

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 302
SERVICES DELIVERED BY THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; preemptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15,

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1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. 20354, effective November 30, 2005; amended at 30 Ill. Reg. 2323, effective February 2, 2006; amended at 32 Ill. Reg. 11611, effective July 10, 2008; emergency amendment at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days; amended at 34 Ill. Reg. 3248, effective February 26, 2010; emergency amendment at 34 Ill. Reg. 13182, effective September 1, 2010, for a maximum of 150 days; emergency expired January 29, 2011; amended at 35 Ill. Reg. 8204, effective May 15, 2011; amended at 36 Ill. Reg. 4048, effective March 5, 2012; expedited correction at 37 Ill. Reg. 19427, effective March 5, 2012; amended at 40 Ill. Reg. 693, effective December 31, 2015; amended at 40 Ill. Reg. 7721, effective May 16, 2016; amended at 42 Ill. Reg. 2027, effective January 11, 2018; amended at 42 Ill. Reg. 2169, effective January 17, 2018; amended at 42 Ill. Reg. 15899, effective August 6, 2018.

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SUBPART A: GENERAL PROVISIONS

Section 302.10 Purpose

The purpose of this Part is to explain the Department's service goals and the specific services which may be delivered to children and families to reach the service goal. Both services provided to clients and functions performed in order to deliver services are described in this Part.

Section 302.20 Definitions

"Adoption assistance" or "adoption subsidy" means financial assistance from the Department that is provided to the adoptive parents after the finalization of an adoption.

"Adoption placement" means a living arrangement with a family that is directed toward establishing that family as the child's new legal parents. To be considered an adoptive placement the child must be placed in a licensed foster family home or a license-exempt relative home and either:

- be legally free (parental rights have been terminated or both parents have surrendered their parental rights); or
- be placed in a legal risk adoptive placement that has passed legal screening as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible).

"Biological father" means a man who was not married to the mother when the child was born and who has acknowledged his paternity in open court, or who has signed a statement acknowledging paternity, or who is legally presumed to be the father because he married the child's mother after the child's birth and his name appears on the child's official record of birth, or whose paternity is adjudicated in court. When paternity has been established in the above manner, the relatives of the biological father as well as those of the mother may be considered for the placement of the related children.

"Child welfare services" means public social services that are directed toward the accomplishment of the following purposes:

protecting and promoting the health, safety and welfare of all children, including homeless, dependent, or neglected children;

preventing, remedying, or assisting in the solution of problems that may result in, the neglect, abuse, exploitation, or delinquency of children;

preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;

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restoring to their families children who have been removed, by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;

placing children in suitable adoptive homes, in cases where restoration to the biological family is not safe, possible or appropriate;

assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning so that permanency may occur at the earliest opportunity. Consideration should be given so that if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;

providing supportive services and living maintenance that contributes to the physical, emotional and social well-being of children for whom the Department is legally responsible who are pregnant and unmarried;

providing shelter and independent living services for homeless youth; and

placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program, in a licensed shelter facility; or in a secure child care facility. The Department is not required to place or maintain children:

- *who are in a foster home; or*
- *who are persons with a developmental disability, as defined in the Mental Health and Developmental Disabilities Code [405 ILCS 5]; or*
- *who are female children who are pregnant, pregnant and parenting or parenting; or*
- *who are siblings;*

in facilities that provided separate living quarters for children 18 years of age and older and for children under 18 years of age. [20 ILCS 505/5]

These services include but are not limited to: counseling, advocacy, protective and family maintenance day care, homemaker, emergency caretaker, family planning, adoption, placement, child protection, and information and referral.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

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"Custodial Caregiver" means an individual with whom a child resides who is directly responsible for the day-to-day care of the child ensuring the child's safety and well-being.

"Department" means the Department of Children and Family Services.

"Family" means one or more adults and children, related by blood, marriage, civil union, or adoption and residing in the same household.

"Fictive kin" means any individual, unrelated by birth or marriage, who:

is shown to have significant and close personal or emotional ties with the child or the child's family prior to the child's placement with the individual; or

is the current foster parent of a child in the custody or guardianship of the Department pursuant to the Child and Family Services Act and the Juvenile Court Act of 1987, if the child has been placed in the home for at least one year and has established a significant and family-like relationship with the foster parent, and the foster parent has been identified by the Department as the child's permanent connection. [20 ILCS 505/7(b)]

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"Level of care" means one of the following types of substitute care that would be appropriate for the child, if placed in foster care: regular foster care, intensive foster care, or specialized foster care.

"Minimum parenting standards" means that a parent or other person responsible for the child's welfare sees that the child is adequately fed, clothed appropriately for the weather conditions, provided with adequate shelter, protected from physical, mental and emotional harm, and provided with necessary medical care and education as required by law.

"Parents" means the child's legal parents whose rights have not been terminated. Biological fathers are considered legal parents when paternity has been established as required by the definition in this Section.

"Permanency goal" means the desired outcome of intervention and service that is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the permanency goal.

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"Permanent connection" means a family-like relationship, consistent with a child's best interests, health, safety and well-being, that provides:

- safe, stable and committed parenting;
- unconditional love and lifelong support; and
- a permanent legal status between child and family.

For a child for whom the Department is legally responsible, a permanent connection may be the child's parents or another caregiver in the child's home of origin. When the child cannot be safely returned home, a permanent connection may be the current or former foster parent or relative caregiver, an individual identified as an adoptive or legal guardianship placement resource, or another individual from among the child's or family's lifelong connections with whom a child has developed a familial relationship.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Pre-existing condition" means, for purposes of adoption assistance and subsidized guardianship, a disabling physical, emotional or mental health condition that the child had prior to the finalization of the adoption or transfer of guardianship. Such condition must be documented by a duly licensed or credentialed professional.

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5].

"Relative", for purposes of placement of children for whom the Department is legally responsible, *means any person, 21 years of age or over, other than the parent, who:*

- *is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt; or*
- *is the spouse, or party to a civil union, of such relative; or*
- *is the child's step-father, step-mother, step-grandfather, step grandmother or adult step-brother or step-sister;*
- *is the partner, or adult child of a partner, in a civil union with the child's mother or father; or*
- *is a fictive kin as defined in this Section.*

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Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a “relative” may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]

"Service constellation" means a variety of services provided to a child and his/her family.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children.

"Siblings" means children who have at least one parents in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 immediately prior to the private adoption or guardianship. Step-siblings may be considered “siblings” when the children enter into substitute care together and have a positive relationship and share at least one parent in common.

"Subsidized Guardianship Program" means a program of the Department that offers a financial subsidy to relative care or licensed foster home caregivers who are willing to assume private guardianship of children who are eligible for the program. The Subsidized Guardianship Program is further defined in Section 302.405 (Subsidized Guardianship) and Section 302.410 (Subsidized Guardianship (KinGap)).

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare services that include placement.

(Source: Amended at 42 Ill. Reg. 2169, effective January 17, 2018)

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SERVICES DELIVERED BY DCFS
July 18, 2008 – P.T. 2008.16

Section 302.30 Introduction

- a) The Department of Children and Family Services is the State agency which is responsible for providing public child welfare services to children and their families. The types of services provided encompass the broad array of Department services as detailed in this Part. Although the service goals in this Part encompass a variety of services, any specific service may be provided to families who are living together as well as to children and families who are living apart. Services are provided in order to assure permanent, secure and nurturing living situations for children.

- b) The Department determines:
 - 1) the children and family's eligibility for services as specified in 89 Ill. Adm. Code 304 (Access to and Eligibility for Child Welfare Services);
 - 2) the specific services that are necessary and appropriate for eligible children and families as indicated in the service plan; and
 - 3) whether the services will be provided directly by the Department or through purchase of service providers.

- c) The Department shall comply with Title VI and VII of the Civil Rights Act of 1964 (42 USC 2000e et seq.); Sections 503 and 504 of the Rehabilitation Act of 1973 (29 USC 793 and 794); the U.S. Constitution; the 1970 Illinois Constitution; and any State and federal laws, regulations or court orders which prohibit discrimination in service delivery on the grounds of race, sex, color, religion, national origin or ancestry, the inability to speak or comprehend the English language or by reason of any handicap. Additionally, no children or their families shall be denied services under this Part solely on the basis that a parent is admitted to an Illinois mental health facility, detained in an Illinois jail, or committed to the Illinois Department of Corrections. Refer to 89 Ill. Adm. Code 307 (Indian Child Welfare Services) that defines the special rights of Indian children and their families.

