprint-based checks of national crime information databases (as defined in section 534(e)(3)(A) of</p>	<p>CFSD Policy 407-2; 802-6</p>

	title 28, United States Code), on any relative guardian, and for checks described in 471(a)(20) on any relative guardian and any other adult living in the home of any relative guardian, before the relative guardian may receive kinship guardianship assistance payments on behalf of the child under this plan option.	
473(b)(1) to (4); 479B(c)(1)(C)(ii)(II)	E. MEDICAID AND SOCIAL SERVICES For the purposes of titles XIX and XX, any eligible child for whom there is a kinship guardianship assistance payment being made under section 473(d) is deemed to be a dependent child as defined in 406 of the Act and is deemed to be a recipient of AFDC under part A of title IV of the Act (as in effect 7/16/96) in the State in which such child resides.	MCA 53-6-1131 (1) (d) (ii) CFSD Policy 405-1; 407-4 Attachment 15: Subsidized Guardianship Agreement
471(a)	F. TITLE IV-E GUARDIANSHIP ASSISTANCE PROGRAM PLAN REQUIREMENTS 1. Title IV-E plan requirements 471(a)(2) through (9), (12), (13), (20)(C), (25), (26), and (28) through (32) are applicable to the guardian assistance program.	471(a)(2), 471(a)(3), 471(a)(4), 471(a)(5), 471(a)(6) 471(a)(7), 471(a)(8), 471(a)(9),471(a)(12), 471(a)(13), 471(a)(20)(C), 471(a)(25), 471(a)(26) , 471(a)(28), 471(a)(29) , 471(a)(30), 471(a)(31), 471(a)(32) are listed on the IV-E State Plan in document attached below.
475(1)(F)	2. Case plan requirements. For a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardian assistance payments, the	CFSD Policy 402-2 CFSD Policy 407-2

	<p>State/Tribal agency shall include in the case plan a description of:</p> <ul style="list-style-type: none"> a. the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted; b. the reasons for any separation of siblings during placement; c. the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests; d. the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment; e. the efforts the State/Tribal agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons; and f. the efforts made by the State/Tribal agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made. 	
475(8)	G. DEFINITION OF 'CHILD'	

<p>For the purposes of the title IV-E guardianship assistance program under section 473(d), the term 'child' means</p> <ol style="list-style-type: none"> 1. an individual who has not attained 18 years of age; or 2. at the option of the State/Tribal agency an individual <ol style="list-style-type: none"> a. with respect to whom a guardianship assistance agreement is in effect under section 473(d) if the individual had attained age 16 before the guardianship assistance agreement became effective; b. who has attained the age of 18, but has not attained 19, 20 or 21 years of age, as the title IV-E agency may elect; and c. who meets any of the following conditions: <ol style="list-style-type: none"> i. the child is completing secondary education or a program leading to an equivalent credential; ii. the child is enrolled in an institution which provides post-secondary or vocational education; iii. the child is participating in a program or activity designed to promote, or remove barriers to, employment; iv. the child is employed for at least 80 hours per 	<p>MCA 41-1-101 defines minor as under 18 years of age</p> <p>The State of Montana has chosen not to exercise this option.</p>
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	<p>month; or</p> <p>v. the child is incapable of doing any of the above described activities due to a medical condition.</p>	
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Federal Regulatory/ Statutory References ¹	Requirement	State Regulatory, Statutory, and Policy References and Citations for Each
471(a)(2)	<p>A. DESIGNATION AND AUTHORITY OF STATE/TRIBAL AGENCY</p> <p>The State/Tribal agency has been designated to administer or supervise the administration of the programs under this plan. (See Attachment I.) It is also the agency that administers or supervises the administration of the Child Welfare Services Plan under subpart 1 of title IV-B of the Act.</p>	
	B. STATE/TRIBAL AGENCY STRUCTURE AND	

¹ Statutory references refer to the Social Security Act. Regulatory references refer to Title 45 of the Code of Federal Regulations (CFR).

