

SUBCHAPTER 70P – GUARDIANSHIP ASSISTANCE PROGRAM

SECTION .0100 - GENERAL

10A NCAC 70P .0101 SCOPE

This Subchapter contains guardianship assistance standards for county departments of social services, the public agencies in North Carolina mandated to provide guardianship services. Included are requirements that shall be met under Chapter 7B of the General Statutes and in administration of the Guardianship Assistance Program.

History Note: Authority G.S. 143B-153; S.L. 2015-241, s. 12C.4;
Eff. March 1, 2017.

10A NCAC 70P .0102 PURPOSE

The Guardianship Assistance Program (GAP) provides financial assistance to caregivers who assume legal guardianship of a child in foster care as a means to achieve permanence for youth who are not being adopted or reunified.

History Note: Authority G.S. 7B-101(18b); 143B-153;
Eff. March 1, 2017.

10A NCAC 70P .0103 DEFINITIONS

The following definitions apply to this Chapter:

- (1) "Agency" means a child placing agency as defined in G.S. 131D-10.2(4) that is authorized by law to receive children for purposes of placement in residential group care, foster homes or adoptive homes.
- (2) "County DSS" means a county department of social services.
- (3) "Guardianship Assistance" means a monthly cash assistance payment no greater than the graduated amount set by G.S. 108A-49.1 from the Guardianship Assistance Program.
- (4) "Guardianship Assistance Agreement" is a binding agreement between the county DSS and legal guardian that establishes responsibilities of the agency and of the legal guardian during the time of the child's eligibility for guardianship assistance, specifies the monthly amount of guardianship assistance and the manner in which the payment may be provided to the legal guardian, and the circumstances under which guardianship assistance may be terminated.
- (5) "Legal Guardian" means an individual as defined in G.S. 7B-600 who is appointed by the court to serve as the guardian of the person for a juvenile. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including marriage, enlisting in the armed forces, and enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile.
- (6) "Legal Guardianship" shall be a legal relationship created when a person or persons are assigned by the court to take care of the minor child. This relationship is terminated only in the following circumstances:
 - (a) the court finds that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest;
 - (b) the court finds the guardian is unfit;
 - (c) the court finds the guardian has neglected a guardian's duties; or
 - (d) the guardian is unwilling or unable to continue assuming a guardian's duties.
- (7) "Licensed Home" means the private residence of one or more individuals who permanently reside as members of the household who have met all requirements for family foster home licensing in their state of residence and have been issued a license number in the state of North Carolina that remains active at the time of legal guardianship.
- (8) "Placement responsibility" is authority granted to the county DSS by the court to place a child in DSS custody in a licensed home or facility or any unlicensed home or facility approved by the court.

History Note: Authority G.S. 143B-153;

Eff. March 1, 2017.

10A NCAC 70P .0104 GUARDIANSHIP ASSISTANCE PROGRAM ELIGIBILITY

The following eligibility criteria shall be met in order to receive Guardianship Assistance:

- (1) A determination by the Court that reunification and adoption are not appropriate permanency options for the child;
- (2) The child was placed in the licensed home for a minimum of six months;
- (3) The child is the placement responsibility of a North Carolina county department of social services at the time of entry into the Guardianship Assistance Program;
- (4) The child is at least age 14 years but not older than age 18 years and demonstrates a strong attachment to the prospective guardian and has been consulted regarding the guardianship arrangement;
- (5) The prospective legal guardian has a strong commitment to caring permanently for the child and has entered into a guardianship assistance agreement with the county department of social services who holds custody of the child prior to the order granting legal guardianship; and
- (6) If the child was placed in a legal guardianship arrangement at the age of 16 years or 17 years, he or she remains eligible to receive Guardianship Assistance until 21 years of age if, upon turning 18 years of age, he or she meets any of the following conditions:
 - (a) Completing secondary education or a program leading to an equivalent credential;
 - (b) Enrolled in an institution that provides post-secondary or vocational education;
 - (c) Participating in a program or activity designed to promote or remove barriers to employment;
 - (d) Employed for at least 80 hours per month; or
 - (e) Is incapable of doing any of the previously described educational or employment activities due to a medical condition or disability.

*History Note: Authority G.S. 143B-153; 42 U.S.C. 671;
Eff. March 1, 2017.*

10A NCAC 70P .0105 GUARDIANSHIP ASSISTANCE PROGRAM REQUIREMENTS

- (a) Guardianship Assistance benefits for a child shall become effective the first month following the month that legal guardianship is approved by the court.
- (b) Claims for monthly GAP assistance shall be reimbursed in accordance with the Department of Health and Human Services county department of social services reimbursement process set forth in 10A NCAC 70M .0403 and G.S. 108A-49.

*History Note Authority G.S. 143B-153;
Eff. March 1, 2017.*