(Source: Amended 32 Ill. Reg., effective July 10, 2008)

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January 25, 2016 – P.T. 2016.02

Section 302.40 Department Service Goals

a) The Department provides, directly or through purchase, a number of services for children and families that are individually planned to meet the needs of each child and family. These services are directed toward four service goals:

- 1) family preservation;
- 2) family reunification;
- 3) adoption or attainment of a permanent living arrangement;
- 4) youth development.

b) Family Preservation

When family preservation is the goal, services are directed toward ensuring the children's development, safety and well-being in the home of their family and preventing placement of children away from their family. Families may have been reported to the Department for alleged child abuse or neglect or referred to the Department for services. The service constellation for these children and families may include:

- 1) counseling/advocacy;
- 2) emergency caretaker;
- 3) homemaker;
- 4) protective and family maintenance day care and child development;
- 5) family planning;
- 6) parent education;
- 7) self-help groups;
- 8) emergency family shelter;
- 9) intensive family preservation services;
- 10) other placement prevention services;
- 11) referral for substance abuse treatment services;
- 12) referral for financial assistance and employment related day care;

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- 13) referral for housing assistance or housing advocacy;
- 14) referral for legal services.

c) Family Reunification

When family reunification is the goal, services are directed toward returning a child to his/her parent's or private guardian's home when the child was removed because of alleged child abuse or neglect or other reasons. Family reunification services are directed toward helping the children's parents or private guardians achieve minimum parenting standards ensuring the children's safety and well-being upon return home, and preserving and supporting sibling relationships. The service constellation for these children and families may include:

- 1) counseling/advocacy;
- 2) homemaker;
- 3) protective and family maintenance day care and child development;
- 4) foster family home care;
- 5) relative home care;
- 6) residential care;
- 7) family planning;
- 8) parent education;
- 9) intensive family preservation services;
- 10) referral for substance abuse treatment services.

d) Adoption or Attainment of a Permanent Living Arrangement

1) When adoption or attainment of a permanent living arrangement is the goal, services are directed at securing a new legal status in a permanent living situation for children who cannot return to their legal families. A goal of permanent living arrangement means that the child is to remain with a relative or foster family permanently and the Department has transferred or intends to transfer legal guardianship to the family. The service constellation for these children may include:

- A) counseling;

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- B) adoption;
 - C) subsidized guardianship;
 - D) relative home care;
 - E) foster family home care;
 - F) intensive family preservation services.
- 2) When a prospective adoptive parent or guardian has a medical and/or physical condition that may render him/her unable to care for the child into adulthood, the Department shall request that the prospective adoptive parent or guardian develop a back-up care plan for the child that includes a "back-up caregiver" willing and able to care for the child into adulthood. The Department shall assess the back-up care plan and meet with the prospective adoptive parent or guardian and the back-up caregiver to review the Department's expectations with regard to the caregiver's role and responsibilities, the child's needs, available services, and financial assistance such as Subsidized Guardianship and/or Adoption Assistance. The Department shall obtain a signed statement from the back-up caregiver acknowledging that he/she is aware of the child's needs and that the back-up caregiver will assume responsibility for the child's care in the event that the adoptive parent or guardian is no longer capable of providing care. The statement will also inform back-up caregivers for guardianship that any subsidy the guardian was receiving is not transferable.
- e) Youth Development
- 1) When youth development is the goal, services are directed at helping youth live independently or assisting unmarried youth with planning for the birth or care of their child. Youth shall also be encouraged to develop and maintain contact with their siblings. The Department shall provide services to youth for whom it is legally responsible and who are:
- A) 16 years of age or older, to help them live independently of adult caregiver supervision and achieve economic self-sufficiency;
 - B) high school graduates and have been awarded scholarships in accordance with the Children and Family Services Act [20 ILCS 505]; or
 - C) unmarried and pregnant.

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- 2) The service constellation for youth for whom the Department is legally responsible may include:
 - A) counseling/advocacy;
 - B) day care for the children of unmarried youth;
 - C) homemaker services;
 - D) family planning;
 - E) maintenance payments or foster family home, relative home or residential care payment, except that maternity home payment shall be limited to a maximum of 90 days.

- f) Sibling Relationships
 - 1) The Department recognizes the importance of encouraging and maintaining relationships among siblings. In order to preserve and strengthen sibling relationships, it is preferable for children to be placed together in one home. However, a placing worker may consider a plan for placement with two or more relatives when the relatives indicate that they are willing and able to develop, nurture and support sibling relationships. When siblings cannot be placed together, priority shall be given to adoptive parents or legal guardians who will agree to frequent sibling visitation and contact.

 - 2) The Department shall provide training for all Department and purchase of service direct service staff, resource development (foster family home licensing) staff, administrative case review and clinical staff, and their supervisors and managers regarding the importance of developing and maintaining sibling relationships and the child's sense of attachment to his/her siblings, the importance of maintaining sibling relationships over the child's lifespan, and the impact on the child if those relationships are severed. In addition, the Department shall incorporate this training in pre-service and in-service training for foster and adoptive families.

(Source: Amended at 40 Ill. Reg. 693, effective December 31, 2015)

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April 13, 1998 – P.T. 98.6

Section 302.50 Functions in Support of Services

- a) Services are delivered to children and their families in order to achieve the stated service goals. These services are provided directly by Department staff or through purchase of services. In addition, Department staff perform clearly defined functions which are the supportive framework necessary for the delivery of services. These functions include:
 - 1) receipt of and investigation of reports of child abuse or neglect;
 - 2) intake assessment of child and family needs;
 - 3) planning for service provision and arranging for appropriate services;
 - 4) recruitment, study, approval and licensing of child care facilities;
 - 5) initiating steps for court proceedings and/or legal guardianship;
 - 6) arranging for payment for services purchased by or provided by the Department;
 - 7) evaluating and monitoring services provided directly or purchased;
 - 8) recruiting or securing service providers;
 - 9) record keeping; and
 - 10) service termination and follow up.

- b) Additionally, both purchase of service and Department staff perform those supportive functions which are integral to a specific service.

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SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT
(Recodified)

Section 302.100 Reporting Child Abuse or Neglect to the Department (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.30 at 11 Ill. Reg. 3492)

Section 302.110 Content of Child Abuse or Neglect Reports (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.30 at 11 Ill. Reg. 3492)

Section 302.120 Transmittal of Child Abuse or Neglect Reports (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.50 at 11 Ill. Reg. 3492)

Section 302.130 Special Types of Reports (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.60 at 11 Ill. Reg. 3492)

Section 302.140 Referrals to the Local Law Enforcement Agency and State's Attorney
(Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.70 at 11 Ill. Reg. 3492)

Section 302.150 Delegation of the Investigation (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.80 at 11 Ill. Reg. 3492)

Section 302.160 The Investigative Process (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.110 at 11 Ill. Reg. 3492)

Section 302.170 Taking Children Into Temporary Protective Custody (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.120 at 11 Ill. Reg. 3492)

Section 302.180 Notification of the Determination Whether Child Abuse or Neglect Occurred
(Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.130 at 11 Ill. Reg. 3492)

Section 302.190 Referral for Other Services (Recodified)

(Source: Recodified to 89 Ill. Adm. Code 300.150 at 11 Ill. Reg. 3492)

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SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.300 Adoptive Placement Services (Repealed)

The subject matter that was covered by this Section has been incorporated into rules 89 Ill. Adm. Code 309, Adoption Services for Children Who Are the Legal Responsibility of the Department of Children and Family Services.

(Source: Repealed at 22 Ill. Reg. 8803, effective May 15, 1998)

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Section 302.305 Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department Is Not Legally Responsible

- a) The Department or its agent shall maintain coded listings which include:
 - 1) the names and addresses of all persons who have applied for and have been approved for the adoption of a hard-to-place child or child with a disability; and
 - 2) the names of hard-to-place children or children with disabilities who have not been placed for adoption.
- b) Adoption agencies who provide services to children who are not the legal responsibility of the Department are encouraged to voluntarily submit the names and addresses of all persons who have been approved for the adoption of hard-to-place children or children with disabilities and the names of such children to the Department's agent, Adoption Information Center of Illinois, for inclusion in the coded listing. The address and phone number of the Adoption Information Center is:

Adoption Information Center of Illinois
188 W. Randolph, Suite 600
Chicago, Illinois 60601
1 (800) 572-2390

(Source: Amended at 22 Ill. Reg. 8803, effective May 15, 1998)

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SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.310 Adoption Assistance

- a) General Provisions
 - 1) Eligibility, Funding Source, Assistance Amounts
 - A) Adoption assistance may be provided to those persons adopting children who are legally free for adoption, who are residents or youth in care of Illinois, and who the Department has determined meet the special needs criteria for non-recurring adoption assistance or who meet both the eligibility and special needs criteria for ongoing adoption assistance and who, it is reasonable to conclude, are not likely to be adopted without the provision of adoption assistance.
 - B) Adoption assistance is available through a combination of federal and State funding. The State receives federal reimbursement for a portion of the assistance provided for children meeting the Title IV-E eligibility criteria of the Social Security Act. The Department must comply with all of the requirements of that Act to claim funding for Title IV-E eligible children. The Title IV-E adoption assistance process is a combination of the field staff preparing the subsidy and documenting special needs followed by a centralized eligibility unit determining financial aspects of Title IV-E assistance.
 - C) State funding provides adoption assistance for children for whom the Department has placement and care responsibility and who meet the special needs criteria but are not eligible for Title IV-E adoption assistance. State funding also provides adoption assistance for children who age out of eligibility for Title IV-E adoption assistance and continue in school up to the earliest of their nineteenth birthday or graduation from high school.
 - D) Eligibility for adoption assistance shall be determined regardless of the financial circumstances of the adoptive parents, the types and amounts of assistance shall be determined by the Department and the adoptive parents on an individual basis. The Department shall notify the prospective adoptive parents of the availability and the types of assistance. The adoptive parent may refuse any or all of the adoption assistance. The ongoing monthly payment shall be issued to the person identified in the adoption assistance agreement. Any type of adoption assistance services included in this Part that are payable through insurance or other funding sources will not be paid for by the Department. The child adopted with adoption assistance is entitled to receive only those services and/or payments specified in the adoption assistance agreement.

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- 2) Responsibility of the State in Interjurisdictional Adoptions
 - A) When the Department has responsibility for placement and care of a child who is eligible for Title IV-E reimbursement, the Department is responsible for entering into the adoption assistance agreement and paying the adoption subsidy, even if the child is placed in an adoptive home in another state.
 - B) If the Department does not have responsibility for placement and care of a Title IV-E eligible child, it is the adoptive parent's state of residence where the adoption assistance application should be made. In that event, the public child welfare agency in the adoptive parent's state of residence is responsible for determining whether the Title IV-E child meets the definition of special needs, entering into the adoption assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.
- 3) Continued Eligibility of Children
 - A) If an adoption is dissolved because of the termination of parental rights, or the death of the adoptive parents, a child adopted with Title IV-E adoption assistance continues to be eligible for Title IV-E adoption assistance if the State determines that the child meets the definition of a child with special needs prior to finalization of adoption.
 - B) When an adoption assistance agreement is terminated because of the death of the adoptive parents, or the termination of parental rights and the child is adopted again, the Title IV-E child's state of residence is responsible for entering into the assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.
 - C) A child who was previously adopted with adoption assistance and whose adoption dissolves or whose adoptive parents die may be treated as if the financial circumstances for a subsequent adoption are the same as the first time the child was adopted.