	<p>FUNCTION</p> <p>The State/Tribal agency has available upon request an organizational chart of the agency and a description of the functions of each of its organizational units as they relate to the administration or supervising the administration of the title IV-E foster care maintenance, adoption assistance, and (at IV-E agency option) guardianship assistance programs.</p>	
471(a)(3)	<p>C. STATE OR TRIBAL SERVICE AREA WIDE OPERATIONS</p> <p>The title IV-E plan for foster care, adoption assistance, and guardianship assistance if elected by the State/ Tribal agency, is in effect in all political subdivisions and Tribal service areas.</p> <p>(Tribes, see also section 7)</p>	
471(a)(4)	<p>D. COORDINATION WITH TITLES IV-A AND IV-B PROGRAMS</p> <p>The title IV-E program is coordinated at the local level with the programs at the State/Tribal or local level assisted under titles IV-A, IV-B and XX of the Act and under all appropriate provisions of Federal law.</p>	

471(a)(5)	<p>A. PERSONNEL ADMINISTRATION</p> <p>The State/Tribal agency will, in administration of its programs under this part, certify in Attachment VII that it established and will maintain personnel standards on a merit basis as found necessary by the Secretary for proper and efficient operation of the programs.</p>	
471(a)(6)	<p>C. REPORTING</p> <p>The State/Tribal agency makes reports in such form and containing such information on the title IV-E program as are required by the Secretary of the Department of Health and Human Services (HHS), and the State/Tribal agency will comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports.</p>	
471(a)(7)	<p>D. MONITORING</p> <p>The State/Tribal agency monitors and conducts evaluations of activities carried out in the title IV-E program.</p>	
471(a)(8)	<p>B. SAFEGUARDING INFORMATION</p>	

	1. Subject to section 471(c), the State/Tribal agency has safeguards restricting use of or disclosure of information concerning individuals assisted under this plan to purposes directly connected with:	
471(a)(8)(A)	a. the administration of the title IV-E plan or any of the plans or programs under Parts A, B or D of title IV or under titles I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX or XX, or the supplemental security income program under title XVI; and	
471(a)(8)(B)	b. any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plan or program; and	
471(a)(8)(C)	c. the administration of any other Federal or federally assisted program which provides assistance (in-cash or in-kind) or services directly to individuals on the basis of need; and	
471(a)(9)	E. CHILD ABUSE AND NEGLECT The State/Tribal agency will report to an appropriate agency or official known or suspected instances of physical or mental injury,	

	sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under titles IV-B or IV-E under circumstances that indicate that the child's health or welfare is threatened.	
471(a)(12)	<p>C. FAIR HEARINGS</p> <p>The State/Tribal agency has a system for granting an opportunity for a fair hearing (before the State/Tribal agency) to any individual whose claim for benefits under this plan is denied or not acted upon with reasonable promptness.</p>	MCA: 2-4-101
471(a)(13)	<p>D. INDEPENDENT AUDIT</p> <p>The State/Tribal agency will arrange for a periodic and independently conducted audit, no less frequently than once every three years, of the titles IV-E and IV-B programs.</p>	
471(a)(20)(c)	<p>4. In the use of child welfare records in court proceedings, section 471(a)(8) of the Act shall not be construed to limit the flexibility of a State/Tribe in determining policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to title IV-B or title IV-E of the Act, except that such policies shall, at a</p>	

	<p>minimum, ensure the safety and well-being of the child, parents, and family.</p>	
<p>471(a)(25)&(26)</p>	<p>F. TIMELY INTERSTATE PLACEMENT OF CHILDREN</p> <p>1. The State/Tribal agency shall have in effect procedures for the orderly and timely interstate placement of children which provides that:</p> <p>a. within 60 days after the State/Tribe receives from another State or Tribe a request to conduct a study of a home environment for purposes of assessing the safety and suitability of placing a child in the home, the State or Tribe shall, directly or by contract:</p> <ul style="list-style-type: none"> i. conduct and complete the study; and ii. return to the other State or Tribe a report on the results of the study which shall address the extent to which placement in the home would meet the needs of the child; <p>b. the State or Tribe is not required to complete within the applicable time period the parts of the home study involving the education and training of the prospective foster or adoptive parents;</p>	