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b) Eligibility for Adoption Assistance

Children under the Department's legal responsibility and those who are not under the Department's legal responsibility when the adoption petition is filed are eligible for Title IV-E adoption assistance when they meet one of the eligibility criteria described in this subsection (b) and the special needs criteria detailed in subsection (b)(2). Children for whom the Department of Children and Family Services is responsible for placement and care when the adoption petition is filed who do not meet the eligibility requirements in this subsection (b) but do meet the special needs criteria detailed in subsection (b)(2) are eligible for State-funded adoption assistance. Children not under the legal responsibility of the Department who do not meet the eligibility criteria described in this subsection (b) but who meet the definition of a child with special needs are eligible for adoption assistance non-recurring expenses only. The Department will not disqualify a child who is otherwise eligible for adoption assistance based on the child being an alien child. A qualified alien child must meet the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (P.L. 104-193, 110 Stat. 2168), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (P.L. 104-208), and the Balanced Budget Act of 1997 (BBA) (P.L. 105-33, 8 USC 1642).

- 1) The child was eligible for AFDC under the provisions of Title IV-A of the Social Security Act in effect as of July 16, 1996 during the month the petition was filed to remove the child from the home and the Department has determined that the child meets the definition of a child with special needs; or
 - A) An AFDC-eligible child removed from the home as a result of a court order shall be eligible for adoption assistance when there is a judicial determination in the removal order that it was contrary to the welfare of the child to remain in the home; or
 - B) An AFDC-eligible child removed from the home as a result of a voluntary placement agreement shall be eligible for adoption assistance when the child was placed in a foster home and at least one Title IV-E maintenance payment was made while the voluntary placement agreement was in effect.
 - C) An AFDC-eligible child who was voluntarily relinquished to a public or private not-for-profit agency shall be eligible for adoption assistance in the following circumstances:
 - i) a petition to officially remove the child from the home was filed with the court within 6 months after the child last lived with the relative who voluntarily relinquished the child; and
 - ii) there is subsequent judicial determination that remaining in the home is contrary to the child's welfare; or

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- D) The child's eligibility for Supplemental Security Income (SSI) was established and documented by the Social Security Administration and the Department determines that the child meets the definition of a child with special needs prior to the finalization of the adoption; or
- E) The child is a child of minor parent receiving Title IV-E foster care maintenance payments that include the child, although the child is not a ward of the Department and the child meets the definition of a child with special needs; or
- F) The child is a child for whom adoptive parents were previously receiving adoption assistance and the Department has determined that the child meets the definition of a child with special needs prior to the finalization of the subsequent adoption.

2) Special Needs Criteria

In order to be eligible for adoption assistance, the Department must determine that the child meets all three of the following criteria that comprise the definition of a child with special needs:

- A) the child cannot or should not be returned to the home of his or her parents as evidenced by:
 - i) a voluntary or involuntary termination of parental rights; and/or
 - ii) the death of a parent.
- B) there exists a specified factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance. These factors or conditions include:
 - i) an irreversible or non-correctable physical, mental or emotional disability; or
 - ii) a physical, mental, or emotional disability correctable through surgery, treatment or other specialized services; or
 - iii) the child is one year of age or older; or
 - iv) the child is a member of a sibling group being adopted together where at least one child meets one of the conditions in subsections (b)(2)(B)(i) through (iii); or
 - v) the child is being adopted by adoptive parents who have previously adopted, with adoption assistance, another child born of the same mother or father; and

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C) a reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption assistance, and the prospective adoptive parents are either unwilling or unable to adopt the child without adoption assistance, as evidenced by a written statement from the adoptive parents. A documented search for alternative adoptive placements without adoption assistance shall be made unless the Department determines that such a search would not be in the best interests of the child because the child has developed significant emotional ties with the prospective adoptive parents while in their care.

c) Types of Adoption Assistance

The types of adoption assistance that a family may apply for include:

1) Non-recurring Expenses

Payment for non-recurring adoption expenses incurred by or on behalf of the adoptive parents in connection with the adoption of a special needs child, up to a maximum of \$1500 for each adopted child.

2) Monthly Payments

An ongoing monthly payment is to be determined through the discussion and negotiation process between the adoptive parents and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the parent's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family upon entry of the final order of adoption unless the child is an unlicensed relative placement. In such a case, upon entry of a final order or adoption, the adoptive family may receive up to the applicable licensed foster family home rate. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the adoption assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. A non-custodial parent may request notice of periodic reviews or subsequent amendments to the adoption assistance agreement regarding their children.

3) A Medicaid card.

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- 4) Needs Not Payable Through Other Sources
 - A) Payment may be made for physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the entry of the final order of adoption. Payment shall not be made until the Department has been notified in writing that such services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary, and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.
 - B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the adoption assistance agreement or can be documented as a pre-existing condition that was unknown at the time of the agreement by a medical provider.
- 5) Therapeutic Day Care

Therapeutic day care is available only for children who are determined to have a disability that requires special educational services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that such services will begin, has approved the requested services, and a contract has been executed (when applicable).
- 6) Employment Related Day Care

Payment for day care for children under the age of three years may be made if the adoptive parent is employed or in a training program that will lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.
- 7) College Scholarships and the Education and Training Voucher Program

Children who are receiving adoption assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis (see 89 Ill. Adm. Code 312). A limited number of scholarships are awarded by the Department each year to high school or high school equivalent graduates. Youth who are adopted from foster care after attaining age 16 are eligible to enter the Education and Training Voucher (ETV) Program.

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- 8) Respite Care for Medically Fragile/Technology Children
- A) The Department may make payment for care for children who have a pre-existing condition that meets the medical eligibility guidelines used by the Department of Healthcare and Family Services (HFS) for the Home and Community Based Services (HCBS) Waiver program for Children who are Medically Fragile/Technology Dependent. The payment shall not exceed 10 days per State fiscal year. Unused days from one fiscal year cannot be carried over to a new State fiscal year or donated to another family. This program is operated by the Division of Specialized Care for Children (DSCC) for HFS. DCFS regional nurses shall assist in making the determination of whether the child meets the eligibility requirements for the waiver program.
 - B) Respite care shall be provided by an authorized provider licensed by the Department of Public Health as a children's respite care center under the Alternative Health Care Delivery Act [210 ILCS 3]. The provider must accept the Medicaid nursing hourly rate as the payment rate for the respite care. DCFS shall select and contract directly with the authorized provider to pay for this service. The adoptive parents must not already be receiving respite care from another source.
 - i) For existing adoptive cases: If the adoptive parents agree to apply, the parents should apply for the HCBS waiver program. As part of this application process, medical eligibility and cost neutrality calculations shall be determined. If determined eligible and the adoptive parents agree to accept HCBS waiver program services, then the respite care shall be provided through that program (if respite care is available as part of the service package resulting from these determinations and there is available capacity in the waiver program).
 - ii) For new adoptive cases, the adoptive parents must apply for the HCBS waiver program. As part of this application process, medical eligibility and cost neutrality calculations shall be determined. If determined eligible, the adoptive parents must agree to accept HCBS waiver program services, and the respite care shall be provided through that program (if respite care is available as part of the service package resulting from these determinations and there is available capacity in the waiver program).

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9) Conditional Adoption Assistance

Conditional adoption assistance is available to children adopted before February 1, 2004. To be eligible for conditional adoption assistance, the child must meet all of the eligibility requirements for adoption assistance and have a documented disability or risk factor not evident at the time of the adoption but that may require intervention, treatment or services in the future.

d) Adoption Assistance Agreement

The adoption assistance agreement shall be signed prior to the entry of the final order of adoption. The types, amount and duration of adoption assistance shall be agreed to in writing by the Department and the adoptive parents prior to the entry of the final order of adoption, and shall be set forth in the adoption assistance agreement, which shall be binding on the parties to the agreement. This payment shall not exceed the amount the child received in his or her current foster family home upon entry of the final order of adoption unless the child is in an unlicensed relative placement. In such a case, upon entry of the final order of adoption, the adoptive family may receive up to the applicable licensed foster family home rate. The adoption assistance agreement shall remain in effect, regardless of where the adoptive parents currently reside and shall contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move. The adoptive parents may request a change in their child's subsidy due to a change in the family or child's circumstances. All changes and/or services are subject to periodic review and authorization by the Department.

e) Notification Requirements by Adoptive Parents

The adoptive parent shall notify the Department no later than 30 days after any of the following occurrences:

- 1) the child is no longer the legal responsibility of the adoptive parents;
- 2) the adoptive parents no longer financially support the child;
- 3) the child graduates from high school or equivalent;
- 4) there is a change of residential address or mailing address of the adoptive parents or the child;
- 5) the child dies;
- 6) the child becomes an emancipated minor;
- 7) the child marries;

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- 8) the child enlists in the military; or
- 9) the child's custodial status changes; or
- 10) if the child was adopted before July 1, 2017, or was younger than 16 years of age when the adoption was finalized on or after July 1, 2017, the child completes his or her secondary education or a program leading to an equivalent credential; or
- 11) if the child was adopted after July 1, 2017 and was 16 years of age or older when the adoption was finalized and the child reaches the age of 18, the child's participation in any of the following:
 - A) the child is completing secondary education or a program leading to an equivalent credential;
 - B) the child is enrolled in an institution that provides post-secondary education or a vocational program;
 - C) the child is participating in a training program or activity designed to promote, or remove barriers to, employment;
 - D) the child is employed at least 80 hours per month; or
 - E) the child is incapable of doing any of the above due to a medical condition.

f) Notification Requirements by the Department

The Department shall provide adoptive parents of children adopted with adoption assistance with information about the Department's post-adoption search and reunion services, including information about accessing these services, at least once each year until adoption assistance payments cease. Youth who were adopted with adoption assistance shall be provided this same information within 30 days after his or her eighteenth birthday.

g) Periodic Reviews

The Department shall mail an Annual Notification letter to the adoptive parent or parents, which will facilitate the adoptive parent's communication with the Department.

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h) Termination of Adoption Assistance

The adoption assistance shall terminate when the Department has determined that one of the following has occurred:

- 1) The terms of the adoption assistance agreement are fulfilled.
- 2) The adoptive parents have requested that the adoption assistance permanently stop.
- 3) The adoptive parents are no longer legally or financially responsible for the child.
- 4) The child becomes an emancipated minor.
- 5) The child marries.
- 6) The child enlists in the military.
- 7) If the adoption was finalized before July 1, 2017, or the child was under the age of 16 when the adoption was finalized on or after July 1, 2017:
 - A) the child reaches age 18;
 - B) a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or
- C) a child who has a physical, mental or emotional disability associated with a condition or risk factor that existed prior to the finalization of the adoption and documented prior to the youth's 18th birthday reaches age 21.
- 8) For children who were were 16 years of age or older when the adoption was finalized on or after July 1, 2017, the child reaches age 21. Between the ages of 18 and 21, the adoption assistance payments may stop and start based on the child's compliance with, and the adoptive parent's confirmation of, the requirements listed in this subsection (h)(8) (failure of the adoptive parent to provide annual written confirmation will cause the subsidy payment to stop).
 - A) The child is completing secondary education or a program leading to an equivalent credential;
 - B) The child is enrolled in an institution that provides post-secondary education or a vocational program;
 - C) The child is participating in a program or activity designed to promote, or remove barriers to, employment;

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- D) The child is employed at least 80 hours per month; or
 - E) The child is incapable of doing any of the above due to a medical condition.
- 9) The adoptive parents die.
 - 10) The adoptive parents' parental rights are terminated.
 - 11) The child dies.
- i) Appeal of Department Decisions

Adoptive parents may appeal the following Department decisions in accordance with 89 Ill. Adm. Code 337, Service Appeal Process:

- 1) The Department failed to advise the potential adoptive parents about the availability of adoption assistance to children under the care of the Department;
- 2) The adoptive parents disagree with the Department's determination that a child is ineligible for adoption assistance;
- 3) The Department's denial of Title IV-E adoption assistance eligibility to a child for whom it does not have placement and care responsibility;
- 4) Inaction on the part of the Department on a Title IV-E adoption assistance eligibility determination request;
- 5) Adoption assistance or a specific component of adoption assistance was denied;
- 6) Relevant facts regarding the child were known by the Department and were not presented to the adoptive parents prior to the finalization of the adoption;
- 7) The Department denies the adoptive parents request to modify the adoption assistance agreement; or
- 8) An adoption assistance agreement has been amended, suspended or terminated without the concurrence of the adoptive parent.

(Source: Amended at 42 Ill. Reg. 15899, effective August 6, 2018)

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April 13, 1998 – P.T. 98.6

Section 302.315 Adoption Registry (Repealed)

The content of this Section has been transferred to rules 89 Ill. Adm. Code 309, Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible.

(Source: Repealed at 22 Ill. Reg.8803, effective May 15, 1998)

SERVICES DELIVERED BY THE DEPARTMENT
April 13, 1998 – P.T. 98.6

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July 18, 2008 – P.T. 2008.16

Section 302.320 Counseling or Casework Services

- a) Counseling or casework services are provided to children and families to assist them in resolving or coping with problems as well as to identify, obtain and use community resources and services. Problems addressed include, but are not limited to: unsatisfactory caregiver-child relationships; marital discord; inadequate home management, housekeeping or child care practices; parental illness, handicap, desertion or absence; and, physical or mental handicap, or behavior of the child which adversely affects his ability to adjust to his family, school or community and places the child at risk of harm.

- b) Counseling provided to children in need of a one-to-one relationship with an adult is referred to as advocacy and offered to:
 - 1) help children in institutional settings prepare for and adjust to post-institutional care;
 - 2) prevent unnecessary out-of-home placement of children when placement is likely; or
 - 3) help adolescents for whom the Department of Children and Family Services is legally responsible move toward independent functioning and self-sufficiency.

(Source: Amended at 21 Ill. Reg. 10912, effective July 29, 1997)

Section 302.330 Day Care Services

Day care services are provided to children and families who are clients of the Department in licensed or license exempt day facilities, in their own homes or in the homes of relatives:

- a) when parents or relative caregivers are away from home during part of the day when day care is an essential component of the service plan; or
- b) when parents or relative caregivers are unable to care for the child due to illness; or
- c) when care away from the home for part of the day is essential for the safety and well-being of children and the welfare of the parents or relative caregivers; or
- d) when the parent's or relative caregiver's ability to care for the children at home during certain hours of the day is impaired; or
- e) when a child with special developmental needs will benefit from day care services; or

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- f) when a child in foster family care or relative home placement can benefit from day care services.

(Source: Amended at 21 Ill. Reg. 10912, effective July 29, 1997)

Section 302.340 Emergency Caretaker Services

Emergency caretaker services are provided when the parents or caregivers are absent from the home and there would be no risk if the child remains in the home with adequate supervision. The intent of this service is to maintain the child in familiar surroundings and reduce inappropriate out-of-home placement. The Department may provide an emergency caretaker for up to 12 hours without taking temporary custody of the child.

(Source: Amended at 19 Ill. Reg. 9485, effective July 1, 1995)

Section 302.350 Family Planning Services

Family planning services are provided to enable the client to determine the number of children or the spacing of children through the postponement or prevention of conception. Family planning services include the provision of information concerning medical care and contraceptives and when other resources are unavailable, payment for services. Clients have the right to accept or reject family planning services. Family planning services are available to Department clients who are old enough to have children regardless of sex, marital status, parenthood, or the religious affiliation or personal belief of any Department or child welfare agency employee. A minor of child bearing age is entitled to family planning services without parental consent.

Section 302.360 Health Care Services

Health care services are provided to children for whom the Department has legal responsibility who are receiving placement services. Usually children in placement have been determined to be eligible for Medical Assistance provided through the Illinois Department of Public Aid. The Department of Children and Family Services shall pay for the medical care of children in placement for whom it is legally responsible and who are not eligible for the Medical Assistance program and who do not have resources to pay for medical care.

Section 302.365 Mental Health Services (Repealed)

(Source: Repealed at 32 Ill. Reg., effective July 10, 2008)

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Section 302.370 Homemaker Services

Homemaker services are provided primarily as an in-home, protective service to maintain and strengthen the ability of the parent(s) or relative caregiver to provide adequate child care and to improve their parenting skills. Additionally, homemaker services may be provided to ease the reunification of families, or to assist foster parents during times of family crisis as well as during pre-planned relief time. Service activities may include teaching and provision of home management, including meal planning and preparation, budgeting, shopping and child care; health care; teaching parenting skills; observation of family interaction; and assessment of client's needs.

(Source: Amended at 19 Ill. Reg. 9485, effective July 1, 1995)

Section 302.380 Information and Referral Services

When it is determined that a child or family requesting Department services or receiving Department services can benefit from referral to another community or governmental resource, the Department will provide information concerning the resource or make a referral to the resource.

Section 302.390 Behavioral Health Services

- a) Behavioral health services are available to all children and youth for whom the Department has placement and care responsibility.
- b) The child's behavioral health needs shall be assessed as the child enters care as a part of the integrated assessment and on an ongoing basis through the Administrative Case Review or through the completion of the Child and Adolescent Needs and Strengths (CANS) assessment tool anytime a change in the level of service is considered.
- c) The behavioral health services provided shall be based on the child's needs and may be provided at the site of the program, residential facility, foster home or other appropriate place. The placement provider shall assist in arranging for the child to receive the behavioral health services from an outside provider when those services are required to meet the child's clinical needs.
- d) Behavioral health services include, but are not limited to:
 - 1) Assessment is the evaluation of an individual's development, behavior, intellect, interests, personality, cognitive processes, emotional functioning and/or social functioning, for the purpose of identifying needs and developing recommendations for services and/or intervention. Assessment methods include interviewing, systematic observation and/or psychometric testing.
 - 2) Evidence-based treatments, sometimes referred to as empirically validated treatments or empirically supported therapy, are clinical practices that have been clearly described and are supported by scientific research and evidence.

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- 3) Psychosocial rehabilitation addresses the specific needs of persons who have a severe mental illness or psychiatric disability. The broad goals of psychosocial rehabilitation are to improve the child's or youth's skills and functioning and to develop the environmental supports necessary to maintain the child or youth in a foster home, school and the community.
- 4) Specialized foster care is a foster or adoptive home in which specialized services are provided to meet the emotional, behavioral, developmental or medical needs of a child placed in the home. Children in specialized foster care may require a wheel chair or a feeding tube, have a severe visual or speech impairment, or have disorders such as compulsive behaviors, mental retardation, substance abuse problems or a mental illness.
- 5) Transition planning services are the assessments, activities and support services needed to assist an adolescent in his or her preparation for self-sufficiency in adulthood. Transition planning services begin when the youth is age 14½ years and continues until the youth is discharged from the guardianship of DCFS.
- 6) Transition planning for youth who have a developmental disability shall be based on an assessment of cognitive functioning, adaptive functioning and capacity for independent living. Skill areas may include personal care, food preparation, safety precautions, use of public transportation, money management and vocational interests and abilities.
- 7) Integrated assessment (IA) is a comprehensive interview and standardized clinical screening process with children and their parents/guardians, conducted immediately following the child's removal from the home. The purpose of this assessment is early evaluation of the child's developmental, medical, educational, social-emotional, and mental health functioning and needs, to assess the child's response to trauma and to develop recommendations for services and interventions that support the child's need for safety, well-being and permanency.
- 8) Early intervention (EI) means the developmental/educational, social and health services provided to infants and toddlers (0 to 3 year of age) designed to maximize their development. Early intervention services include such services as speech and language services, occupational therapy, physical therapy, medical/health services, and psychological and social work services, Early intervention services are provided to children who are developmentally delayed, have conditions that typically result in delay, or are at risk of substantial developmental delay.