	<p>c. the State or Tribe shall treat any such report that is received from another State or Tribe (or from a private agency under contract with another State/Tribe) as meeting any requirements imposed by the State or Tribe for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State or Tribe determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and</p> <p>d. the State or Tribe shall not impose any restriction on the ability of an agency administering, or supervising the administration of, a State or Tribal program operated under a plan approved under this part to contract with a private agency for the conduct of such a home study.</p>	
471(a)(28)	<p>B. PAYMENTS</p> <p>1. The State/Tribal agency provides kinship guardianship assistance payments on behalf of children to grandparents and other relatives who assume legal guardianship of the child for whom they have cared as foster parents and for whom they have committed to care on a</p>	<p>MCA 41-3-444 CFSD Policy 407-2,407-3, 407-4</p>

	<p>permanent basis, as provided in 473(d).</p>	
<p>471(a)(29) 475(7)</p>	<p>2. Within thirty days after the removal of a child from the custody of the parent or parents of the child, the State/Tribal agency shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family violence, that:</p> <p>a. specifies that the child has been or is being removed from the custody of the parent or parents of the child;</p> <p>b. explains the options the relative has under Federal, State, and local law or Tribal law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;</p> <p>c. describes the requirements under paragraph 471(a)(10) to become a foster family home and the additional services and supports that are available for the children placed in such a home; and</p> <p>d. if the State/Tribal agency has elected to operate a kinship guardianship assistance program, describes how the relative guardian of the child may subsequently enter into an</p>	<p>CFSD Policy: 304-2; 407-2; 407-3, 407-4;</p> <p>MCA 72-5-231</p>

	<p>agreement with the State/Tribal agency under 473(d) to receive the payments.</p> <p>3. The legal guardianship means a judicially created relationship between the child and relative which is intended to be permanent and self-sustaining as evidenced by the transfer to the relative of the following parental rights with respect to the child:</p> <ul style="list-style-type: none"> a. protection; b. education; c. care and control of the person; d. custody of the person; and e. decision making. 	<p>CFSD Policy: 302-4; 407-2; 407-3; 407-4</p>
<p>471(a)(30)</p>	<p>M. COMPULSORY SCHOOL ATTENDANCE</p> <p>The State/Tribal agency has a system for assuring that each child who has attained the minimum age for compulsory school attendance under State/Tribal law and with respect to whom there is eligibility for a payment under the plan is a full-time elementary or secondary school student or has completed secondary school, and for purposes of this paragraph, the term `elementary or secondary school student'</p>	<p>CFSD Policy: 402-1; 402-8</p> <p>MCA: 20-5-102</p>

	<p>means, with respect to a child, that the child is--</p> <ol style="list-style-type: none"> 1. enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located; 2. instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located; 3. in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or 4. incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child. 	
471(a)(31)	<p>I. SIBLING PLACEMENT</p> <p>The State/Tribal agency shall make reasonable</p>	CFSD Policy: 401-1; 402-2; 402-4; 402-5; 407-2

	<p>efforts to:</p> <ol style="list-style-type: none"> 1. place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the State documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and 2. in the case of siblings removed from their home who are not so jointly placed, to provide for frequent visitation or other ongoing interaction between the siblings, unless that State/Tribal agency documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings. 	
471(a)(32)	<p>H. NEGOTIATION WITH INDIAN TRIBES.</p> <p>The State negotiates in good faith with any Indian tribe, tribal organization or tribal consortium in the State that requests to develop an agreement with the State to administer all or part of the program on behalf of Indian children who are under the authority of the tribe, organization, or consortium, including foster care maintenance payments on behalf of children who are placed in State or tribally licensed foster family homes, adoption assistance payments, and, if the State has</p>	

	<p>elected to provide such payments, kinship guardianship assistance payments under section 473(d), and tribal access to resources for administration, training, and data collection under title IV-E.</p> <p>(Not applicable to Tribes)</p>	
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