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- 9) Mental health services are treatment services for developmental, behavioral, emotional and mental disorders that may affect children and interfere with normal development and functioning. Mental health services include, but are not limited to, examination, diagnosis, evaluation, treatment, pharmaceuticals and aftercare.
 - A) Screening of children for whom the Department is legally responsible who are at risk for psychiatric hospitalization shall be provided in accordance with 59 Ill. Adm. Code 131 (Children's Program), and shall be based on a referral to the State's Crisis and Referral Entry Service (CARES) (see 59 Ill. Adm. Code 131.20).
 - B) Community mental health services for children for whom the Department is legally responsible shall be provided in accordance with 59 Ill. Adm. Code 132 (Medicaid Community Mental Health Services Program). These services shall be provided by entities certified by the Department, the Department of Human Services or the Department of Corrections to provide mental health services and that are enrolled in the Illinois Medical Assistance program pursuant to 89 Ill. Adm. Code 120.
- 10) The Department's Early Childhood Program conducts developmental and social-emotional screenings of children in foster care, birth to age five years, to assess developmental, social-emotional and/or mental health needs. Early childhood intervention provides support to caregivers to promote the child's development in key domains such as communication, attachment and mobility, to promote the child's coping and confidence, and to prevent the emergence of future problems.
- 11) Substance abuse services are activities that are designed to reduce, defer or eliminate substance abuse and/or chemical dependency through the use of prevention, treatment and ongoing recovery programs. Services provided by the Department include screening, referral, treatment, drug-testing and aftercare. Substance abuse services are available to children and adults.
- 12) Child and Adolescent Needs and Strengths (CANS) is an inventory that is used universally within the Department to evaluate a child's functioning and strengths in multiple domains. CANS tool does not provide a clinical diagnosis, but rather a focus for treatment. CANS is completed during the integrated assessment and at specified junctures during the child's or youth's time in care.

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- 13) Trauma treatment is comprised of a variety of therapeutic services and interventions, including the type of placement, that are provided within a Trauma-Informed System that recognizes that most children in the child welfare system have been exposed to significant traumatic experiences and require a broad range of individual and community supports and behavioral health services. Trauma services provided by the Department are evidence-based and have been proven to facilitate recovery from trauma.

(Source: Old Section repealed at 19 Ill. Reg. 9485, effective July 1, 1995; new Section added at 32 Ill. Reg., effective July 10, 2008)

Section 302.400 Successor Guardianship (Repealed)

(Source: Repealed at 22 Ill. Reg. 7140, effective April 13, 1998)

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July 18, 2008 – P.T. 2008.16

Section 302.405 Subsidized Guardianship Program

a) **General Provisions**

1) Funding Source

Subsidized guardianship is a program for which the Department has received waivers from the federal Department of Health and Human Services (DHHS) under section 1130 of the Social Security Act to operate a child welfare demonstration project. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out. Guardianship is governed by the Illinois Probate Act [755 ILCS 5] and the Illinois Juvenile Court Act [705 ILCS 405]. A relative caregiver or licensed foster parent caring for a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship and the types of assistance available. The subsidized guardianship agreement must be signed prior to the transfer of guardianship.

2) Continued Eligibility of Children

If guardianship is dissolved because of the death or incapacitation of the guardian or voluntary relinquishment, a child who previously received a subsidy continues to be eligible for the subsidized guardianship program. The child's financial circumstances may be treated as if the financial circumstances are the same as the first time guardianship was transferred.

b) **Subsidized Guardianship Agreement**

The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the transfer of guardianship, and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases in which the subsidized guardian and child move to another state while the agreement is in effect. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department. The child for whom guardianship is transferred and for whom the guardian is receiving a subsidy shall receive only those services and/or payments specified in the subsidized guardianship agreement.

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c) Eligibility Criteria

- 1) For a child to qualify for subsidized guardianship, the following criteria must be met:
 - A) the child is not a member of the control group; and
 - B) the child has been in the custody of the State for one year or more immediately prior to establishing subsidized guardianship and is likely to remain in care, and the parent has consented to the subsidized guardianship arrangement or the Department has good cause to seek a private guardian without consent and will give notice to the parent of the guardianship hearing; and
 - C) the child has a strong attachment to the potential guardian and the guardian has a strong commitment to the child; and
 - D) the permanency goals of return home and adoption have been ruled out for this child and documented in the case record.

- 2) In addition to the requirements of subsection (c)(1), in order for a child to qualify for subsidized guardianship, at least one of the following criteria must be met:
 - A) the child has lived with a relative for at least one year immediately prior to establishing subsidized guardianship; or
 - B) the child is 12 years of age or older and has lived with a non-relative for at least one year immediately prior to establishing subsidized guardianship; or
 - C) the child is a member of a sibling group for whom guardianship will be transferred together, of which at least one child has resided with the prospective subsidized guardian for at least one year and meets all subsidized guardianship criteria; or
 - D) the guardianship of the child will be transferred to a prospective guardian who has previously taken subsidized guardianship of another child born of the same mother or father; or
 - E) the child is under 12 years of age, is living with a non-relative, and has no older sibling for whom subsidized guardianship is being considered but is eligible due to the fact that:

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- i) subsidized guardianship has been determined to be in the child's best interests; and
 - ii) the basis for the decision is documented and approved by the Department Guardianship Administrator or designee; or
 - F) the child was previously in subsidized guardianship, but the guardian has died or the guardianship was voluntarily relinquished; or
 - G) the child was previously in subsidized guardianship, but due to the mental or physical incapacity of the guardian, the guardian can no longer discharge the responsibilities necessary to protect and care for the child, and guardianship was or will be vacated; or
 - H) the child who had been adopted who was eligible for subsidized guardianship prior to the adoption, continues to be eligible for subsidized guardianship in the event his or her adoptive parent is unable to care for him or her due to the death or total mental or physical incapacity of the adoptive parent.
- d) **Determination Whether Subsidized Guardianship is in the Best Interests of the Child**
 - 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making this determination, the Department shall consider all relevant factors including but not limited to:
 - A) the wishes of the child's prospective subsidized guardian;
 - B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship of the child with the prospective subsidized guardian;
 - D) the child's adjustment to the present home, school, and community;
 - E) the child's need for stability and continuity or relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.

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- 2) The Department shall ensure that the subsidized guardianship arrangement is a safe and suitable placement by means of a safety check, which shall include a CANTS/SACWIS and LEADS check.

e) **Types of Assistance**

The types of assistance that a family may apply for include:

- 1) **Non-recurring Expenses**

Payment for non-recurring expenses for reasonable and necessary miscellaneous costs, and legal fees related to subsidy review, that are directly related to the transfer of guardianship, subject to the maximum set by the Department of \$500 per child.

- 2) **Ongoing Monthly Payments**

- A) An ongoing monthly payment to be determined through the discussion and negotiation process between the prospective guardian and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the guardian's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family home upon transfer of guardianship unless the child is in an unlicensed relative placement. In such a case, upon transfer of guardianship the guardian may receive up to the applicable licensed foster family home rate. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. A non-custodial parent may request notice of periodic reviews or subsequent amendments to the assistance agreement regarding their children. The ongoing monthly payment may be adjusted for any benefits the child will continue to receive, such as Social Security, Veteran's benefits, railroad retirement or black lung benefits. Supplemental Security Income (SSI) benefits shall not be considered in determining the ongoing monthly payment amount. When the child is SSI-eligible following the transfer of guardianship, the guardian shall tell the Social Security Administration the amount of the ongoing monthly payment that they are receiving. The Social Security Administration may reduce the SSI payment dollar for dollar as the receipt of SSI is based on income.

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- B) Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in [Section 302.310\(c\)](#) of this Part.
- 3) A Medicaid card.
 - 4) Needs Not Payable Through Other Sources
 - A) Physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the transfer of guardianship. Payment shall not be made until the Department has been notified in writing that such services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary, and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.
 - B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the subsidized guardianship agreement.
 - 5) Therapeutic Day Care

Therapeutic day care is available only for children who are determined to have a disability that requires special educational services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that such services will begin and has approved the requested services, and a contract has been executed (when applicable).
 - 6) Employment Related Day Care

Payment may be made for day care for children under the age of three years if the guardian is employed or in a training program that will lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.

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- 7) Respite Care for Medically Fragile/Technology Dependent Children
- A) The Department may make payment for care for children who have a pre-existing condition that meets the medical eligibility guidelines used by the Department of Healthcare and Family Services (HFS) for the Home and Community Based Services (HCBS) Waiver program for Children who are Medically Fragile/Technology Dependent. The payment shall not exceed 10 days per State fiscal year. Unused days from one fiscal year cannot be carried over to a new State fiscal year or donated to another family. This program is operated by the Division of Specialized Care for Children (DSCC) for HFS. DCFS regional nurses shall assist in making this determination of whether the child meets the eligibility criteria for the waiver program.
 - B) Respite care shall be provided by an authorized provider licensed by the Department of Public Health as a children's respite care center under the Alternative Health Care Delivery Act [210 ILCS 3]. The provider must accept the Medicaid nursing hourly rate as the payment rate for the respite care. DCFS shall select and contract directly with the authorized provider to pay for this service. The subsidized guardians must not already be receiving respite care from another source.
 - i) For existing subsidized guardianship cases, if the subsidized guardian agrees to apply, the guardian should apply for the HCBS waiver program. As part of this application process, medical eligibility and cost neutrality calculations shall be determined. If determined eligible and the subsidized guardian agrees to accept HCBS waiver program services, then the respite care shall be provided through that program (if respite care is available as part of the service package resulting from these determinations and there is available capacity in the waiver program).
 - ii) For new subsidized guardianship cases, the subsidized guardian must apply for the HCBS waiver program. As part of this application process, medical eligibility and cost neutrality calculations shall be determined. If determined eligible, the subsidized guardian must agree to accept HCBS waiver program services, and the respite care shall be provided through that program (if respite care is available as part of the service package resulting from these determinations and there is available capacity in the waiver program).

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8) College Scholarships

Children who are receiving subsidized guardianship assistance may also apply for a 4-year college scholarship awarded by the Department to high school or high school equivalent graduates.

9) Guardianship Incentive (Independent Facilitation Grants)

The Department will pay an incentive payment for children who are 14 to 18 years of age when guardianship with subsidized guardianship was awarded during the time period of March 15, 2001 through January 31, 2003. The Department will provide a payment of \$3000 to be awarded to a child placed in subsidized guardianship under the following circumstances in the manner described:

- A) In order to assist youth who have been receiving subsidized guardianship to make the transition to adulthood, the Department will provide a payment of \$3000 directly to the youth upon termination of his or her subsidized guardianship subsidy.
- B) The payment is intended to assist the child's transition to adulthood by helping pay for education, housing, or other forms of vocational training or employment assistance.
- C) In order to be eligible for this payment, the child:
 - i) must have been the legal responsibility of the Department prior to the subsidized guardianship; and
 - ii) must have been 14 to 18 years of age when the guardianship was awarded to the private guardian during the time period of March 15, 2001 through January 31, 2003.
- D) Children in subsidized guardianship within this time period who do not have their private guardianship finalized by January 31, 2003 will not be eligible for this grant award.
- E) The payment will be awarded directly to the child.

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10) Enhanced Subsidized Guardianship and Adoption Assistance

The Enhanced Subsidized Guardianship and Adoption Program (ESGAP) provides transition services to youth who are 14 years old or older when adopted or when guardianship is transferred. It is a Title IV-E waiver program that is federally funded. Federal regulations limit the Title IV-E waiver services a child can receive to those offered by the waiver program to which he or she is assigned. Children are randomly assigned to a single Title IV-E waiver program per mandatory federal guidelines for the program.

A) ESGAP provides the following services to youth as they transition to adulthood:

- i) Youth in College/Vocational Training;
- ii) Employment Incentive Program;
- iii) Life Skills Training;
- iv) Housing Cash Assistance; and
- v) Education and Training Vouchers.

B) To be eligible for ESGAP, the youth must meet the following criteria:

- i) Is 14 years of age or older and not yet 18 years of age when moving to adoption or guardianship; is assigned to the subsidized guardianship demonstration group; and is eligible for adoption assistance or subsidized guardianship; or
- ii) Is a younger sibling of an eligible youth and is moving to permanency in the same home and at the same time as the eligible youth.

C) Documentation from the caseworker that the child is eligible for ESGAP must be included in the subsidy packet prior to the finalization of the adoption or transfer of guardianship.

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f) **Responsibilities of the Subsidized Guardian**

Subsidized guardians are responsible for the following:

- 1) ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court; and
- 2) notifying the Department no later than 30 days after any one of the following occurrences:
 - A) The child is no longer the legal responsibility of the guardian.
 - B) The guardian no longer financially supports the child.
 - C) The child graduates from high school or equivalent.
 - D) There is a change of residential address or mailing address of the guardian or the child.
 - E) The child dies.
 - F) The child becomes an emancipated minor.
 - G) The child marries.
 - H) The child enlists in the military.
 - I) The mental or physical incapacity of the guardian prevents the guardian from discharging the responsibilities necessary to protect and care for the child.
 - J) The custodial status of the child changes.
 - K) The guardianship is vacated.

g) **Department Responsibilities**

- 1) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services).

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- 2) The Department shall offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment of one time only court costs and legal fees, if required.
- 3) The Department shall ensure that an orientation is provided to the family to ensure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.
- 4) The Department shall ensure that each guardian has access to a caseworker that will respond to requests for information and assistance.
- 5) The Department shall ensure that all guardians are aware of their right to appeal service decisions with which they may disagree under 89 Ill. Adm. Code 337 (Service Appeal Process).
- 6) The Department shall accept custody of the child in accordance with the Abused and Neglect Child Reporting Act [325 ILCS 5] if the guardian does not care for him or her to the extent the child's health or well-being is endangered.

h) **Periodic Reviews**

Periodic reviews are annual recertifications that are required for children in guardianship homes to maintain their eligibility for the Title XIX Medicaid Program. The Department shall conduct periodic reviews to confirm that the child remains eligible for a Medicaid card. The guardian and, when applicable, parents when the Department has been provided with the correct mailing address, including non-custodial parents, will receive written notice of the review. The guardian is required to participate and cooperate with the review.

i) **Termination of Payments**

Payments for Subsidized Guardianship Assistance shall terminate when the Department has determined that any one of the following has occurred:

- 1) When the terms of the subsidized guardianship agreement are fulfilled.
- 2) The guardian has requested that the payment permanently stop.
- 3) The guardian is no longer financially supporting the child.
- 4) The child becomes an emancipated minor.

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- 5) The child marries.
- 6) The child enlists in the military.
- 7) The child reaches age 18; a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or a child who has a physical, mental or emotional disability that was documented prior to the 18th birthday reaches age 21.
- 8) The guardian dies.
- 9) The guardianship is vacated.
- 10) The child dies.

j) Title IV-E Waiver

The Department has a Title IV-E demonstration waiver from the Department of Health and Human Services to operate a subsidized legal guardianship program. The Title IV-E terms and conditions allow reinstatement of the child's IV-E eligibility status that was in place prior to the establishment of the guardianship in situations where the guardianship disrupts. Therefore, if a guardianship disrupts and the child returns to foster care or is going to be adopted, the State would apply the eligibility criteria in section 473 of the Social Security Act for the child as if the legal guardianship had never occurred.

k) Appeal of Department Decisions

A guardian has a right to file a service appeal in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process) when:

- 1) The guardian disagrees with the Department's determination that a child is ineligible for subsidized guardianship assistance;
- 2) Subsidized guardianship assistance or a specific subsidized guardianship assistance component was denied;
- 3) The Department denies the guardian's request to modify the subsidized guardianship assistance agreement; or
- 4) When a subsidized guardianship assistance agreement has been amended, suspended or terminated without the concurrence of the guardian.

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l) **Demonstration Group**

Although participation in the subsidized guardianship program is statewide, for purposes of meeting the cost neutrality, federal funding, and evaluation requirements of the federal waiver demonstrations, clients will be randomly assigned in three geographical areas of the State to a demonstration group or a cost neutrality group. The demonstration group will be subject to the waiver provisions of the demonstration, and the cost neutrality group will be subject to the regular treatment services according to the Department's rules and procedures.

The three areas are:

- 1) Cook Central Region.
- 2) East St. Louis sub-region serving the following counties:
 - A) Madison;
 - B) St. Clair;
 - C) Bond;
 - D) Clinton;
 - E) Washington;
 - F) Monroe; and
 - G) Randolph.
- 3) Peoria sub-region serving the following counties:
 - A) Fulton;
 - B) Henderson;
 - C) Knox;
 - D) Warren;
 - E) Henry;
 - F) LaSalle;

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- G) McDonough;
- H) Mercer;
- I) Rock Island;
- J) Tazewell;
- K) Peoria;
- L) Bureau;
- M) Marshall;
- N) Putnam;
- O) Woodford; and
- P) Stark.

(Source: Amended at 32 Ill. Reg. 11611, effective July 10, 2008)

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Section 302.410 Subsidized Guardianship Program (KinGAP)

a) General Provisions

- 1) The subsidized guardianship program (KinGAP) implements provisions of 42 USC 673 that allow the State to enter into guardianship agreements to provide assistance payments to grandparents and other relatives who have assumed the legal guardianship of children for whom they have cared as a licensed foster parent and for whom they have committed to care on a permanent basis. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out. Guardianship is governed by the Illinois Probate Act [755 ILCS 5] and the Illinois Juvenile Court Act [705 ILCS 405]. A licensed relative foster parent caring for a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship and the types of assistance available. The subsidized guardianship agreement must be signed prior to the transfer of guardianship.

- 2) The State funded option of subsidized guardianship provides subsidized guardianship for children for whom the Department has placement and care responsibility and who meet the special needs criteria as defined in Section 302.310(b)(2), but are not eligible for Title IV-E KinGAP, as well as for children who age out of eligibility for Title IV-E KinGAP and continue in school up to the earliest of their 19th birthday or graduation from high school, or age 21 when the child meets specific requirements outlined in subsections (f)(2), (i)(7) and (i)(8).

b) The Subsidized Guardianship Agreement

1) General Provisions

The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the transfer of guardianship and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. It shall be stipulated that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases in which the subsidized guardian and child move to another state while the agreement is in effect. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department. The child for whom guardianship is transferred and for whom the guardian is receiving a subsidy shall receive

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only those services and/or payments specified in the subsidized guardianship agreement. The child may require services in the future that are not currently being provided for pre-existing physical, emotional or mental health needs or risk factors. Any pre-existing conditions must be described in the subsidized guardianship agreement to be eligible for assistance through the Subsidized Guardianship Program at a future date. Assistance cannot be granted for pre-existing conditions if the conditions are not listed in the subsidized guardianship agreement in accordance with subsection (e)(4) or cannot be documented, as a pre-existing condition that was unknown at the time of the agreement, by a medical provider. The subsidized guardianship agreement must be signed, and a copy of the signed agreement must be provided to the prospective guardian, prior to the transfer of guardianship.

2) Successor of Guardianship

The subsidized guardianship agreement may not be transferred by the guardians to any other party. However, in the event of the death or incapacity of the guardians, the child remains eligible for assistance if the guardians have designated a successor guardians in the agreement (or any amendment to the agreement). Upon assuming care of the child, the successor guardians shall contact the Department to inform the Department of changes in the child's living situation, to request a home study and background checks, and to initiate the application process for a subsidy.

c) Eligibility Criteria

1) Eligibility for Subsidized Guardianship under KinGAP

A) For a child to qualify for subsidized guardianship under KinGAP, the following criteria must be met:

- i) the child must have been 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 and the best interest of the child; and
- ii) the child must be eligible for foster care maintenance payments while residing for at least 6 consecutive months in the home of a licensed prospective relative guardian immediately prior to the establishment of the guardianship; and
- iii) the prospective relative guardian must have been a licensed foster parent for at least the consecutive 6 month period that

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Policy Guide 2014.19

Change in the KinGap Subsidized Guardianship Program

DATE: December 31, 2014
TO: All DCFS and Private Agency Child Welfare Workers and Supervisors
FROM: Bobbie Gregg, Acting Director *Bobbie Gregg*
EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to provide information and guidance to DCFS and POS child welfare staff about recent changes affecting the KinGap subsidized guardianship program.

II. PRIMARY USERS

The primary users of this Policy Guide are POS and DCFS caseworkers and supervisors.

III. BACKGROUND

The Preventing Sex Trafficking and Strengthening Families Act [Public Law 113-183] amended the kinship guardianship assistance program (KinGap) in Title IV-E of the Social Security Act.

Eligibility requirements for KinGap were expanded, effective September 29, 2014, to include a child in whose behalf a relative guardian is receiving KinGap payments if the relative guardian dies or is incapacitated and a successor legal guardian has been named in the KinGap agreement or any amendments to the agreement. In other words, when the successor legal guardian assumes care and custody of the child, the Department will direct monthly kinship care assistance payments to that guardian.

The Department will be initiating rulemaking in January 2015 to amend the KinGap eligibility requirements in DCFS Rule 302.410(c)(1) [89 Ill. Adm. Code 302.410(c)(1)].

The **CFS 1800-C-G, Subsidized Guardianship Agreement** and **CFS 1800-F, Amendment to Agreement for Assistance** have been revised to implement this change to KinGap.



Revisions to the **CFS 1800-C-G, Subsidized Guardianship Agreement:**

- **Section II, General Provisions, Paragraph 4, adds:**

However, in the event of the death or incapacity of the guardian(s), the child remains eligible for assistance if the guardian(s) has designated a successor guardian(s) in this agreement (or any amendment to this agreement). Upon assuming care of the child, the successor guardian(s) must contact the DCFS Post Adoption staff in their region to request a home study, background checks and the development of a subsidy.

- **Section III, Obligations of the Guardian(s), adds new Paragraph (3):**

The guardian(s) designate the following person(s) as successor guardian(s) under this agreement. The successor guardian(s) have agreed in writing to assume care and custody of the child in event of the death or incapacity of the guardian(s)

- **Section X, Amendments, adds:**

Amendments to designate or change successor guardian(s) must also be completed on the CFS 1800-F.

Revision to the **CFS 1800-F, Amendment to Agreement for Assistance:**

- [Check box] Successor Guardian(s)
The guardian(s) designate the following person(s) as successor guardian(s) under this agreement. The successor guardian(s) have agreed in writing to assume care and custody of the child in event of the death or incapacity of the guardian(s)

Also, for purposes of the kinship guardianship assistance program (including KinGap), the term “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: protection; education; care and control of the person; custody of the person; and decision making.”

IV. INSTRUCTIONS

- 1) Permanency and Adoption / Subsidy Workers shall ask relative caregivers who apply for kinship care assistance payments (KinGap) pursuant to Rule 302.410(c)(1) to designate a successor guardian(s) on the **CFS 1800-C-G, Subsidized Guardianship Agreement**, and explain how designation of a successor guardian(s) can benefit the child or children in their care.
- 2) Permanency and Adoption / Subsidy Workers shall ensure that relative caregivers who have already signed a **CFS 1800-C-G**, but who have not yet been appointed guardian of the child/children by the Juvenile Court, complete the attached

revised **CFS 1800-C-G**. The worker shall ask the prospective guardian(s) to designate a successor guardian(s) on the revised **CFS 1800-C-G, Subsidized Guardianship Agreement**, and explain how designation of a successor guardian(s) can benefit the child or children in their care.

3. Subsidy Workers shall ensure that relative guardians appointed by the Juvenile Court on or after 11/01/09 and prior to the effective date of this Policy Guide are asked to complete a **CFS 1800-F, Amendment to Agreement for Assistance** in order to designate a successor guardian(s) for the child or children in their care.

Revised CFS 1800-C-G and CFS 1800-F are available on the T drive and the DCFS Website and will be available in Spanish.

V. QUESTIONS

Questions regarding this Policy Guide may be directed to the Office of Child and Family Policy at 217-524-1983 or via Outlook at OCFP – Mailbox. Non Outlook users may e-mail questions to cfpolicy@idcfs.state.il.us.

VI. FILING INSTRUCTIONS

File this Policy Guide behind page 2 of Rule 302.410, Subsidized Guardianship Program (KinGap).

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- the child has been in his/her home immediately prior to the establishment of the guardianship; and
- iv) return home or adoption are not appropriate permanency options for the child; and
 - v) the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and
 - vi) a child who has attained 14 years of age, has been consulted and the child has agreed to the guardianship arrangement.
- B) A sibling of an eligible child who is placed with the same relative as the eligible child under a kinship guardianship agreement, when DCFS and the relative guardian agree that the placement is appropriate, also qualifies for subsidized guardianship under KinGAP.
- 2) Eligibility for the State Funded Option of Subsidized Guardianship
- A) For a child to qualify for the State Funded Option of Subsidized Guardianship, the following criteria must be met:
- i) The child does not qualify for subsidized guardianship under KinGap;
 - ii) the child is 12 years of age or older; and
 - iii) the child has lived with an unlicensed relative caregiver or licensed non-relative for at least the 6 consecutive month period prior to the establishment of the guardianship and meets the following:
 - the child was 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 and best interest of the child; and
 - the child was eligible for foster care maintenance payments while residing for at least 6 consecutive months in the unlicensed home of relative or licensed non-relative home immediately prior to establishing guardianship; and

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- the prospective non-relative guardian has been a licensed foster parent for at least the consecutive 6 month period immediately prior to the establishment of the guardianship; and
 - return home or adoption are not appropriate permanency options for the child; and
 - the child demonstrates a strong attachment to the prospective guardian and the prospective guardian has a strong commitment to caring permanently for the child; and
 - the child has been consulted and has agreed to the guardianship arrangement.
- B) A younger sibling of a child eligible for the State funded option of subsidized guardianship who is placed with the same unlicensed relative or licensed non-relative as the eligible child, when DCFS and the unlicensed relative or licensed non-relative guardian agree that the placement is appropriate, also qualifies for the State funded option of subsidized guardianship.
- d) Determination Whether Subsidized Guardianship under KinGap is in the Best Interests of the Child
- 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making this determination, the Department shall consider all relevant factors, including but not limited to:
- A) the wishes of the child's prospective subsidized guardian and the guardian's demonstrated ability to provide care that meets the special needs of the child, if any;
 - B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship between the child and the prospective subsidized guardian;
 - D) the child's adjustment to the present home, school and community;
 - E) the child's need for stability and continuity of relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.

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- 2) The Department shall ensure that the subsidized guardianship arrangement is safe and suitable placement by means of a safety checks, which shall include a CANTS/SACWIS and LEADS check in accordance with 89 Ill. Adm. Code 385 (Background Checks).

e) Types of Assistance

A child meeting the eligibility criteria for subsidized guardianship is entitled to the following types of assistance:

- 1) Non-recurring Expenses

Payment for non-recurring expenses associated with obtaining legal guardianship for the child subject to the maximum of up to \$2000 per child.

- 2) Ongoing Monthly Payments

- A) An ongoing monthly payment to be determined through the discussion and negotiation process between the prospective guardian and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the guardian's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family home upon transfer of guardianship. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. The ongoing monthly payment may be adjusted for any benefits the child will continue to receive, such as Social Security, Veteran's benefits, railroad retirement or black lung benefits. Supplemental Security Income (SSI) benefits shall not be considered in determining the ongoing monthly payment amount. When the child is SSI-eligible following the transfer of guardianship, the guardian shall tell the Social Security Administration the amount of the ongoing monthly payment that they are receiving. The Social Security Administration may reduce the SSI payment dollar for dollar as the receipt of SSI is based on income.

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B) Eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(c).

3) A Medicaid card.

4) Needs Not Payable through Other Sources

A child meeting the eligibility criteria for subsidized guardianship entitled to the types of assistance outlined in subsections (e)(1), (2) and (3) may also apply for the following types of assistance:

A) Physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the transfer of guardianship. Payment shall not be made until the Department has been notified in writing that the services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.

B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the subsidized guardianship agreement or can be documented by a medical provider as a pre-existing condition that was unknown at the time of the agreement.

5) Therapeutic Day Care

Therapeutic day care is available only for children who are determined to have a disability that requires special education services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that requested services have been approved, when services will begin, and that a contract has been executed (when applicable).

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6) Employment Related Day Care

Payment for day care for children under the age of 3 years may be made if the guardian is employed or in a training program that will lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.

7) College Scholarships and the Education and Training Voucher Program

Children who are receiving subsidized guardianship assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis. A limited number of scholarships are awarded by the Department each year to high school or high school equivalent graduates. Youth who enter into subsidized guardianship from foster care after attaining age 16 are eligible to enter the Education and Training Voucher (ETV) Program.

f) Responsibilities of the Subsidized Guardian

Subsidized guardians are responsible for the following:

- 1) ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court; and
- 2) notifying the Department no later than 30 days after any one of the following occurrences:
 - A) the child is no longer the legal responsibility of the guardian;
 - B) the guardian no longer financially supports the child;
 - C) the child graduates from high school or equivalent;
 - D) there is a change of residential address or mailing address of the guardian or the child;
 - E) the child dies;
 - F) the child becomes an emancipated minor;
 - G) the child marries;
 - H) the child enlists in the military;

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- I) the mental or physical incapacity of the guardian prevents the guardian from discharging the responsibilities necessary to protect and care for the child;
 - J) the custodial status of the child changes;
 - K) the guardianship is vacated;
 - L) the child has completed his or her secondary education or a program leading to an equivalent credential, if the guardianship was awarded before July 1, 2017 or the child was younger than 16 years of age when guardianship was awarded on or after July 1, 2017;
 - M) on or after July 1, 2017, if the child was 16 years of age or older when guardianship was awarded, and the child reaches the age of 18, the child:
 - i) is completing secondary education or a program leading to an equivalent credential;
 - ii) is enrolled in an institution that provides post-secondary education or a vocational program;
 - iii) is participating in a training program or activity designed to promote, or remove barriers to, employment;
 - iv) is employed at least 80 hours per month; or
 - v) is incapable of doing any of the above due to a medical condition.
- g) Department Responsibilities
- 1) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services).
 - 2) The Department shall explain in the child's service plan the following:
 - 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 the separation of any and all siblings during placement;

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- C) the reasons why a permanent placement with a fit and willing relative through a subsidized guardianship assistance arrangement is in the child's best interests;
 - D) the ways in which the child meets the eligibility requirements for a subsidized guardianship assistance payment;
 - E) the efforts the agency has made to discuss adoption with 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 not to pursue; and
 - F) the efforts made by the Department to discuss with the child's parent or parents the subsidized guardianship assistance arrangement, or the reasons why the efforts were not made.
- 3) The Department shall offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment of one time only court costs and legal fees, if required.
 - 4) The Department shall ensure that an orientation is provided to the caregiver's family to ensure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.
 - 5) The Department shall ensure that each guardian has access to post-guardianship staff who shall respond to requests for information and assistance.
 - 6) The Department shall ensure that all guardians are aware of their right to appeal service decisions with which they may disagree under 89 Ill. Adm. Code 337 (Service Appeal Process) as summarized in subsection (j).
 - 7) The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for the child to the extent the child's health or well-being is endangered.
- h) Periodic Reviews

The Department shall mail an Annual Notification letter to the guardian, which will facilitate the guardian's communication with the Department.

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i) Termination of Payments

Payments for subsidized guardianship assistance shall terminate when the Department has determined that any one of the following has occurred:

- 1) when the terms of the subsidized guardianship agreement are fulfilled;
- 2) the guardian has requested that the payment permanently stop;
- 3) the guardian is no longer financially supporting the child;
- 4) the child becomes an emancipated minor;
- 5) the child marries;
- 6) the child enlists in the military;
- 7) if the guardianship was finalized before July 1, 2017, or the child was under the age of 16 when the guardianship was finalized on or after July 1, 2017:
 - A) the child reaches age 18;
 - B) a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or
 - C) a child who has a physical, mental or emotional disability associated with a condition or risk factor that existed prior to the finalization of the guardianship and that was documented prior to the youth's 18th birthday reaches age 21;
- 8) for children who were 16 years of age or older when the guardianship was transferred on or after July 1, 2017, the child reaches age 21. Between the ages of 18 and 21, the subsidy payments may stop and start based on the child's compliance with, and the guardian's confirmation of, the requirements listed in this subsection (i)(8) (failure of the guardian to provide annual written confirmation will cause the subsidy payment to stop).
 - A) The child is completing secondary education or a program leading to an equivalent credential;
 - B) The child is enrolled in an institution that provides post-secondary education or a vocational program;

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- C) The child is participating in a training program or activity designed to promote, or remove barriers to, employment;
 - D) The child is employed at least 80 hours per month; or
 - E) The child is incapable of doing any of the above due to a medical condition;
 - 8) the guardian dies;
 - 10) the guardianship is vacated; or
 - 11) the child dies.
- j) Appeal of Department Decisions

Guardians may appeal the following Department decisions in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process):

- 1) The Department failed to advise the potential guardian about the availability of a subsidy to children under the care of the Department;
- 2) The potential guardians disagree with the Department's determination that a child is ineligible for subsidized guardianship;
- 3) The Department's denial of Title IV-E subsidized guardianship eligibility to a child for whom it does not have placement and care responsibility;
- 4) Inaction on the part of the Department on a Title IV-E subsidized guardianship eligibility determination request;
- 5) Subsidized guardianship or a specific component of the subsidized guardianship was denied;
- 6) Relevant facts regarding the child were known by the Department and were not presented to the guardian prior to the transfer of guardianship;
- 7) The Department denies the guardian's request to modify the subsidized guardianship agreement; or
- 8) A subsidized guardianship agreement has been amended, suspended or terminated without the concurrence of the guardian.

(Source: Amended at 42 Ill. Reg. 15899, effective August 6, 2018)

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SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section 302.500 Purpose

The purpose of Subpart D is to describe how the Department will implement the services mandated by the "Family Preservation Act" (Ill. Rev. Stat. 1989, ch. 23, pars. 2057.4 and 2058.2) and "AN ACT creating the Department of Children and Family Services, codifying its powers and duties and repealing certain Acts and sections herein named" (Ill. Rev. Stat. 1989, ch. 23, pars. 5005 and 5006a). Included in this Subpart are the statewide phase-in plan for family preservation services and a description of the services to be provided.

(Source: Added at 14 Ill. Reg. 19010, effective November 15, 1990)

Section 302.510 Implementation of the Family Preservation Act

The Department is implementing the Family Preservation Act by the provisions of Family Preservation Services as described in [Sections 302.20](#) and [302.40\(b\)](#) and (c). Among the Family Preservation Services to be provided are the intensive family preservation services provided by local community-based agencies experienced in providing social services to children and families. The provision of intensive family preservation services will be phased in accordance with [Section 302.530](#).

(Source: Added at 14 Ill. Reg. 19010, effective November 15, 1990)

Section 302.520 Types of Intensive Family Preservation Services

Intensive Family Preservation Services include but are not limited to:

- a) Homemaker services which may include emergency caretakers, homemakers, caretakers, housekeepers and chore services.
- b) Counseling which may include individual therapy, infant stimulation therapy, family therapy, group therapy, self-help groups, drug and alcohol counseling, vocational counseling, and post-adoptive services.
- c) Day care which may include protective day care, day care to meet educational, prevocational or vocational needs and respite care.
- d) Educational services which may include household management education, parenting education and employment-related education.

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- e) Transportation services to be provided for the purpose of obtaining any of the other intensive family preservation services, when no other means of transportation is available. Other means of transportation may include the family's own vehicle, public transportation where available and the use of relatives, friends and unpaid volunteers.
- f) Emergency assistance and advocacy which may include coordinated services to secure emergency cash, food, housing and medical assistance or advocacy for other subsistence and family protective needs.

(Source: Added at 14 Ill. Reg. 19010, effective November 15, 1990)

Section 302.530 Phase-in Plan for Statewide Intensive Family Preservation Services

The Department will phase-in intensive family preservation services in the following manner:

- a) During the first phase the Department will fund programs in at least one site in each of the Department's seven downstate regions and four sites in Cook County. These sites will be selected based on the following criteria:
 - 1) the number of protective custodies
 - 2) the number of children in foster care
 - 3) the number of indicated reports of child abuse or neglect for families with children 0-6 years of age
 - 4) the availability of other placement prevention resources
- b) These programs will be directed toward families:
 - 1) who are the subject of a child abuse or neglect report, and
 - 2) who have at least one child under the age of six residing in the home, and
 - 3) for whom immediate placement of the child(ren) has been determined necessary or the Department has taken protective custody of the child(ren) until intensive family preservation services are in place, and
 - 4) who have been the subject of three (3) or fewer indicated reports, and

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- 5) whose children, in the judgment of the Department, are not jeopardized by remaining at or being returned home if intensive family preservation services are provided.
- c) Three years following the beginning of the first phase, programs providing family preservation services to the identical target population shall be extended throughout the state.
- d) During the second phase, depending on sufficient funds appropriated by the General Assembly, the Department will fund programs to:
 - 1) extend intensive family preservation services to the same target population as defined in subsection (a)(1) residing in other geographical areas of the state. The geographical areas for expansion will be selected on the basis of the same criteria listed in subsection (a)(2).
 - 2) increase the age of the youngest child in the targeted population up to and including 12 years of age;
 - 3) begin providing intensive family preservation services to families with children in placement four months or less in order to reunite these families if family preservation is an appropriate goal.
- e) Programs providing intensive family preservation services directed toward the following remaining populations will be phased in, depending on sufficient appropriations, in the following order:
 - 1) families with indicated reports of child abuse or neglect that are classified as Priority I or severe Priority II reports as defined in Appendix B, Child Abuse and Neglect Allegations, of 89 Ill. Adm. Code 300, Reports of Child Abuse and Neglect;
 - 2) families with children up to and including 17 years of age who are the subjects of an abuse or neglect report and for whom immediate placement is considered;
 - 3) all families with children in substitute care and for whom reunification is an appropriate goal;
 - 4) any persons who have adopted a child and require post adoption services.

(Source: Added at 14 Ill. Reg. 19010, effective November 15, 1990)

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Section 302.540 Time Frames

- a) The provision of intensive family preservation services to a family is limited to ninety (90) days. Extension of services beyond the 90-days period may be negotiated in exceptional situations on a case by case basis. However, no more than two 30-day extensions will be granted.

- b) A 30-day extension will be granted when in the judgment of the provider and the Department:
 - 1) a family will be able to meet the goals and objectives of the services plan within an additional 30 days; and
 - 2) the child's safety will not be jeopardized by remaining at home during the 30-day extension.

(Source: Added at 14 Ill. Reg. 19010, effective November 15, 1990)